

(K) For the purpose of encouraging the development of special programs of education for academically gifted children, the state board shall employ competent persons to analyze and publish data, promote research, advise and counsel with boards of education, and encourage the training of teachers in the special instruction of gifted children. The board may provide financial assistance out of any funds appropriated for this purpose to boards of education and educational service center governing boards for developing and conducting programs of education for academically gifted children.

(L) The state board shall require that all public schools emphasize and encourage, within existing units of study, the teaching of energy and resource conservation as recommended to each district board of education by leading business persons involved in energy production and conservation, beginning in the primary grades.

(M) The state board shall formulate and prescribe minimum standards requiring the use of phonics as a technique in the teaching of reading in grades kindergarten through three. In addition, the state board shall provide in-service training programs for teachers on the use of phonics as a technique in the teaching of reading in grades kindergarten through three.

(N) The state board may adopt rules necessary for carrying out any function imposed on it by law, and may provide rules as are necessary for its government and the government of its employees, and may delegate to the superintendent of public instruction the management and administration of any function imposed on it by law. It may provide for the appointment of board members to serve on temporary committees established by the board for such purposes as are necessary. Permanent or standing committees shall not be created.

(O) Upon application from the board of education of a school district, the superintendent of public instruction may issue a waiver exempting the district from compliance with the standards adopted under divisions (B)(2) and (D) of this section, as they relate to the operation of a school operated by the district. The state board shall adopt standards for the approval or disapproval of waivers under this division. The state superintendent shall consider every application for a waiver, and shall determine whether to grant or deny a waiver in accordance with the state board's standards. For each waiver granted, the state superintendent shall specify the period of time during which the waiver is in effect, which shall not exceed five years. A district board may apply to renew a waiver.

Sec. 3301.071. (A)(1) In the case of nontax-supported schools, standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification, without further educational

requirements, of any administrator, supervisor, or teacher who has attended and received a bachelor's degree from a college or university accredited by a national or regional association in the United States except that, at the discretion of the state board of education, this requirement may be met by having an equivalent degree from a foreign college or university of comparable standing.

(2) In the case of nonchartered, nontax-supported schools, the standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification, without further educational requirements, of any administrator, supervisor, or teacher who has attended and received a diploma from a "bible college" or "bible institute" described in division (E) of section 1713.02 of the Revised Code.

(3) A certificate issued under division (A)(3) of this section shall be valid only for teaching foreign language, music, religion, computer technology, or fine arts.

Notwithstanding division (A)(1) of this section, the standards for teacher certification prescribed under section 3301.07 of the Revised Code shall provide for certification of a person as a teacher upon receipt by the state board of an affidavit signed by the chief administrative officer of a chartered nonpublic school seeking to employ the person, stating that the person meets one of the following conditions:

(a) The person has specialized knowledge, skills, or expertise that qualifies the person to provide instruction.

(b) The person has provided to the chief administrative officer evidence of at least three years of teaching experience in a public or nonpublic school.

(c) The person has provided to the chief administrative officer evidence of completion of a teacher training program named in the affidavit.

(B) Each person applying for a certificate under this section for purposes of serving in a nonpublic school chartered by the state board under section 3301.16 of the Revised Code shall pay a fee in the amount established under division (A) of section 3319.51 of the Revised Code. Any fees received under this division shall be paid into the state treasury to the credit of the state board of education certification fund established under division (B) of section 3319.51 of the Revised Code.

(C) A person applying for or holding any certificate pursuant to this section for purposes of serving in a nonpublic school chartered by the state board is subject to sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code and sections 3319.31 and 3319.311 of the Revised Code.

(D) Divisions (B) and (C) of this section and sections 3319.291,

3319.31, and 3319.311 of the Revised Code do not apply to any administrators, supervisors, or teachers in nonchartered, nontax-supported schools.

Sec. 3301.079. (A)(1) Not later than June 30, 2010, and ~~at least once every five years~~ periodically thereafter, the state board of education shall adopt statewide academic standards with emphasis on coherence, focus, and rigor for each of grades kindergarten through twelve in English language arts, mathematics, science, and social studies.

The standards shall specify the following:

(a) The core academic content and skills that students are expected to know and be able to do at each grade level that will allow each student to be prepared for postsecondary instruction and the workplace for success in the twenty-first century;

~~(b) The development of skill sets as they relate to creativity and innovation, critical thinking and problem solving, and communication and collaboration;~~

~~(c)~~ The development of skill sets that promote information, media, and technological literacy;

~~(d) The development of skill sets that promote personal management, productivity and accountability, and leadership and responsibility;~~

~~(e)~~(c) Interdisciplinary, project-based, real-world learning opportunities.

(2) After completing the standards required by division (A)(1) of this section, the state board shall adopt standards and model curricula for instruction in ~~computer literacy~~ technology, financial literacy and entrepreneurship, fine arts, and foreign language for grades kindergarten through twelve. The standards shall meet the same requirements prescribed in divisions (A)(1)(a) to ~~(e)(c)~~ of this section.

(3) The state board shall adopt the most recent standards developed by the national association for sport and physical education for physical education in grades kindergarten through twelve or shall adopt its own standards for physical education in those grades and revise and update them periodically.

The department shall employ a full-time physical education coordinator to provide guidance and technical assistance to districts, community schools, and STEM schools in implementing the physical education standards adopted under this division. The superintendent of public instruction shall determine that the person employed as coordinator is qualified for the position, as demonstrated by possessing an adequate combination of education, license, and experience.

(4) When academic standards have been completed for any subject area

required by this section, the state board shall inform all school districts, all community schools established under Chapter 3314. of the Revised Code, all STEM schools established under Chapter 3326. of the Revised Code, and all nonpublic schools required to administer the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code of the content of those standards.

(B) Not later than March 31, 2011, the state board shall adopt a model curriculum for instruction in each subject area for which updated academic standards are required by division (A)(1) of this section and for each of grades kindergarten through twelve that is sufficient to meet the needs of students in every community. The model curriculum shall be aligned with the standards, to ensure that the academic content and skills specified for each grade level are taught to students, and shall demonstrate vertical articulation and emphasize coherence, focus, and rigor. When any model curriculum has been completed, the state board shall inform all school districts, community schools, and STEM schools of the content of that model curriculum.

All school districts, community schools, and STEM schools may utilize the state standards and the model curriculum established by the state board, together with other relevant resources, examples, or models to ensure that students have the opportunity to attain the academic standards. Upon request, the department of education shall provide technical assistance to any district, community school, or STEM school in implementing the model curriculum.

Nothing in this section requires any school district to utilize all or any part of a model curriculum developed under this division.

(C) The state board shall develop achievement assessments aligned with the academic standards and model curriculum for each of the subject areas and grade levels required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code.

When any achievement assessment has been completed, the state board shall inform all school districts, community schools, STEM schools, and nonpublic schools required to administer the assessment of its completion, and the department of education shall make the achievement assessment available to the districts and schools.

(D)(1) The state board shall adopt a diagnostic assessment aligned with the academic standards and model curriculum for each of grades kindergarten through two in English language arts and mathematics and for grade three in English language arts. The diagnostic assessment shall be designed to measure student comprehension of academic content and

mastery of related skills for the relevant subject area and grade level. Any diagnostic assessment shall not include components to identify gifted students. Blank copies of diagnostic assessments shall be public records.

(2) When each diagnostic assessment has been completed, the state board shall inform all school districts of its completion and the department of education shall make the diagnostic assessment available to the districts at no cost to the district. School districts shall administer the diagnostic assessment pursuant to section 3301.0715 of the Revised Code beginning the first school year following the development of the assessment.

(E) The state board shall not adopt a diagnostic or achievement assessment for any grade level or subject area other than those specified in this section.

(F) Whenever the state board or the department of education consults with persons for the purpose of drafting or reviewing any standards, diagnostic assessments, achievement assessments, or model curriculum required under this section, the state board or the department shall first consult with parents of students in kindergarten through twelfth grade and with active Ohio classroom teachers, other school personnel, and administrators with expertise in the appropriate subject area. Whenever practicable, the state board and department shall consult with teachers recognized as outstanding in their fields.

If the department contracts with more than one outside entity for the development of the achievement assessments required by this section, the department shall ensure the interchangeability of those assessments.

(G) The fairness sensitivity review committee, established by rule of the state board of education, shall not allow any question on any achievement or diagnostic assessment developed under this section or any proficiency test prescribed by former section 3301.0710 of the Revised Code, as it existed prior to September 11, 2001, to include, be written to promote, or inquire as to individual moral or social values or beliefs. The decision of the committee shall be final. This section does not create a private cause of action.

(H) Not later than forty-five days prior to the initial deadline established under division (A)(1) of this section and the deadline established under division (B) of this section, the superintendent of public instruction shall present the academic standards or model curricula, as applicable, to the respective committees of the house of representatives and senate that consider education legislation.

(I) As used in this section:

(1) "Coherence" means a reflection of the structure of the discipline

being taught.

(2) "Focus" means limiting the number of items included in a curriculum to allow for deeper exploration of the subject matter.

(3) "Rigor" means more challenging and demanding when compared to international standards.

(4) "Vertical articulation" means key academic concepts and skills associated with mastery in particular content areas should be articulated and reinforced in a developmentally appropriate manner at each grade level so that over time students acquire a depth of knowledge and understanding in the core academic disciplines.

Sec. 3301.0710. The state board of education shall adopt rules establishing a statewide program to assess student achievement. The state board shall ensure that all assessments administered under the program are aligned with the academic standards and model curricula adopted by the state board and are created with input from Ohio parents, Ohio classroom teachers, Ohio school administrators, and other Ohio school personnel pursuant to section 3301.079 of the Revised Code.

The assessment program shall be designed to ensure that students who receive a high school diploma demonstrate at least high school levels of achievement in English language arts, mathematics, science, and social studies, ~~and other skills necessary in the twenty-first century.~~

(A)(1) The state board shall prescribe all of the following:

(a) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of third grade;

(b) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of fourth grade;

(c) Four statewide achievement assessments, one each designed to measure the level of English language arts, mathematics, science, and social studies skill expected at the end of fifth grade;

(d) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of sixth grade;

(e) Two statewide achievement assessments, one each designed to measure the level of English language arts and mathematics skill expected at the end of seventh grade;

(f) Four statewide achievement assessments, one each designed to measure the level of English language arts, mathematics, science, and social studies skill expected at the end of eighth grade.

(2) The state board shall determine and designate at least three ranges of scores on each of the achievement assessments described in divisions (A)(1) and (B)(1) of this section. Each range of scores shall be deemed to demonstrate a level of achievement so that any student attaining a score within such range has achieved one of the following:

- (a) An advanced level of skill;
- (b) A proficient level of skill;
- (c) A limited level of skill.

(B)(1) The assessments prescribed under division (B)(1) of this section shall collectively be known as the Ohio graduation tests. The state board shall prescribe five statewide high school achievement assessments, one each designed to measure the level of reading, writing, mathematics, science, and social studies skill expected at the end of tenth grade. The state board shall designate a score in at least the range designated under division (A)(2)(b) of this section on each such assessment that shall be deemed to be a passing score on the assessment as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code until the assessment system prescribed by section 3301.0712 of the Revised Code is implemented in accordance with rules adopted by the state board under division ~~(E)~~(D) of that section.

(2) The state board shall prescribe an assessment system in accordance with section 3301.0712 of the Revised Code that shall replace the Ohio graduation tests in the manner prescribed by rules adopted by the state board under division ~~(E)~~(D) of that section.

(3) The state board may enter into a reciprocal agreement with the appropriate body or agency of any other state that has similar statewide achievement assessment requirements for receiving high school diplomas, under which any student who has met an achievement assessment requirement of one state is recognized as having met the similar requirement of the other state for purposes of receiving a high school diploma. For purposes of this section and sections 3301.0711 and 3313.61 of the Revised Code, any student enrolled in any public high school in this state who has met an achievement assessment requirement specified in a reciprocal agreement entered into under this division shall be deemed to have attained at least the applicable score designated under this division on each assessment required by division (B)(1) or (2) of this section that is specified in the agreement.

(C) The superintendent of public instruction shall designate dates and times for the administration of the assessments prescribed by divisions (A) and (B) of this section.

In prescribing administration dates pursuant to this division, the superintendent shall designate the dates in such a way as to allow a reasonable length of time between the administration of assessments prescribed under this section and any administration of the national assessment of educational progress given to students in the same grade level pursuant to section 3301.27 of the Revised Code or federal law.

(D) The state board shall prescribe a practice version of each Ohio graduation test described in division (B)(1) of this section that is of comparable length to the actual test.

(E) Any committee established by the department of education for the purpose of making recommendations to the state board regarding the state board's designation of scores on the assessments described by this section shall inform the state board of the probable percentage of students who would score in each of the ranges established under division (A)(2) of this section on the assessments if the committee's recommendations are adopted by the state board. To the extent possible, these percentages shall be disaggregated by gender, major racial and ethnic groups, limited English proficient students, economically disadvantaged students, students with disabilities, and migrant students.

If the state board intends to make any change to the committee's recommendations, the state board shall explain the intended change to the Ohio accountability task force established by section 3302.021 of the Revised Code. The task force shall recommend whether the state board should proceed to adopt the intended change. Nothing in this division shall require the state board to designate assessment scores based upon the recommendations of the task force.

Sec. 3301.0711. (A) The department of education shall:

(1) Annually furnish to, grade, and score all assessments required by divisions (A)(1) and (B)(1) of section 3301.0710 of the Revised Code to be administered by city, local, exempted village, and joint vocational school districts, except that each district shall score any assessment administered pursuant to division (B)(10) of this section. Each assessment so furnished shall include the data verification code of the student to whom the assessment will be administered, as assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code. In furnishing the practice versions of Ohio graduation tests prescribed by division (D) of section 3301.0710 of the Revised Code, the department shall make the tests available on its web site for reproduction by districts. In awarding contracts for grading assessments, the department shall give preference to Ohio-based entities employing Ohio residents.

(2) Adopt rules for the ethical use of assessments and prescribing the manner in which the assessments prescribed by section 3301.0710 of the Revised Code shall be administered to students.

(B) Except as provided in divisions (C) and (J) of this section, the board of education of each city, local, and exempted village school district shall, in accordance with rules adopted under division (A) of this section:

(1) Administer the English language arts assessments prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code twice annually to all students in the third grade who have not attained the score designated for that assessment under division (A)(2)(b) of section 3301.0710 of the Revised Code.

(2) Administer the mathematics assessment prescribed under division (A)(1)(a) of section 3301.0710 of the Revised Code at least once annually to all students in the third grade.

(3) Administer the assessments prescribed under division (A)(1)(b) of section 3301.0710 of the Revised Code at least once annually to all students in the fourth grade.

(4) Administer the assessments prescribed under division (A)(1)(c) of section 3301.0710 of the Revised Code at least once annually to all students in the fifth grade.

(5) Administer the assessments prescribed under division (A)(1)(d) of section 3301.0710 of the Revised Code at least once annually to all students in the sixth grade.

(6) Administer the assessments prescribed under division (A)(1)(e) of section 3301.0710 of the Revised Code at least once annually to all students in the seventh grade.

(7) Administer the assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code at least once annually to all students in the eighth grade.

(8) Except as provided in division (B)(9) of this section, administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code as follows:

(a) At least once annually to all tenth grade students and at least twice annually to all students in eleventh or twelfth grade who have not yet attained the score on that assessment designated under that division;

(b) To any person who has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code but has not received a high school diploma and who requests to take such assessment, at any time such assessment is administered in the district.

(9) In lieu of the board of education of any city, local, or exempted village school district in which the student is also enrolled, the board of a joint vocational school district shall administer any assessment prescribed under division (B)(1) of section 3301.0710 of the Revised Code at least twice annually to any student enrolled in the joint vocational school district who has not yet attained the score on that assessment designated under that division. A board of a joint vocational school district may also administer such an assessment to any student described in division (B)(8)(b) of this section.

(10) If the district has been declared to be under an academic watch or in a state of academic emergency pursuant to section 3302.03 of the Revised Code or has a three-year average graduation rate of not more than seventy-five per cent, administer each assessment prescribed by division (D) of section 3301.0710 of the Revised Code in September to all ninth grade students, beginning in the school year that starts July 1, 2005.

Except as provided in section 3313.614 of the Revised Code for administration of an assessment to a person who has fulfilled the curriculum requirement for a high school diploma but has not passed one or more of the required assessments, the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code and the practice assessments prescribed under division (D) of that section and required to be administered under divisions (B)(8), (9), and (10) of this section shall not be administered after the assessment system prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code is implemented under rule of the state board adopted under division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code.

(11) Administer the assessments prescribed by division (B)(2) of section 3301.0710 and section 3301.0712 of the Revised Code in accordance with the timeline and plan for implementation of those assessments prescribed by rule of the state board adopted under division ~~(E)~~(D)(1) of section 3301.0712 of the Revised Code.

(C)(1)(a) ~~Any~~ In the case of a student receiving special education services under Chapter 3323. of the Revised Code, the individualized education program developed for the student under that chapter shall specify the manner in which the student will participate in the assessments administered under this section. The individualized education program may be excused excuse the student from taking any particular assessment required to be administered under this section if the individualized education program developed for the student pursuant to section 3323.08 of the Revised Code excuses the student from taking that assessment and it instead

specifies an alternate assessment method approved by the department of education as conforming to requirements of federal law for receipt of federal funds for disadvantaged pupils. To the extent possible, the individualized education program shall not excuse the student from taking an assessment unless no reasonable accommodation can be made to enable the student to take the assessment.

(b) Any alternate assessment approved by the department for a student under this division shall produce measurable results comparable to those produced by the assessment it replaces in order to allow for the student's results to be included in the data compiled for a school district or building under section 3302.03 of the Revised Code.

(c) Any student enrolled in a chartered nonpublic school who has been identified, based on an evaluation conducted in accordance with section 3323.03 of the Revised Code or section 504 of the "Rehabilitation Act of 1973," 87 Stat. 355, 29 U.S.C.A. 794, as amended, as a child with a disability shall be excused from taking any particular assessment required to be administered under this section if a plan developed for the student pursuant to rules adopted by the state board excuses the student from taking that assessment. In the case of any student so excused from taking an assessment, the chartered nonpublic school shall not prohibit the student from taking the assessment.

(2) A district board may, for medical reasons or other good cause, excuse a student from taking an assessment administered under this section on the date scheduled, but that assessment shall be administered to the excused student not later than nine days following the scheduled date. The district board shall annually report the number of students who have not taken one or more of the assessments required by this section to the state board of education not later than the thirtieth day of June.

(3) As used in this division, "limited English proficient student" has the same meaning as in 20 U.S.C. 7801.

No school district board shall excuse any limited English proficient student from taking any particular assessment required to be administered under this section, except that any limited English proficient student who has been enrolled in United States schools for less than one full school year shall not be required to take any reading, writing, or English language arts assessment. However, no board shall prohibit a limited English proficient student who is not required to take an assessment under this division from taking the assessment. A board may permit any limited English proficient student to take an assessment required to be administered under this section with appropriate accommodations, as determined by the department. For

each limited English proficient student, each school district shall annually assess that student's progress in learning English, in accordance with procedures approved by the department.

The governing authority of a chartered nonpublic school may excuse a limited English proficient student from taking any assessment administered under this section. However, no governing authority shall prohibit a limited English proficient student from taking the assessment.

(D)(1) In the school year next succeeding the school year in which the assessments prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code or former division (A)(1), (A)(2), or (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, are administered to any student, the board of education of any school district in which the student is enrolled in that year shall provide to the student intervention services commensurate with the student's performance, including any intensive intervention required under section 3313.608 of the Revised Code, in any skill in which the student failed to demonstrate at least a score at the proficient level on the assessment.

(2) Following any administration of the assessments prescribed by division (D) of section 3301.0710 of the Revised Code to ninth grade students, each school district that has a three-year average graduation rate of not more than seventy-five per cent shall determine for each high school in the district whether the school shall be required to provide intervention services to any students who took the assessments. In determining which high schools shall provide intervention services based on the resources available, the district shall consider each school's graduation rate and scores on the practice assessments. The district also shall consider the scores received by ninth grade students on the English language arts and mathematics assessments prescribed under division (A)(1)(f) of section 3301.0710 of the Revised Code in the eighth grade in determining which high schools shall provide intervention services.

Each high school selected to provide intervention services under this division shall provide intervention services to any student whose results indicate that the student is failing to make satisfactory progress toward being able to attain scores at the proficient level on the Ohio graduation tests. Intervention services shall be provided in any skill in which a student demonstrates unsatisfactory progress and shall be commensurate with the student's performance. Schools shall provide the intervention services prior to the end of the school year, during the summer following the ninth grade, in the next succeeding school year, or at any combination of those times.

(E) Except as provided in section 3313.608 of the Revised Code and

division (M) of this section, no school district board of education shall utilize any student's failure to attain a specified score on an assessment administered under this section as a factor in any decision to deny the student promotion to a higher grade level. However, a district board may choose not to promote to the next grade level any student who does not take an assessment administered under this section or make up an assessment as provided by division (C)(2) of this section and who is not exempt from the requirement to take the assessment under division (C)(3) of this section.

(F) No person shall be charged a fee for taking any assessment administered under this section.

(G)(1) Each school district board shall designate one location for the collection of assessments administered in the spring under division (B)(1) of this section and those administered under divisions (B)(2) to (7) of this section. Each district board shall submit the assessments to the entity with which the department contracts for the scoring of the assessments as follows:

(a) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was less than two thousand five hundred, not later than the Friday after all of the assessments have been administered;

(b) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was two thousand five hundred or more, but less than seven thousand, not later than the Monday after all of the assessments have been administered;

(c) If the district's total enrollment in grades kindergarten through twelve during the first full school week of October was seven thousand or more, not later than the Tuesday after all of the assessments have been administered.

However, any assessment that a student takes during the make-up period described in division (C)(2) of this section shall be submitted not later than the Friday following the day the student takes the assessment.

(2) The department or an entity with which the department contracts for the scoring of the assessment shall send to each school district board a list of the individual scores of all persons taking an assessment prescribed by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code within sixty days after its administration, but in no case shall the scores be returned later than the fifteenth day of June following the administration. For assessments administered under this section by a joint vocational school district, the department or entity shall also send to each city, local, or exempted village school district a list of the individual scores of any

students of such city, local, or exempted village school district who are attending school in the joint vocational school district.

(H) Individual scores on any assessments administered under this section shall be released by a district board only in accordance with section 3319.321 of the Revised Code and the rules adopted under division (A) of this section. No district board or its employees shall utilize individual or aggregate results in any manner that conflicts with rules for the ethical use of assessments adopted pursuant to division (A) of this section.

(I) Except as provided in division (G) of this section, the department or an entity with which the department contracts for the scoring of the assessment shall not release any individual scores on any assessment administered under this section. The state board of education shall adopt rules to ensure the protection of student confidentiality at all times. The rules may require the use of the data verification codes assigned to students pursuant to division (D)(2) of section 3301.0714 of the Revised Code to protect the confidentiality of student scores.

(J) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to the board of education of any cooperative education school district except as provided under rules adopted pursuant to this division.

(1) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may enter into an agreement with the board of education of the cooperative education school district for administering any assessment prescribed under this section to students of the city, exempted village, or local school district who are attending school in the cooperative education school district.

(2) In accordance with rules that the state board of education shall adopt, the board of education of any city, exempted village, or local school district with territory in a cooperative education school district established pursuant to section 3311.521 of the Revised Code shall enter into an agreement with the cooperative district that provides for the administration of any assessment prescribed under this section to both of the following:

(a) Students who are attending school in the cooperative district and who, if the cooperative district were not established, would be entitled to attend school in the city, local, or exempted village school district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(b) Persons described in division (B)(8)(b) of this section.

Any assessment of students pursuant to such an agreement shall be in

lieu of any assessment of such students or persons pursuant to this section.

(K)(1) As a condition of compliance with section 3313.612 of the Revised Code, each chartered nonpublic school that educates students in grades nine through twelve shall administer the assessments prescribed by divisions (B)(1) and (2) of section 3301.0710 of the Revised Code. Any chartered nonpublic school may participate in the assessment program by administering any of the assessments prescribed by division (A) of section 3301.0710 of the Revised Code. The chief administrator of the school shall specify which assessments the school will administer. Such specification shall be made in writing to the superintendent of public instruction prior to the first day of August of any school year in which assessments are administered and shall include a pledge that the nonpublic school will administer the specified assessments in the same manner as public schools are required to do under this section and rules adopted by the department.

(2) The department of education shall furnish the assessments prescribed by section 3301.0710 or 3301.0712 of the Revised Code to each chartered nonpublic school that participates under this division.

(L)(1) The superintendent of the state school for the blind and the superintendent of the state school for the deaf shall administer the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code. Each superintendent shall administer the assessments in the same manner as district boards are required to do under this section and rules adopted by the department of education and in conformity with division (C)(1)(a) of this section.

(2) The department of education shall furnish the assessments described by sections 3301.0710 and 3301.0712 of the Revised Code to each superintendent.

(M) Notwithstanding division (E) of this section, a school district may use a student's failure to attain a score in at least the proficient range on the mathematics assessment described by division (A)(1)(a) of section 3301.0710 of the Revised Code or on an assessment described by division (A)(1)(b), (c), (d), (e), or (f) of section 3301.0710 of the Revised Code as a factor in retaining that student in the current grade level.

(N)(1) In the manner specified in divisions (N)(3) and (4) of this section, the assessments required by division (A)(1) of section 3301.0710 of the Revised Code shall become public records pursuant to section 149.43 of the Revised Code on the first day of July following the school year that the assessments were administered.

(2) The department may field test proposed questions with samples of students to determine the validity, reliability, or appropriateness of questions

for possible inclusion in a future year's assessment. The department also may use anchor questions on assessments to ensure that different versions of the same assessment are of comparable difficulty.

Field test questions and anchor questions shall not be considered in computing scores for individual students. Field test questions and anchor questions may be included as part of the administration of any assessment required by division (A)(1) or (B)(1) of section 3301.0710 of the Revised Code.

(3) Any field test question or anchor question administered under division (N)(2) of this section shall not be a public record. Such field test questions and anchor questions shall be redacted from any assessments which are released as a public record pursuant to division (N)(1) of this section.

(4) This division applies to the assessments prescribed by division (A) of section 3301.0710 of the Revised Code.

(a) The first administration of each assessment, as specified in former section 3301.0712 of the Revised Code, shall be a public record.

(b) For subsequent administrations of each assessment prior to the 2011-2012 school year, not less than forty per cent of the questions on the assessment that are used to compute a student's score shall be a public record. The department shall determine which questions will be needed for reuse on a future assessment and those questions shall not be public records and shall be redacted from the assessment prior to its release as a public record. However, for each redacted question, the department shall inform each city, local, and exempted village school district of the statewide academic standard adopted by the state board of education under section 3301.079 of the Revised Code and the corresponding benchmark to which the question relates. The preceding sentence does not apply to field test questions that are redacted under division (N)(3) of this section.

(c) The administrations of each assessment in the 2011-2012 school year and later shall not be a public record.

(5) Each assessment prescribed by division (B)(1) of section 3301.0710 of the Revised Code shall not be a public record.

(O) As used in this section:

(1) "Three-year average" means the average of the most recent consecutive three school years of data.

(2) "Dropout" means a student who withdraws from school before completing course requirements for graduation and who is not enrolled in an education program approved by the state board of education or an education program outside the state. "Dropout" does not include a student who has

departed the country.

(3) "Graduation rate" means the ratio of students receiving a diploma to the number of students who entered ninth grade four years earlier. Students who transfer into the district are added to the calculation. Students who transfer out of the district for reasons other than dropout are subtracted from the calculation. If a student who was a dropout in any previous year returns to the same school district, that student shall be entered into the calculation as if the student had entered ninth grade four years before the graduation year of the graduating class that the student joins.

Sec. 3301.0712. (A) The state board of education, the superintendent of public instruction, and the chancellor of the Ohio board of regents shall develop a system of college and work ready assessments as described in divisions (B)(1) ~~to (3)~~ and (2) of this section to assess whether each student upon graduating from high school is ready to enter college or the workforce. The system shall replace the Ohio graduation tests prescribed in division (B)(1) of section 3301.0710 of the Revised Code as a measure of student academic performance and a prerequisite for eligibility for a high school diploma in the manner prescribed by rule of the state board adopted under division ~~(E)~~(D) of this section.

(B) The college and work ready assessment system shall consist of the following:

(1) A nationally standardized assessment that measures ~~competencies in science, mathematics, and English language arts~~ college and career readiness selected jointly by the state superintendent and the chancellor.

(2) A series of end-of-course examinations in the areas of science, mathematics, English language arts, and social studies selected jointly by the state superintendent and the chancellor in consultation with faculty in the appropriate subject areas at institutions of higher education of the university system of Ohio. For each subject area, the state superintendent and chancellor shall select multiple assessments that school districts, public schools, and chartered nonpublic schools may use as end-of-course examinations. Those assessments shall include nationally recognized subject area assessments, such as advanced placement examinations, SAT subject tests, international baccalaureate examinations, and other assessments of college and work readiness.

~~(3) A senior project completed by a student or a group of students. The purpose of the senior project is to assess the student's:~~

- ~~(a) Mastery of core knowledge in a subject area chosen by the student;~~
- ~~(b) Written and verbal communication skills;~~
- ~~(c) Critical thinking and problem-solving skills;~~

- ~~(d) Real world and interdisciplinary learning;~~
- ~~(e) Creative and innovative thinking;~~
- ~~(f) Acquired technology, information, and media skills;~~
- ~~(g) Personal management skills such as self-direction, time management, work ethic, enthusiasm, and the desire to produce a high quality product.~~

~~The state superintendent and the chancellor jointly shall develop standards for the senior project for students participating in dual enrollment programs.~~

~~(C)(1) The state superintendent and the chancellor jointly shall designate the scoring rubrics and the required overall composite score for the assessment system to assess whether each student is college or work ready.~~

~~(2) Each senior project shall be judged by the student's high school in accordance with rubrics designated by the state superintendent and the chancellor.~~

~~(D) Not later than thirty days after the state board adopts the model curricula required by division (B) of section 3301.079 of the Revised Code, the state board shall convene a group of national experts, state experts, and local practitioners to provide advice, guidance, and recommendations for the alignment of standards and model curricula to the assessments and in the design of the end-of-course examinations and scoring rubrics prescribed by this section.~~

~~(E)(D) Upon completion of the development of the assessment system, the state board shall adopt rules prescribing all of the following:~~

~~(1) A timeline and plan for implementation of the assessment system, including a phased implementation if the state board determines such a phase-in is warranted;~~

~~(2) The date after which a person entering ninth grade shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a high school diploma under ~~sections~~ section 3313.61, 3313.612, or 3325.08 of the Revised Code;~~

~~(3) The date after which a person shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a diploma of adult education under section 3313.611 of the Revised Code;~~

~~(4) Whether and the extent to which a person may be excused from a social studies end-of-course examination under division (H) of section 3313.61 and division (B)(2) of section 3313.612 of the Revised Code;~~

~~(5) The date after which a person who has fulfilled the curriculum~~

requirement for a diploma but has not passed one or more of the required assessments at the time the person fulfilled the curriculum requirement shall ~~attain at least the composite score for~~ meet the requirements of the entire assessment system as a prerequisite for a high school diploma under division (B) of section 3313.614 of the Revised Code;

(6) The extent to which the assessment system applies to students enrolled in a dropout recovery and prevention program for purposes of division (F) of section 3313.603 and section 3314.36 of the Revised Code.

No rule adopted under this division shall be effective earlier than one year after the date the rule is filed in final form pursuant to Chapter 119. of the Revised Code.

~~(F)(E)~~ Not later than forty-five days prior to the state board's adoption of a resolution directing the department of education to file the rules prescribed by division ~~(E)(D)~~ of this section in final form under section 119.04 of the Revised Code, the superintendent of public instruction shall present the assessment system developed under this section to the respective committees of the house of representatives and senate that consider education legislation.

Sec. 3301.0714. (A) The state board of education shall adopt rules for a statewide education management information system. The rules shall require the state board to establish guidelines for the establishment and maintenance of the system in accordance with this section and the rules adopted under this section. The guidelines shall include:

(1) Standards identifying and defining the types of data in the system in accordance with divisions (B) and (C) of this section;

(2) Procedures for annually collecting and reporting the data to the state board in accordance with division (D) of this section;

(3) Procedures for annually compiling the data in accordance with division (G) of this section;

(4) Procedures for annually reporting the data to the public in accordance with division (H) of this section.

(B) The guidelines adopted under this section shall require the data maintained in the education management information system to include at least the following:

(1) Student participation and performance data, for each grade in each school district as a whole and for each grade in each school building in each school district, that includes:

(a) The numbers of students receiving each category of instructional service offered by the school district, such as regular education instruction, vocational education instruction, specialized instruction programs or

enrichment instruction that is part of the educational curriculum, instruction for gifted students, instruction for students with disabilities, and remedial instruction. The guidelines shall require instructional services under this division to be divided into discrete categories if an instructional service is limited to a specific subject, a specific type of student, or both, such as regular instructional services in mathematics, remedial reading instructional services, instructional services specifically for students gifted in mathematics or some other subject area, or instructional services for students with a specific type of disability. The categories of instructional services required by the guidelines under this division shall be the same as the categories of instructional services used in determining cost units pursuant to division (C)(3) of this section.

(b) The numbers of students receiving support or extracurricular services for each of the support services or extracurricular programs offered by the school district, such as counseling services, health services, and extracurricular sports and fine arts programs. The categories of services required by the guidelines under this division shall be the same as the categories of services used in determining cost units pursuant to division (C)(4)(a) of this section.

(c) Average student grades in each subject in grades nine through twelve;

(d) Academic achievement levels as assessed under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code;

(e) The number of students designated as having a disabling condition pursuant to division (C)(1) of section 3301.0711 of the Revised Code;

(f) The numbers of students reported to the state board pursuant to division (C)(2) of section 3301.0711 of the Revised Code;

(g) Attendance rates and the average daily attendance for the year. For purposes of this division, a student shall be counted as present for any field trip that is approved by the school administration.

(h) Expulsion rates;

(i) Suspension rates;

(j) Dropout rates;

(k) Rates of retention in grade;

(l) For pupils in grades nine through twelve, the average number of carnegie units, as calculated in accordance with state board of education rules;

(m) Graduation rates, to be calculated in a manner specified by the department of education that reflects the rate at which students who were in the ninth grade three years prior to the current year complete school and that

is consistent with nationally accepted reporting requirements;

(n) Results of diagnostic assessments administered to kindergarten students as required under section 3301.0715 of the Revised Code to permit a comparison of the academic readiness of kindergarten students. However, no district shall be required to report to the department the results of any diagnostic assessment administered to a kindergarten student if the parent of that student requests the district not to report those results.

(2) Personnel and classroom enrollment data for each school district, including:

(a) The total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category of instructional service, instructional support service, and administrative support service used pursuant to division (C)(3) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(b) The total number of employees and the number of full-time equivalent employees providing each category of service used pursuant to divisions (C)(4)(a) and (b) of this section, and the total numbers of licensed employees and nonlicensed employees and the numbers of full-time equivalent licensed employees and nonlicensed employees providing each category used pursuant to division (C)(4)(c) of this section. The guidelines adopted under this section shall require these categories of data to be maintained for the school district as a whole and, wherever applicable, for each grade in the school district as a whole, for each school building as a whole, and for each grade in each school building.

(c) The total number of regular classroom teachers teaching classes of regular education and the average number of pupils enrolled in each such class, in each of grades kindergarten through five in the district as a whole and in each school building in the school district.

(d) The number of lead teachers employed by each school district and each school building.

(3)(a) Student demographic data for each school district, including information regarding the gender ratio of the school district's pupils, the racial make-up of the school district's pupils, the number of limited English proficient students in the district, and an appropriate measure of the number of the school district's pupils who reside in economically disadvantaged households. The demographic data shall be collected in a manner to allow

correlation with data collected under division (B)(1) of this section. Categories for data collected pursuant to division (B)(3) of this section shall conform, where appropriate, to standard practices of agencies of the federal government.

(b) With respect to each student entering kindergarten, whether the student previously participated in a public preschool program, a private preschool program, or a head start program, and the number of years the student participated in each of these programs.

(4) Any data required to be collected pursuant to federal law.

(C) The education management information system shall include cost accounting data for each district as a whole and for each school building in each school district. The guidelines adopted under this section shall require the cost data for each school district to be maintained in a system of mutually exclusive cost units and shall require all of the costs of each school district to be divided among the cost units. The guidelines shall require the system of mutually exclusive cost units to include at least the following:

(1) Administrative costs for the school district as a whole. The guidelines shall require the cost units under this division (C)(1) to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil in formula ADM in the school district, as determined pursuant to section 3317.03 of the Revised Code.

(2) Administrative costs for each school building in the school district. The guidelines shall require the cost units under this division (C)(2) to be designed so that each of them may be compiled and reported in terms of average expenditure per full-time equivalent pupil receiving instructional or support services in each building.

(3) Instructional services costs for each category of instructional service provided directly to students and required by guidelines adopted pursuant to division (B)(1)(a) of this section. The guidelines shall require the cost units under division (C)(3) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each instructional services category required by guidelines adopted under division (B)(1)(a) of this section that is provided directly to students by a classroom teacher;

(b) The cost of the instructional support services, such as services provided by a speech-language pathologist, classroom aide, multimedia

aide, or librarian, provided directly to students in conjunction with each instructional services category;

(c) The cost of the administrative support services related to each instructional services category, such as the cost of personnel that develop the curriculum for the instructional services category and the cost of personnel supervising or coordinating the delivery of the instructional services category.

(4) Support or extracurricular services costs for each category of service directly provided to students and required by guidelines adopted pursuant to division (B)(1)(b) of this section. The guidelines shall require the cost units under division (C)(4) of this section to be designed so that each of them may be compiled and reported in terms of average expenditure per pupil receiving the service in the school district as a whole and average expenditure per pupil receiving the service in each building in the school district and in terms of a total cost for each category of service and, as a breakdown of the total cost, a cost for each of the following components:

(a) The cost of each support or extracurricular services category required by guidelines adopted under division (B)(1)(b) of this section that is provided directly to students by a licensed employee, such as services provided by a guidance counselor or any services provided by a licensed employee under a supplemental contract;

(b) The cost of each such services category provided directly to students by a nonlicensed employee, such as janitorial services, cafeteria services, or services of a sports trainer;

(c) The cost of the administrative services related to each services category in division (C)(4)(a) or (b) of this section, such as the cost of any licensed or nonlicensed employees that develop, supervise, coordinate, or otherwise are involved in administering or aiding the delivery of each services category.

(D)(1) The guidelines adopted under this section shall require school districts to collect information about individual students, staff members, or both in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines may also require school districts to report information about individual staff members in connection with any data required by division (B) or (C) of this section or other reporting requirements established in the Revised Code. The guidelines shall not authorize school districts to request social security numbers of individual students. The guidelines shall prohibit the reporting under this section of a student's name, address, and social security number to the state board of education or the department of

education. The guidelines shall also prohibit the reporting under this section of any personally identifiable information about any student, except for the purpose of assigning the data verification code required by division (D)(2) of this section, to any other person unless such person is employed by the school district or the information technology center operated under section 3301.075 of the Revised Code and is authorized by the district or technology center to have access to such information or is employed by an entity with which the department contracts for the scoring of assessments administered under section 3301.0711 of the Revised Code. The guidelines may require school districts to provide the social security numbers of individual staff members.

(2) The guidelines shall provide for each school district or community school to assign a data verification code that is unique on a statewide basis over time to each student whose initial Ohio enrollment is in that district or school and to report all required individual student data for that student utilizing such code. The guidelines shall also provide for assigning data verification codes to all students enrolled in districts or community schools on the effective date of the guidelines established under this section.

Individual student data shall be reported to the department through the information technology centers utilizing the code but, except as provided in sections 3310.11, 3310.42, 3313.978, 3310.63, and 3317.20 of the Revised Code, at no time shall the state board or the department have access to information that would enable any data verification code to be matched to personally identifiable student data.

Each school district shall ensure that the data verification code is included in the student's records reported to any subsequent school district, community school, or state institution of higher education, as defined in section 3345.011 of the Revised Code, in which the student enrolls. Any such subsequent district or school shall utilize the same identifier in its reporting of data under this section.

The director of health shall request and receive, pursuant to sections 3301.0723 and 3701.62 of the Revised Code, a data verification code for a child who is receiving services under division (A)(2) of section 3701.61 of the Revised Code.

(E) The guidelines adopted under this section may require school districts to collect and report data, information, or reports other than that described in divisions (A), (B), and (C) of this section for the purpose of complying with other reporting requirements established in the Revised Code. The other data, information, or reports may be maintained in the education management information system but are not required to be

compiled as part of the profile formats required under division (G) of this section or the annual statewide report required under division (H) of this section.

(F) Beginning with the school year that begins July 1, 1991, the board of education of each school district shall annually collect and report to the state board, in accordance with the guidelines established by the board, the data required pursuant to this section. A school district may collect and report these data notwithstanding section 2151.357 or 3319.321 of the Revised Code.

(G) The state board shall, in accordance with the procedures it adopts, annually compile the data reported by each school district pursuant to division (D) of this section. The state board shall design formats for profiling each school district as a whole and each school building within each district and shall compile the data in accordance with these formats. These profile formats shall:

(1) Include all of the data gathered under this section in a manner that facilitates comparison among school districts and among school buildings within each school district;

(2) Present the data on academic achievement levels as assessed by the testing of student achievement maintained pursuant to division (B)(1)(d) of this section.

(H)(1) The state board shall, in accordance with the procedures it adopts, annually prepare a statewide report for all school districts and the general public that includes the profile of each of the school districts developed pursuant to division (G) of this section. Copies of the report shall be sent to each school district.

(2) The state board shall, in accordance with the procedures it adopts, annually prepare an individual report for each school district and the general public that includes the profiles of each of the school buildings in that school district developed pursuant to division (G) of this section. Copies of the report shall be sent to the superintendent of the district and to each member of the district board of education.

(3) Copies of the reports received from the state board under divisions (H)(1) and (2) of this section shall be made available to the general public at each school district's offices. Each district board of education shall make copies of each report available to any person upon request and payment of a reasonable fee for the cost of reproducing the report. The board shall annually publish in a newspaper of general circulation in the school district, at least twice during the two weeks prior to the week in which the reports will first be available, a notice containing the address where the reports are

available and the date on which the reports will be available.

(I) Any data that is collected or maintained pursuant to this section and that identifies an individual pupil is not a public record for the purposes of section 149.43 of the Revised Code.

(J) As used in this section:

(1) "School district" means any city, local, exempted village, or joint vocational school district and, in accordance with section 3314.17 of the Revised Code, any community school. As used in division (L) of this section, "school district" also includes any educational service center or other educational entity required to submit data using the system established under this section.

(2) "Cost" means any expenditure for operating expenses made by a school district excluding any expenditures for debt retirement except for payments made to any commercial lending institution for any loan approved pursuant to section 3313.483 of the Revised Code.

(K) Any person who removes data from the information system established under this section for the purpose of releasing it to any person not entitled under law to have access to such information is subject to section 2913.42 of the Revised Code prohibiting tampering with data.

(L)(1) In accordance with division (L)(2) of this section and the rules adopted under division (L)(10) of this section, the department of education may sanction any school district that reports incomplete or inaccurate data, reports data that does not conform to data requirements and descriptions published by the department, fails to report data in a timely manner, or otherwise does not make a good faith effort to report data as required by this section.

(2) If the department decides to sanction a school district under this division, the department shall take the following sequential actions:

(a) Notify the district in writing that the department has determined that data has not been reported as required under this section and require the district to review its data submission and submit corrected data by a deadline established by the department. The department also may require the district to develop a corrective action plan, which shall include provisions for the district to provide mandatory staff training on data reporting procedures.

(b) Withhold up to ten per cent of the total amount of state funds due to the district for the current fiscal year and, if not previously required under division (L)(2)(a) of this section, require the district to develop a corrective action plan in accordance with that division;

(c) Withhold an additional amount of up to twenty per cent of the total

amount of state funds due to the district for the current fiscal year;

(d) Direct department staff or an outside entity to investigate the district's data reporting practices and make recommendations for subsequent actions. The recommendations may include one or more of the following actions:

(i) Arrange for an audit of the district's data reporting practices by department staff or an outside entity;

(ii) Conduct a site visit and evaluation of the district;

(iii) Withhold an additional amount of up to thirty per cent of the total amount of state funds due to the district for the current fiscal year;

(iv) Continue monitoring the district's data reporting;

(v) Assign department staff to supervise the district's data management system;

(vi) Conduct an investigation to determine whether to suspend or revoke the license of any district employee in accordance with division (N) of this section;

(vii) If the district is issued a report card under section 3302.03 of the Revised Code, indicate on the report card that the district has been sanctioned for failing to report data as required by this section;

(viii) If the district is issued a report card under section 3302.03 of the Revised Code and incomplete or inaccurate data submitted by the district likely caused the district to receive a higher performance rating than it deserved under that section, issue a revised report card for the district;

(ix) Any other action designed to correct the district's data reporting problems.

(3) Any time the department takes an action against a school district under division (L)(2) of this section, the department shall make a report of the circumstances that prompted the action. The department shall send a copy of the report to the district superintendent or chief administrator and maintain a copy of the report in its files.

(4) If any action taken under division (L)(2) of this section resolves a school district's data reporting problems to the department's satisfaction, the department shall not take any further actions described by that division. If the department withheld funds from the district under that division, the department may release those funds to the district, except that if the department withheld funding under division (L)(2)(c) of this section, the department shall not release the funds withheld under division (L)(2)(b) of this section and, if the department withheld funding under division (L)(2)(d) of this section, the department shall not release the funds withheld under division (L)(2)(b) or (c) of this section.

(5) Notwithstanding anything in this section to the contrary, the department may use its own staff or an outside entity to conduct an audit of a school district's data reporting practices any time the department has reason to believe the district has not made a good faith effort to report data as required by this section. If any audit conducted by an outside entity under division (L)(2)(d)(i) or (5) of this section confirms that a district has not made a good faith effort to report data as required by this section, the district shall reimburse the department for the full cost of the audit. The department may withhold state funds due to the district for this purpose.

(6) Prior to issuing a revised report card for a school district under division (L)(2)(d)(viii) of this section, the department may hold a hearing to provide the district with an opportunity to demonstrate that it made a good faith effort to report data as required by this section. The hearing shall be conducted by a referee appointed by the department. Based on the information provided in the hearing, the referee shall recommend whether the department should issue a revised report card for the district. If the referee affirms the department's contention that the district did not make a good faith effort to report data as required by this section, the district shall bear the full cost of conducting the hearing and of issuing any revised report card.

(7) If the department determines that any inaccurate data reported under this section caused a school district to receive excess state funds in any fiscal year, the district shall reimburse the department an amount equal to the excess funds, in accordance with a payment schedule determined by the department. The department may withhold state funds due to the district for this purpose.

(8) Any school district that has funds withheld under division (L)(2) of this section may appeal the withholding in accordance with Chapter 119. of the Revised Code.

(9) In all cases of a disagreement between the department and a school district regarding the appropriateness of an action taken under division (L)(2) of this section, the burden of proof shall be on the district to demonstrate that it made a good faith effort to report data as required by this section.

(10) The state board of education shall adopt rules under Chapter 119. of the Revised Code to implement division (L) of this section.

(M) No information technology center or school district shall acquire, change, or update its student administration software package to manage and report data required to be reported to the department unless it converts to a student software package that is certified by the department.

(N) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke a license as defined under division (A) of section 3319.31 of the Revised Code that has been issued to any school district employee found to have willfully reported erroneous, inaccurate, or incomplete data to the education management information system.

(O) No person shall release or maintain any information about any student in violation of this section. Whoever violates this division is guilty of a misdemeanor of the fourth degree.

(P) The department shall disaggregate the data collected under division (B)(1)(n) of this section according to the race and socioeconomic status of the students assessed. No data collected under that division shall be included on the report cards required by section 3302.03 of the Revised Code.

(Q) If the department cannot compile any of the information required by division (C)(5) of section 3302.03 of the Revised Code based upon the data collected under this section, the department shall develop a plan and a reasonable timeline for the collection of any data necessary to comply with that division.

Sec. 3301.16. Pursuant to standards prescribed by the state board of education as provided in division (D) of section 3301.07 of the Revised Code, the state board shall classify and charter school districts and individual schools within each district except that no charter shall be granted to a nonpublic school unless the school complies with section 3313.612 of the Revised Code.

In the course of considering the charter of a new school district created under section 3311.26 or 3311.38 of the Revised Code, the state board shall require the party proposing creation of the district to submit to the board a map, certified by the county auditor of the county in which the proposed new district is located, showing the boundaries of the proposed new district. In the case of a proposed new district located in more than one county, the map shall be certified by the county auditor of each county in which the proposed district is located.

The state board shall revoke the charter of any school district or school which fails to meet the standards for elementary and high schools as prescribed by the board. The state board shall also revoke the charter of any nonpublic school that does not comply with section 3313.612 of the Revised Code. ~~The state board may revoke the charter of any school district that fails to meet the operating standards established under division (D)(3) of section 3301.07 of the Revised Code.~~

In the issuance and revocation of school district or school charters, the

state board shall be governed by the provisions of Chapter 119. of the Revised Code.

No school district, or individual school operated by a school district, shall operate without a charter issued by the state board under this section.

In case a school district charter is revoked pursuant to this section, the state board may dissolve the school district and transfer its territory to one or more adjacent districts. An equitable division of the funds, property, and indebtedness of the school district shall be made by the state board among the receiving districts. The board of education of a receiving district shall accept such territory pursuant to the order of the state board. Prior to dissolving the school district, the state board shall notify the appropriate educational service center governing board and all adjacent school district boards of education of its intention to do so. Boards so notified may make recommendations to the state board regarding the proposed dissolution and subsequent transfer of territory. Except as provided in section 3301.161 of the Revised Code, the transfer ordered by the state board shall become effective on the date specified by the state board, but the date shall be at least thirty days following the date of issuance of the order.

A high school is one of higher grade than an elementary school, in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which also offers other subjects of study more advanced than those taught in the elementary schools and such other subjects as may be approved by the state board of education.

An elementary school is one in which instruction and training are given in accordance with sections 3301.07 and 3313.60 of the Revised Code and which offers such other subjects as may be approved by the state board of education. In districts wherein a junior high school is maintained, the elementary schools in that district may be considered to include only the work of the first six school years inclusive, plus the kindergarten year.

~~A high school or an elementary school may consist of less than one or more than one organizational unit, as defined in sections 3306.02 and 3306.04 of the Revised Code.~~

Sec. 3301.162. (A) If the governing authority of a chartered nonpublic school intends to close the school, the governing authority shall notify all of the following of that intent prior to closing the school:

- (1) The department of education;
- (2) The school district that receives auxiliary services funding under division ~~(H)~~(E) of section 3317.024 of the Revised Code on behalf of the students enrolled in the school;
- (3) The accrediting association that most recently accredited the school

for purposes of chartering the school in accordance with the rules of the state board of education, if applicable.

The notice shall include the school year and, if possible, the actual date the school will close.

(B) The chief administrator of each chartered nonpublic school that closes shall deposit the school's records with either:

(1) The accrediting association that most recently accredited the school for purposes of chartering the school in accordance with the rules of the state board, if applicable;

(2) The school district that received auxiliary services funding under division ~~(H)~~(E) of section 3317.024 of the Revised Code on behalf of the students enrolled in the school.

The school district that receives the records may charge for and receive a one-time reimbursement from auxiliary services funding under division ~~(H)~~(E) of section 3317.024 of the Revised Code for costs the district incurred to store the records.

Sec. 3301.70. (A) The state board of education is the designated state agency responsible for the coordination and administration of sections 110 to 118 of the "National and Community Service Act of 1990," 104 Stat. 3127 (1990), 42 U.S.C. 12401 to 12431, as amended. With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism created in section 121.40 of the Revised Code, the state board shall coordinate with other state agencies to apply for funding under the act when appropriate.

(B) With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism, the state board of education shall develop a plan to assist school districts in the implementation of section 3313.605 of the Revised Code and other community service activities of school districts. The state board shall encourage the development of school district programs meeting the requirements for funding under the National and Community Service Act of 1990. The plan shall include the investigation of funding from all available sources for school community service education programs, including funds available under the National and Community Service Act of 1990, and the provision of technical assistance to school districts for the implementation of community service education programs. The plan shall also provide for technical assistance to be given to school boards to assist in obtaining funds for community service education programs from any source.

(C) With the assistance of the Ohio ~~community~~ commission on service ~~council~~ and volunteerism, the state board of education shall do all of the

following:

(1) Disseminate information about school district community service education programs to other school districts and to statewide organizations involved with or promoting volunteerism;

(2) Recruit additional school districts to develop community service education programs;

(3) Identify or develop model community service programs, teacher training courses, and community service curricula and teaching materials for possible use by school districts in their programs.

Sec. 3301.921. The healthy choices for healthy children council shall do all of the following:

(A) Monitor progress in improving student health and wellness;

(B) Make periodic policy recommendations to the state board of education regarding ways to improve the nutritional standards for food and beverages prescribed by sections 3313.816 and 3313.817 of the Revised Code. If, on or after ~~the effective date of this section~~ September 17, 2010, the United States department of agriculture adopts regulations for the sale of food or beverages in schools, the council, within sixty days after their adoption, shall review the regulations and, based on that review, make recommendations for changes to the nutritional standards prescribed by those sections.

(C) Make periodic recommendations to the department of education for the development of a clearinghouse of best practices in the areas of student nutrition, physical activity for students, and body mass index screenings;

~~(D) Assist the department of health in developing a list of resources regarding health risks associated with weight status for distribution to parents and guardians under division (E) of section 3313.674 of the Revised Code;~~

~~(E)~~ Regularly review developments in science and nutrition to ensure the council remains informed for purposes of making recommendations under divisions (B) and (C) of this section.

Sec. 3302.02. Not later than one year after the adoption of rules under division ~~(E)~~(D) of section 3301.0712 of the Revised Code and at least every sixth year thereafter, upon recommendations of the superintendent of public instruction, the state board of education shall establish performance indicators for the report cards required by division (C) of section 3302.03 of the Revised Code. In establishing these indicators, the superintendent shall consider inclusion of student performance on assessments prescribed under section 3301.0710 or 3301.0712 of the Revised Code, rates of student improvement on such assessments, student attendance, the breadth of

coursework available within the district, and other indicators of student success. Not later than December 31, 2011, the state board, upon recommendation of the superintendent, shall establish a performance indicator reflecting the level of services provided to, and the performance of, students identified as gifted under Chapter 3324. of the Revised Code.

The superintendent shall inform the Ohio accountability task force established under section 3302.021 of the Revised Code of the performance indicators the superintendent establishes under this section and the rationale for choosing each indicator and for determining how a school district or building meets that indicator.

The superintendent shall not establish any performance indicator for passage of the third or fourth grade English language arts assessment that is solely based on the assessment given in the fall for the purpose of determining whether students have met the reading guarantee provisions of section 3313.608 of the Revised Code.

Sec. 3302.031. In addition to the report cards required under section 3302.03 of the Revised Code, the department of education shall annually prepare the following reports for each school district and make a copy of each report available to the superintendent of each district:

(A) A funding and expenditure accountability report which shall consist of the amount of state aid payments the school district will receive during the fiscal year under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code and any other fiscal data the department determines is necessary to inform the public about the financial status of the district;

(B) A school safety and discipline report which shall consist of statistical information regarding student safety and discipline in each school building, including the number of suspensions and expulsions disaggregated according to race and gender;

(C) A student equity report which shall consist of at least a description of the status of teacher qualifications, library and media resources, textbooks, classroom materials and supplies, and technology resources for each district. To the extent possible, the information included in the report required under this division shall be disaggregated according to grade level, race, gender, disability, and scores attained on assessments required under section 3301.0710 of the Revised Code.

(D) A school enrollment report which shall consist of information about the composition of classes within each district by grade and subject disaggregated according to race, gender, and scores attained on assessments required under section 3301.0710 of the Revised Code;

(E) A student retention report which shall consist of the number of

students retained in their respective grade levels in the district disaggregated by grade level, subject area, race, gender, and disability;

(F) A school district performance report which shall describe for the district and each building within the district the extent to which the district or building meets each of the applicable performance indicators established under section 3302.02 of the Revised Code, the number of performance indicators that have been achieved, and the performance index score. In calculating the rates of achievement on the performance indicators and the performance index scores for each report, the department shall exclude all students with disabilities.

Sec. 3302.032. (A) Not later than December 31, 2011, the state board of education shall establish a measure of the following:

(1) Student success in meeting the benchmarks contained in the physical education standards adopted under division (A)(3) of section 3301.079 of the Revised Code;

(2) Compliance with the requirements for local wellness policies prescribed by section 204 of the "Child Nutrition and WIC Reauthorization Act of 2004," 42 U.S.C. 1751 note;

~~(3) Whether a school district or building is complying with section 3313.674 of the Revised Code instead of operating under a waiver from the requirements of that section;~~

(4) Whether a school district or building is participating in the physical activity pilot program administered under section 3313.6016 of the Revised Code.

(B) The measure shall be included on the school district and building report cards issued under section 3302.03 of the Revised Code, beginning with the report cards issued for the 2012-2013 school year, but it shall not be a factor in the performance ratings issued under that section.

(C) The department of education may accept, receive, and expend gifts, devises, or bequests of money for the purpose of establishing the measure required by this section.

Sec. 3302.04. (A) The department of education shall establish a system of intensive, ongoing support for the improvement of school districts and school buildings. In accordance with the model of differentiated accountability described in section 3302.041 of the Revised Code, the system shall give priority to districts and buildings that have been declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code and shall include services provided to districts and buildings through regional service providers, such as educational service centers.

(B) This division does not apply to any school district after June 30, 2008.

When a school district has been notified by the department pursuant to division (A) of section 3302.03 of the Revised Code that the district or a building within the district has failed to make adequate yearly progress for two consecutive school years, the district shall develop a three-year continuous improvement plan for the district or building containing each of the following:

(1) An analysis of the reasons for the failure of the district or building to meet any of the applicable performance indicators established under section 3302.02 of the Revised Code that it did not meet and an analysis of the reasons for its failure to make adequate yearly progress;

(2) Specific strategies that the district or building will use to address the problems in academic achievement identified in division (B)(1) of this section;

(3) Identification of the resources that the district will allocate toward improving the academic achievement of the district or building;

(4) A description of any progress that the district or building made in the preceding year toward improving its academic achievement;

(5) An analysis of how the district is utilizing the professional development standards adopted by the state board pursuant to section 3319.61 of the Revised Code;

(6) Strategies that the district or building will use to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

No three-year continuous improvement plan shall be developed or adopted pursuant to this division unless at least one public hearing is held within the affected school district or building concerning the final draft of the plan. Notice of the hearing shall be given two weeks prior to the hearing by publication in one newspaper of general circulation within the territory of the affected school district or building. Copies of the plan shall be made available to the public.

(C) When a school district or building has been notified by the department pursuant to division (A) of section 3302.03 of the Revised Code that the district or building is under an academic watch or in a state of academic emergency, the district or building shall be subject to any rules establishing intervention in academic watch or emergency school districts or buildings.

(D)(1) Within one hundred twenty days after any school district or building is declared to be in a state of academic emergency under section

3302.03 of the Revised Code, the department may initiate a site evaluation of the building or school district.

(2) Division (D)(2) of this section does not apply to any school district after June 30, 2008.

If any school district that is declared to be in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code or encompasses a building that is declared to be in a state of academic emergency or in a state of academic watch fails to demonstrate to the department satisfactory improvement of the district or applicable buildings or fails to submit to the department any information required under rules established by the state board of education, prior to approving a three-year continuous improvement plan under rules established by the state board of education, the department shall conduct a site evaluation of the school district or applicable buildings to determine whether the school district is in compliance with minimum standards established by law or rule.

(3) Site evaluations conducted under divisions (D)(1) and (2) of this section shall include, but not be limited to, the following:

(a) Determining whether teachers are assigned to subject areas for which they are licensed or certified;

(b) Determining pupil-teacher ratios;

(c) Examination of compliance with minimum instruction time requirements for each school day and for each school year;

(d) Determining whether materials and equipment necessary to implement the curriculum approved by the school district board are available;

(e) Examination of whether the teacher and principal evaluation system ~~reflects the evaluation system guidelines adopted by the state board of education under section 3319.112~~ systems comply with sections 3319.02 and 3319.111 of the Revised Code;

(f) Examination of the adequacy of efforts to improve the cultural competency, as defined pursuant to section 3319.61 of the Revised Code, of teachers and other educators.

(E) This division applies only to school districts that operate a school building that fails to make adequate yearly progress for two or more consecutive school years. It does not apply to any such district after June 30, 2008, except as provided in division (D)(2) of section 3313.97 of the Revised Code.

(1) For any school building that fails to make adequate yearly progress for two consecutive school years, the district shall do all of the following:

(a) Provide written notification of the academic issues that resulted in

the building's failure to make adequate yearly progress to the parent or guardian of each student enrolled in the building. The notification shall also describe the actions being taken by the district or building to improve the academic performance of the building and any progress achieved toward that goal in the immediately preceding school year.

(b) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, offer all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001." Notwithstanding Chapter 3327. of the Revised Code, the district shall spend an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under this division, unless the district can satisfy all demand for transportation with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation, the district shall grant priority over all other students to the lowest achieving students among the subgroup described in division (B)(3) of section 3302.01 of the Revised Code in providing transportation. Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under this division.

(2) For any school building that fails to make adequate yearly progress for three consecutive school years, the district shall do both of the following:

(a) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, from the district, in accordance with section 3313.97 of the Revised Code, provide all students enrolled in the building the opportunity to enroll in an alternative building within the district that is not in school improvement status as defined by the "No Child Left Behind Act of 2001." Notwithstanding Chapter 3327. of the Revised Code, the district shall provide transportation for students who enroll in alternative buildings under this division to the extent required under division (E)(2) of this section.

(b) If the building receives funds under Title 1, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to

6339, from the district, offer supplemental educational services to students who are enrolled in the building and who are in the subgroup described in division (B)(3) of section 3302.01 of the Revised Code.

The district shall spend a combined total of an amount equal to twenty per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section and to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can satisfy all demand for transportation and pay the costs of supplemental educational services for those students who request them with a lesser amount. In allocating funds between the requirements of divisions (E)(1)(b) and (E)(2)(a) and (b) of this section, the district shall spend at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to provide transportation for students who enroll in alternative buildings under division (E)(1)(b) or (E)(2)(a) of this section, unless the district can satisfy all demand for transportation with a lesser amount, and at least an amount equal to five per cent of the funds it receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, to pay the costs of the supplemental educational services provided to students under division (E)(2)(b) of this section, unless the district can pay the costs of such services for all students requesting them with a lesser amount. If an amount equal to twenty per cent of the funds the district receives under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, is insufficient to satisfy all demand for transportation under divisions (E)(1)(b) and (E)(2)(a) of this section and to pay the costs of all of the supplemental educational services provided to students under division (E)(2)(b) of this section, the district shall grant priority over all other students in providing transportation and in paying the costs of supplemental educational services to the lowest achieving students among the subgroup described in division (B)(3) of section 3302.01 of the Revised Code.

Any district that does not receive funds under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339, shall not be required to provide transportation to any student who enrolls in an alternative building under division (E)(2)(a) of this section or to pay the costs of supplemental educational services provided to any student under division (E)(2)(b) of this section.

No student who enrolls in an alternative building under division

(E)(2)(a) of this section shall be eligible for supplemental educational services under division (E)(2)(b) of this section.

(3) For any school building that fails to make adequate yearly progress for four consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall implement at least one of the following options with respect to the building:

(a) Institute a new curriculum that is consistent with the statewide academic standards adopted pursuant to division (A) of section 3301.079 of the Revised Code;

(b) Decrease the degree of authority the building has to manage its internal operations;

(c) Appoint an outside expert to make recommendations for improving the academic performance of the building. The district may request the department to establish a state intervention team for this purpose pursuant to division (G) of this section.

(d) Extend the length of the school day or year;

(e) Replace the building principal or other key personnel;

(f) Reorganize the administrative structure of the building.

(4) For any school building that fails to make adequate yearly progress for five consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall develop a plan during the next succeeding school year to improve the academic performance of the building, which shall include at least one of the following options:

(a) Reopen the school as a community school under Chapter 3314. of the Revised Code;

(b) Replace personnel;

(c) Contract with a nonprofit or for-profit entity to operate the building;

(d) Turn operation of the building over to the department;

(e) Other significant restructuring of the building's governance.

(5) For any school building that fails to make adequate yearly progress for six consecutive school years, the district shall continue to comply with division (E)(2) of this section and shall implement the plan developed pursuant to division (E)(4) of this section.

(6) A district shall continue to comply with division (E)(1)(b) or (E)(2) of this section, whichever was most recently applicable, with respect to any building formerly subject to one of those divisions until the building makes adequate yearly progress for two consecutive school years.

(F) This division applies only to school districts that have been identified for improvement by the department pursuant to the "No Child Left Behind Act of 2001." It does not apply to any such district after June

30, 2008.

(1) If a school district has been identified for improvement for one school year, the district shall provide a written description of the continuous improvement plan developed by the district pursuant to division (B) of this section to the parent or guardian of each student enrolled in the district. If the district does not have a continuous improvement plan, the district shall develop such a plan in accordance with division (B) of this section and provide a written description of the plan to the parent or guardian of each student enrolled in the district.

(2) If a school district has been identified for improvement for two consecutive school years, the district shall continue to implement the continuous improvement plan developed by the district pursuant to division (B) or (F)(1) of this section.

(3) If a school district has been identified for improvement for three consecutive school years, the department shall take at least one of the following corrective actions with respect to the district:

(a) Withhold a portion of the funds the district is entitled to receive under Title I, Part A of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6311 to 6339;

(b) Direct the district to replace key district personnel;

(c) Institute a new curriculum that is consistent with the statewide academic standards adopted pursuant to division (A) of section 3301.079 of the Revised Code;

(d) Establish alternative forms of governance for individual school buildings within the district;

(e) Appoint a trustee to manage the district in place of the district superintendent and board of education.

The department shall conduct individual audits of a sampling of districts subject to this division to determine compliance with the corrective actions taken by the department.

(4) If a school district has been identified for improvement for four consecutive school years, the department shall continue to monitor implementation of the corrective action taken under division (F)(3) of this section with respect to the district.

(5) If a school district has been identified for improvement for five consecutive school years, the department shall take at least one of the corrective actions identified in division (F)(3) of this section with respect to the district, provided that the corrective action the department takes is different from the corrective action previously taken under division (F)(3) of this section with respect to the district.

(G) The department may establish a state intervention team to evaluate all aspects of a school district or building, including management, curriculum, instructional methods, resource allocation, and scheduling. Any such intervention team shall be appointed by the department and shall include teachers and administrators recognized as outstanding in their fields. The intervention team shall make recommendations regarding methods for improving the performance of the district or building.

The department shall not approve a district's request for an intervention team under division (E)(3) of this section if the department cannot adequately fund the work of the team, unless the district agrees to pay for the expenses of the team.

(H) The department shall conduct individual audits of a sampling of community schools established under Chapter 3314. of the Revised Code to determine compliance with this section.

(I) The state board shall adopt rules for implementing this section.

Sec. 3302.042. (A) This section shall operate as a pilot project that applies to any school that has been ranked according to performance index score under section 3302.21 of the Revised Code in the lowest five per cent of all public school buildings statewide for three or more consecutive school years and is operated by the Columbus city school district. The pilot project shall commence once the department of education establishes implementation guidelines for the pilot project in consultation with the Columbus city school district.

(B) Except as provided in division (D) of this section, if the parents or guardians of at least fifty per cent of the students enrolled in a school to which this section applies, or if the parents or guardians of at least fifty per cent of the total number of students enrolled in that school and the schools of lower grade levels whose students typically matriculate into that school, sign and file with the school district treasurer a petition requesting the district board of education to implement one of the following reforms in the school, and if the validity and sufficiency of the petition is certified in accordance with division (C) of this section, the board shall implement the requested reform in the next school year:

(1) Reopen the school as a community school under Chapter 3314. of the Revised Code;

(2) Replace at least seventy per cent of the school's personnel who are related to the school's poor academic performance or, at the request of the petitioners, retain not more than thirty per cent of the personnel;

(3) Contract with another school district or a nonprofit or for-profit entity with a demonstrated record of effectiveness to operate the school;

(4) Turn operation of the school over to the department;

(5) Any other major restructuring of the school that makes fundamental reforms in the school's staffing or governance.

(C) Not later than thirty days after receipt of a petition under division (B) of this section, the district treasurer shall verify the validity and sufficiency of the signatures on the petition and certify to the district board whether the petition contains the necessary number of valid signatures to require the board to implement the reform requested by the petitioners. If the treasurer certifies to the district board that the petition does not contain the necessary number of valid signatures, any person who signed the petition may file an appeal with the county auditor within ten days after the certification. Not later than thirty days after the filing of an appeal, the county auditor shall conduct an independent verification of the validity and sufficiency of the signatures on the petition and certify to the district board whether the petition contains the necessary number of valid signatures to require the board to implement the requested reform. If the treasurer or county auditor certifies that the petition contains the necessary number of valid signatures, the district board shall notify the superintendent of public instruction and the state board of education of the certification.

(D) The district board shall not implement the reform requested by the petitioners in any of the following circumstances:

(1) The district board has determined that the request is for reasons other than improving student academic achievement or student safety.

(2) The state superintendent has determined that implementation of the requested reform would not comply with the model of differentiated accountability described in section 3302.041 of the Revised Code.

(3) The petitioners have requested the district board to implement the reform described in division (B)(4) of this section and the department has not agreed to take over the school's operation.

(4) When all of the following have occurred:

(a) After a public hearing on the matter, the district board issued a written statement explaining the reasons that it is unable to implement the requested reform and agreeing to implement one of the other reforms described in division (B) of this section.

(b) The district board submitted its written statement to the state superintendent and the state board along with evidence showing how the alternative reform the district board has agreed to implement will enable the school to improve its academic performance.

(c) Both the state superintendent and the state board have approved implementation of the alternative reform.

(E) Beginning not later than six months after the first petition under this section has been resolved, the department of education shall annually evaluate the pilot program and submit a report to the general assembly under section 101.68 of the Revised Code. Such reports shall contain its recommendations to the general assembly with respect to the continuation of the pilot program, its expansion to other school districts, or the enactment of further legislation establishing the program statewide under permanent law.

Sec. 3302.05. The state board of education shall adopt rules freeing school districts declared to be excellent under division (B)(1) or effective under division (B)(2) of section 3302.03 of the Revised Code from specified state mandates. Any mandates included in the rules shall be only those statutes or rules pertaining to state education requirements. The rules shall not exempt districts ~~from any standard or requirement of section 3306.09 of the Revised Code or~~ from any operating standard adopted under division (D)(3) of section 3301.07 of the Revised Code.

Sec. 3302.06. (A) Any school of a city, exempted village, or local school district may apply to the district board of education to be designated as an innovation school. Each application shall include an innovation plan that contains the following:

(1) A statement of the school's mission and an explanation of how the designation would enhance the school's ability to fulfill its mission;

(2) A description of the innovations the school would implement;

(3) An explanation of how implementation of the innovations described in division (A)(2) of this section would affect the school's programs and policies, including any of the following that apply:

(a) The school's educational program;

(b) The length of the school day and the school year;

(c) The school's student promotion policy;

(d) The school's plan for the assessment of students;

(e) The school's budget;

(f) The school's staffing levels.

(4) A description of the improvements in student academic performance that the school expects to achieve by implementing the innovations described in division (A)(2) of this section;

(5) An estimate of the cost savings and increased efficiencies, if any, that the school expects to achieve by implementing the innovations described in division (A)(2) of this section;

(6) A description of any laws in Title XXXIII of the Revised Code, rules adopted by the state board of education, or requirements enacted by the district board that would need to be waived to implement the innovations

described in division (A)(2) of this section:

(7) A description of any provisions of a collective bargaining agreement covering personnel of the school that would need to be waived to implement the innovations described in division (A)(2) of this section;

(8) Evidence that a majority of the administrators assigned to the school and a majority of the teachers assigned to the school consent to seeking the designation and a statement of the level of support for seeking the designation demonstrated by other staff working in the school, students enrolled in the school and their parents, and members of the community in which the school is located.

(B) Two or more schools of the district may apply to the district board to be designated as an innovation school zone, if the schools share common interests based on factors such as geographical proximity or similar educational programs or if the schools serve the same classes of students as they advance to higher grade levels. Each application shall include an innovation plan that contains the information prescribed by divisions (A)(1) to (8) of this section for each participating school and the following additional information:

(1) A description of how innovations in the participating schools would be integrated to achieve results that would be less likely to be achieved by each participating school alone;

(2) An estimate of any economies of scale that would be realized by implementing innovations jointly.

Sec. 3302.061. (A) A school district board of education shall review each application received under section 3302.06 of the Revised Code and, within sixty days after receipt of the application, shall approve or disapprove the application. In reviewing applications, the board shall give preference to applications that propose innovations in one or more of the following areas:

(1) Curriculum;

(2) Student assessments, other than the assessments prescribed by sections 3301.0710 and 3301.0712 of the Revised Code;

(3) Class scheduling;

(4) Accountability measures, including innovations that expand the number and variety of measures used in order to collect more complete data about student academic performance. For this purpose, schools may consider use of measures such as end-of-course examinations, portfolios of student work, nationally or internationally normed assessments, the percentage of students enrolling in post-secondary education, or the percentage of students simultaneously obtaining a high school diploma and an associate's degree or certification to work in an industry or career field.

(5) Provision of student services, including services for students who are disabled, identified as gifted under Chapter 3324. of the Revised Code, limited English proficient, at risk of academic failure or dropping out, or at risk of suspension or expulsion;

(6) Provision of health, counseling, or other social services to students;

(7) Preparation of students for transition to higher education or the workforce;

(8) Teacher recruitment, employment, and evaluation;

(9) Compensation for school personnel;

(10) Professional development;

(11) School governance and the roles and responsibilities of principals;

(12) Use of financial or other resources.

(B)(1) If the board approves an application seeking designation as an innovation school, it shall so designate the school that submitted the application. If the board approves an application seeking designation as an innovation school zone, it shall so designate the participating schools that submitted the application.

(2) If the board disapproves an application, it shall provide a written explanation of the basis for its decision to the school or schools that submitted the application. The school or schools may reapply for designation as an innovation school or innovation school zone at any time.

(C) The board may approve an application that allows an innovation school or a school participating in an innovation school zone to determine the compensation of board employees working in the school, but the total compensation for all such employees shall not exceed the financial resources allocated to the school by the board. The school shall not be required to comply with the salary schedule adopted by the board under section 3317.14 or 3317.141 of the Revised Code. The board may approve an application that allows an innovation school or a school participating in an innovation school zone to remove board employees from the school, but no employee shall be terminated except as provided in section 3319.081 or 3319.16 of the Revised Code.

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

(1) Designate a school as an innovation school by creating an innovation plan for that school and offering the school an opportunity to participate in the plan's creation;

(2) Designate as an innovation school zone two or more schools that share common interests based on factors such as geographical proximity or similar educational programs or that serve the same classes of students as they advance to higher grade levels, by creating an innovation plan for those

schools and offering the schools an opportunity to participate in the plan's creation.

Sec. 3302.062. (A) If a school district board of education approves an application under division (B)(1) of section 3302.061 of the Revised Code or designates an innovation school or innovation school zone under division (D) of that section, the district board shall apply to the state board of education for designation as a school district of innovation by submitting to the state board the innovation plan included in the approved application or created by the district board.

Within sixty days after receipt of the application, the state board shall designate the district as a school district of innovation, unless the state board determines that the submitted innovation plan is not financially feasible or will likely result in decreased academic achievement. If the state board so determines, it shall provide a written explanation of the basis for its determination to the district board. If the district is not designated as a school district of innovation, the district board shall not implement the innovation plan. However, the district board may reapply for designation as a school district of innovation at any time.

(B) A district board may request the state board to make a preliminary review of an innovation plan prior to the district board's formal application for designation as a school district of innovation. In that case, the state board shall review the innovation plan and, within sixty days after the request, recommend to the district board any changes or additions that the state board believes will improve the plan, which may include further innovations or measures to increase the likelihood that the innovations will result in higher academic achievement. The district board may revise the innovation plan prior to making formal application for designation as a school district of innovation.

Sec. 3302.063. (A) Except as provided in division (B) of this section, upon designation of a school district of innovation under section 3302.062 of the Revised Code, the state board of education shall waive any laws in Title XXXIII of the Revised Code or rules adopted by the state board that are specified in the innovation plan submitted by the district board of education as needing to be waived to implement the plan. The waiver shall apply only to the school or schools participating in the innovation plan and shall not apply to the district as a whole, unless each of the district's schools is a participating school. The waiver shall cease to apply to a school if the school's designation as an innovation school is revoked or the innovation school zone in which the school participates has its designation revoked under section 3302.065 of the Revised Code, or if the school is removed

from an innovation school zone under that section or section 3302.064 of the Revised Code.

(B) The state board shall not waive any law or rule regarding the following:

(1) Funding for school districts under Chapter 3317. of the Revised Code;

(2) The requirements of Chapters 3323. and 3324. of the Revised Code for the provision of services to students with disabilities and gifted students;

(3) Requirements related to the provision of career-technical education that are necessary to comply with federal law or maintenance of effort provisions;

(4) Administration of the assessments prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the Revised Code;

(5) Requirements related to the issuance of report cards and the assignment of performance ratings under section 3302.03 of the Revised Code;

(6) Implementation of the model of differentiated accountability under section 3302.041 of the Revised Code;

(7) Requirements for the reporting of data to the department of education;

(8) Criminal records checks of school employees;

(9) The requirements of Chapters 3307. and 3309. regarding the retirement systems for teachers and school employees.

(C) If a district board's revisions to an innovation plan under section 3302.066 of the Revised Code require a waiver of additional laws or state board rules, the state board shall grant a waiver from those laws or rules upon evidence that administrators and teachers have consented to the revisions as required by that section.

Sec. 3302.064. (A) Each collective bargaining agreement entered into by a school district board of education under Chapter 4117. of the Revised Code on or after the effective date of this section shall allow for the waiver of any provision of the agreement specified in the innovation plan approved or created under section 3302.061 of the Revised Code as needing to be waived to implement the plan, in the event the district is designated as a school district of innovation.

(B)(1) In the case of an innovation school, waiver of the provisions specified in the innovation plan shall be contingent upon at least sixty per cent of the members of the bargaining unit covered by the collective bargaining agreement who work in the school voting, by secret ballot, to approve the waiver.

(2) In the case of an innovation school zone, waiver of the provisions specified in the innovation plan shall be contingent upon, in each participating school, at least sixty per cent of the members of the bargaining unit covered by the collective bargaining agreement who work in that school voting, by secret ballot, to approve the waiver. If at least sixty per cent of the members of the bargaining unit in a participating school do not vote to approve the waiver, the board may revise the innovation plan to remove that school from the innovation school zone.

(3) If a board's revisions to an innovation plan under section 3302.066 of the Revised Code require a waiver of additional provisions of the collective bargaining agreement, that waiver shall be contingent upon approval under division (B)(1) or (2) of this section in the same manner as the initial waiver.

(C) A waiver approved under division (B) of this section shall continue to apply relative to any substantially similar provision of a collective bargaining agreement entered into after the approval of the waiver.

(D) A waiver approved under division (B) of this section shall cease to apply to a school if the school's designation as an innovation school is revoked or the innovation school zone in which the school participates has its designation revoked under section 3302.065 of the Revised Code, or if the school is removed from an innovation school zone under that section.

(E) An employee working in an innovation school or a school participating in an innovation school zone who is a member of a bargaining unit that approves a waiver under division (B) of this section may request the board to transfer the employee to another school of the district. The board shall make every reasonable effort to accommodate the employee's request.

Sec. 3302.065. Not later than three years after obtaining designation as a school district of innovation under section 3302.062 of the Revised Code, and every three years thereafter, the district board of education shall review the performance of the innovation school or innovation school zone and determine if it is achieving, or making sufficient progress toward achieving, the improvements in student academic performance that were described in its innovation plan. If the board finds that an innovation school is not achieving, or not making sufficient progress toward achieving, those improvements in student academic performance, the board may revoke the designation as an innovation school. If the board finds that a school participating in an innovation school zone is not achieving, or not making sufficient progress toward achieving, those improvements in student academic performance, the board may remove that school from the

innovation school zone or may revoke the designation of all participating schools as an innovation school zone.

Sec. 3302.066. A school district board of education may revise an innovation plan approved or created under section 3302.061 of the Revised Code, in collaboration with the school or schools participating in the plan, to further improve student academic performance. The revisions may include identifying additional laws in Title XXXIII of the Revised Code, rules adopted by the state board of education, requirements enacted by the district board, or provisions of a collective bargaining agreement that need to be waived. Any revisions to an innovation plan shall require the consent, in each school participating in the plan, of a majority of the administrators assigned to that school and a majority of the teachers assigned to that school.

Sec. 3302.067. The board of education of any district designated as a school district of innovation or any school participating in an innovation plan may accept, receive, and expend gifts, grants, or donations from any public or private entity to support the implementation of the plan.

Sec. 3302.068. Not later than the first day of July each year, the department of education shall issue, and post on its web site, a report on school districts of innovation. The report shall include the following information:

(A) The number of districts designated as school districts of innovation in the preceding school year and the total number of school districts of innovation statewide;

(B) The number of innovation schools in each school district of innovation and the number of district students served by the schools, expressed as a total number and as a percentage of the district's total student population;

(C) The number of innovation school zones in each school district of innovation, the number of schools participating in each zone, and the number of district students served by the participating schools, expressed as a total number and as a percentage of the district's total student population;

(D) An overview of the innovations implemented in innovation schools and innovation school zones;

(E) Data on the academic performance of the students enrolled in an innovation school or an innovation school zone in each school district of innovation, including a comparison of the students' academic performance before and after the district's designation as a school district of innovation;

(F) Recommendations for legislative changes based on the innovations implemented or to enhance the ability of schools and districts to implement

innovations.

Sec. 3302.07. (A) The board of education of any school district, the governing board of any educational service center, or the administrative authority of any chartered nonpublic school may submit to the state board of education an application proposing an innovative education pilot program the implementation of which requires exemptions from specific statutory provisions or rules. If a district or service center board employs teachers under a collective bargaining agreement adopted pursuant to Chapter 4117. of the Revised Code, any application submitted under this division shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code. The exemptions requested in the application shall be limited to any requirement of Title XXXIII of the Revised Code or of any rule of the state board adopted pursuant to that title except that the application may not propose an exemption from any requirement of or rule adopted pursuant to ~~section 3306.09~~, Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code. Furthermore, an exemption from any operating standard adopted under division (B)(2) or ~~(D)(3)~~ of section 3301.07 of the Revised Code shall be granted only pursuant to a waiver granted by the superintendent of public instruction under division (O) of that section.

(B) The state board of education shall accept any application submitted in accordance with division (A) of this section. The superintendent of public instruction shall approve or disapprove the application in accordance with standards for approval, which shall be adopted by the state board.

(C) The superintendent of public instruction shall exempt each district or service center board or chartered nonpublic school administrative authority with an application approved under division (B) of this section for a specified period from the statutory provisions or rules specified in the approved application. The period of exemption shall not exceed the period during which the pilot program proposed in the application is being implemented and a reasonable period to allow for evaluation of the effectiveness of the program.

Sec. 3302.12. (A) For any school building that is ranked according to performance index score under section 3302.21 of the Revised Code in the lowest five per cent of all public school buildings statewide for three consecutive years and is declared to be under an academic watch or in a state of academic emergency under section 3302.03 of the Revised Code, the district board of education shall do one of the following at the conclusion of the school year in which the building first becomes subject to this division:

(1) Close the school and direct the district superintendent to reassign the students enrolled in the school to other school buildings that demonstrate higher academic achievement;

(2) Contract with another school district or a nonprofit or for-profit entity with a demonstrated record of effectiveness to operate the school;

(3) Replace the principal and all teaching staff of the school and, upon request from the new principal, exempt the school from all requested policies and regulations of the board regarding curriculum and instruction. The board also shall distribute funding to the school in an amount that is at least equal to the product of the per pupil amount of state and local revenues received by the district multiplied by the student population of the school.

(4) Reopen the school as a conversion community school under Chapter 3314. of the Revised Code.

(B) If an action taken by the board under division (A) of this section causes the district to no longer maintain all grades kindergarten through twelve, as required by section 3311.29 of the Revised Code, the board shall enter into a contract with another school district pursuant to section 3327.04 of the Revised Code for enrollment of students in the schools of that other district to the extent necessary to comply with the requirement of section 3311.29 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, if the board enters into and maintains a contract under section 3327.04 of the Revised Code, the district shall not be considered to have failed to comply with the requirement of section 3311.29 of the Revised Code. If, however, the district board fails to or is unable to enter into or maintain such a contract, the state board of education shall take all necessary actions to dissolve the district as provided in division (A) of section 3311.29 of the Revised Code.

Sec. 3302.20. (A) The department of education shall develop standards for determining, from the existing data reported in accordance with sections 3301.0714 and 3314.17 of the Revised Code, the amount of annual operating expenditures for classroom instructional purposes and for nonclassroom purposes for each city, exempted village, local, and joint vocational school district, each community school established under Chapter 3314. that is not an internet- or computer-based community school, each internet- or computer-based community school, and each STEM school established under Chapter 3326. of the Revised Code. Not later than January 1, 2012, the department shall present those standards to the state board of education for consideration. In developing the standards, the department shall adapt existing standards used by professional organizations, research organizations, and other state governments.

The state board shall consider the proposed standards and adopt a final set of standards not later than July 1, 2012.

(B)(1) The department shall categorize all city, exempted village, and local school districts into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each district under section 3302.03 of the Revised Code.

(2) The department shall categorize all joint vocational school districts into not less than three nor more than five groups based primarily on average daily membership as reported under division (D) of section 3317.03 of the Revised Code rounded to the nearest whole number.

(3) The department shall categorize all community schools that are not internet- or computer-based community schools into not less than three nor more than five groups based primarily on average daily student enrollment as reported on the most recent report card issued for each community school under sections 3302.03 and 3314.012 of the Revised Code.

(4) The department shall categorize all internet- or computer-based community schools into a single category.

(5) The department shall categorize all STEM schools into a single category.

(C) Using the standards adopted under division (A) of this section and the data reported under sections 3301.0714 and 3314.17 of the Revised Code, the department shall compute, for fiscal years 2008 through 2012, and annually for each fiscal year thereafter, the following:

(1) The percentage of each district's, community school's, or STEM school's total operating budget spent for classroom instructional purposes;

(2) The statewide average percentage for all districts, community schools, and STEM schools combined spent for classroom instructional purposes;

(3) The average percentage for each of the categories of districts and schools established under division (B) of this section spent for classroom instructional purposes;

(4) The ranking of each district, community school, or STEM school within its respective category established under division (B) of this section according to the following:

(a) From highest to lowest percentage spent for classroom instructional purposes;

(b) From lowest to highest percentage spent for noninstructional purposes.

(D) In its display of rankings within each category under division (C)(4)

of this section, the department shall make the following notations:

(1) Within each category of city, exempted village, and local school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all city, exempted village, and local school districts statewide with the lowest total operating expenditures per pupil:

(b) Among the twenty per cent of all city, exempted village, and local school districts statewide with the highest performance index scores.

(2) Within each category of joint vocational school districts, the department shall denote each district that is:

(a) Among the twenty per cent of all joint vocational school districts statewide with the lowest total operating expenditures per pupil:

(b) Among the twenty per cent of all joint vocational school districts statewide with the highest performance measures required for career-technical education under 20 U.S.C. 2323, as ranked under division (A)(3) of section 3302.21 of the Revised Code.

(3) Within each category of community schools that are not internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil:

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.

(4) Within the category of internet- or computer-based community schools, the department shall denote each school that is:

(a) Among the twenty per cent of all such community schools statewide with the lowest total operating expenditures per pupil:

(b) Among the twenty per cent of all such community schools statewide with the highest performance index scores.

(5) Within the category of STEM schools, the department shall denote each school that is:

(a) Among the twenty per cent of all STEM schools statewide with the lowest total operating expenditures per pupil:

(b) Among the twenty per cent of all STEM schools statewide with the highest performance index scores.

(E) The department shall post in a prominent location on its web site the information prescribed by divisions (C) and (D) of this section. The department also shall include on each district's, community school's, and STEM school's annual report card issued under section 3302.03 of the Revised Code the respective information computed for the district or school

under divisions (C)(1) and (4) of this section, the statewide information computed under division (C)(2) of this section, and the information computed for the district's or school's category under division (C)(3) of this section.

(F) As used in this section:

(1) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

(2) A school district's, community school's, or STEM school's performance index score rank is its performance index score rank as computed under section 3302.21 of the Revised Code.

Sec. 3302.21. (A) The department of education shall develop a system to rank order all city, exempted village, local, and joint vocational school districts, community schools established under Chapter 3314., and STEM schools established under Chapter 3326. of the Revised Code according to the following measures:

(1) Performance index score for each school district, community school, and STEM school and for each separate building of a district, community school, or STEM school. For districts, schools, or buildings to which the performance index score does not apply, the superintendent of public instruction shall develop another measure of student academic performance and use that measure to include those buildings in the ranking so that all districts, schools, and buildings may be reliably compared to each other.

(2) Student performance growth from year to year, using the value-added progress dimension, if applicable, and other measures of student performance growth designated by the superintendent of public instruction for subjects and grades not covered by the value-added progress dimension;

(3) Performance measures required for career-technical education under 20 U.S.C. 2323, if applicable. If a school district is a "VEPD" or "lead district" as those terms are defined in section 3317.023 of the Revised Code, the district's ranking shall be based on the performance of career-technical students from that district and all other districts served by that district, and such fact, including the identity of the other districts served by that district, shall be noted on the report required by division (B) of this section.

(4) Current operating expenditures per pupil;

(5) Of total current operating expenditures, percentage spent for classroom instruction as determined under standards adopted by the state board of education;

(6) Performance of, and opportunities provided to, students identified as gifted using value-added progress dimensions, if applicable, and other

relevant measures as designated by the superintendent of public instruction.

The department shall rank each district, community school, and STEM school annually in accordance with the system developed under this section.

(B) In addition to the reports required by sections 3302.03 and 3302.031 of the Revised Code, not later than the first day of September each year, the department shall issue a report for each city, exempted village, local, and joint vocational school district, each community school, and each STEM school indicating the district's or school's rank on each measure described in divisions (A)(1) to (5) of this section, including each separate building's rank among all public school buildings according to performance index score under division (A)(1) of this section.

Sec. 3302.22. (A) The governor's effective and efficient schools recognition program is hereby created. Each year, the governor shall recognize, in a manner deemed appropriate by the governor, the top ten per cent of all public schools in this state, including schools of city, exempted village, local, or joint vocational school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The top ten per cent of schools shall be determined by the department of education according to standards established by the department. The standards shall include, but need not be limited to, both of the following:

(1) Student performance, as determined by factors including, but not limited to, performance indicators under section 3302.02 of the Revised Code, report cards issued under section 3302.03 of the Revised Code, performance index score rankings under section 3302.21 of the Revised Code, and any other statewide or national assessment or student performance recognition program the department selects;

(2) Fiscal performance, including cost-effective measures taken by the school.

Sec. 3302.25. (A) In accordance with standards prescribed by the state board of education for categorization of school district expenditures adopted under division (A) of section 3302.20 of the Revised Code, the department of education annually shall determine all of the following for the previous fiscal year:

(1) For each school district, the ratio of the district's operating expenditures for instructional purposes compared to its operating expenditures for administrative purposes;

(2) For each school district, the per pupil amount of the district's expenditures for instructional purposes;

(3) For each school district, the per pupil amount of the district's operating expenditures for administrative purposes;

(4) For each school district, the percentage of the district's operating expenditures attributable to school district funds;

(5) The statewide average among all school districts for each of the items described in divisions (A)(1) to (4) of this section.

(B) The department annually shall submit a report to each school district indicating the district's information for each of the items described in divisions (A)(1) to (4) of this section and the statewide averages described in division (A)(5) of this section.

(C) Each school district, upon receipt of the report prescribed by division (B) of this section, shall publish the information contained in that report in a prominent location on the district's web site and publish the report in another fashion so that it is available to all parents of students enrolled in the district and to taxpayers of the district.

Sec. 3302.30. (A) The superintendent of public instruction shall establish a pilot project in Columbiana county under which one or more school districts in that county shall offer a multiple-track high school curriculum for students with differing career plans. The superintendent shall solicit and select districts to participate in the pilot project. Selected districts shall begin offering their career track curricula not later than the school year that begins at least six months after the effective date of this section. No district shall be required to participate in the pilot project.

The curricula provided under the pilot project at each participating district shall offer at least three distinct career tracks, including at least a college preparatory track and a career-technical track. Each track shall comply with the curriculum requirements of section 3313.603 of the Revised Code. The different tracks may be offered at different campuses. Two or more participating districts may offer some or all of their respective curriculum tracks through a cooperative agreement entered into under section 3313.842 of the Revised Code.

The department of education shall provide technical assistance to participating districts in developing the curriculum tracks to offer to students under the pilot project.

Part or all of selected curriculum materials or services may be purchased from other public or private sources.

The state superintendent shall apply for private and other nonstate funds, and may use other available state funds, to support the pilot project. If nonstate funds cannot be obtained or the superintendent of public instruction determines that sufficient funds are not available to support the pilot project,

implementation of this section may be postponed until such time as the superintendent determines that sufficient funds are available.

(B) Each participating school district shall report to the state superintendent data about the operation and results of the pilot project, as required by the superintendent.

(C) Not later than the thirty-first day of December of the third school year in which the pilot project is operating, the state superintendent shall submit a report to the general assembly, in accordance with section 101.68 of the Revised Code, containing the superintendent's evaluation of the results of the pilot project and legislative recommendations whether to continue, expand, or make changes to the pilot project.

Sec. 3304.181. If the total of all funds available from nonfederal sources to support the activities of the rehabilitation services commission does not comply with the expenditure requirements of 34 C.F.R. 361.60 and 361.62 for those activities or would cause the state to lose an allotment or fail to receive a reallocation under 34 C.F.R. 361.65, the commission shall solicit additional funds from, and enter into agreements for the use of those funds with, private or public entities, including local government entities of this state. The commission shall continue to solicit additional funds and enter into agreements until the total funding available is sufficient for the commission to receive federal funds at the maximum amount and in the most advantageous proportion possible.

Any agreement entered into between the commission and a private or public entity to provide funds under this section shall be in accordance with 34 C.F.R. 361.28 and section 3304.182 of the Revised Code.

Sec. 3304.182. Any agreement between the rehabilitation services commission and a private or public entity providing funds under section 3304.181 of the Revised Code may permit the commission to receive a specified percentage of the funds ~~for administration~~, but the percentage shall be not more than ~~thirteen~~ twenty-five per cent of the total funds available under the agreement. The agreement shall not be for less than six months or be discontinued by the commission without the commission first providing three months notice of intent to discontinue the agreement. The commission may terminate an agreement only for good cause.

Any services provided under an agreement entered into under section 3304.181 of the Revised Code shall be provided by a person or government entity that meets the accreditation standards established in rules adopted by the commission under section 3304.16 of the Revised Code.

Sec. 3305.08. Any payment, benefit, or other right accruing to any electing employee under a contract entered into for purposes of an

alternative retirement plan and all moneys, investments, and income of those contracts are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3305.09, and 3305.12 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or the insolvency law, or other process of law, and shall be unassignable except as specifically provided in this section and sections 3105.171, 3105.65, 3119.80, 3119.81, 3121.02, 3121.03, 3115.32, and 3123.06 of the Revised Code or in any contract the electing employee has entered into for purposes of an alternative retirement plan.

Sec. 3307.20. (A) As used in this section:

(1) "Personal history record" means information maintained by the state teachers retirement board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the state teachers retirement system, or other information the board determines to be confidential.

(2) "Retirant" has the same meaning as in section 3307.50 of the Revised Code.

(B) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(1) The individual's personal records provided for in section 3307.23 of the Revised Code;

(2) The individual's personal history record;

(3) Any information identifying, by name and address, the amount of a monthly allowance or benefit paid to the individual.

(C) All medical reports and recommendations under sections 3307.62, 3307.64, and 3307.66 of the Revised Code are privileged, except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or, when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(D) Any person who is a member or contributor of the system shall be

furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one request of a person in any one year.

(E) Notwithstanding the exceptions to public inspection in division (B) of this section, the board may furnish the following information:

(1) If a member, former member, retirant, contributor, or former contributor is subject to an order issued under section 2907.15 of the Revised Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each member whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the

person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of a contributing member or retired teacher member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The system shall provide the notice required by section 3307.373 of the Revised Code to the prosecutor assigned to the case.

(F) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3307.31. (A) Payments by boards of education and governing authorities of community schools to the state teachers retirement system, as provided in sections 3307.29 and 3307.291 of the Revised Code, shall be made from the amount allocated under section 3314.08, ~~Chapter 3306~~, or Chapter 3317. of the Revised Code prior to its distribution to the individual school districts or community schools. The amount due from each school district or community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as may be determined by the state teachers retirement board.

The superintendent shall deduct, from the amount allocated to each district or community school under section 3314.08, ~~Chapter 3306~~, or Chapter 3317. of the Revised Code, the entire amounts due to the system from such district or school upon the certification to the superintendent by the secretary thereof.

The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

(B) Payments to the state teachers retirement system by a science, technology, engineering, and mathematics school shall be deducted from the amount allocated under section 3326.33 of the Revised Code and shall be made in the same manner as payments by boards of education under this section.

Sec. 3307.41. The right of an individual to a pension, an annuity, or a retirement allowance itself, the right of an individual to any optional benefit, or any other right or benefit accrued or accruing to any individual under this chapter, the various funds created by section 3307.14 of the Revised Code, and all moneys, investments, and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local

tax, except income taxes imposed pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3307.37, 3307.372, and 3307.373 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter or sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code.

Sec. 3307.64. A disability benefit recipient, notwithstanding section 3319.13 of the Revised Code, shall retain membership in the state teachers retirement system and shall be considered on leave of absence during the first five years following the effective date of a disability benefit.

The state teachers retirement board shall require any disability benefit recipient to submit to an annual medical examination by a physician selected by the board, except that the board may waive the medical examination if the board's physician certifies that the recipient's disability is ongoing. If a disability benefit recipient refuses to submit to a medical examination, the recipient's disability benefit shall be suspended until the recipient withdraws the refusal. If the refusal continues for one year, all the recipient's rights under and to the disability benefit shall be terminated as of the effective date of the original suspension.

After the examination, the examiner shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the board concurs in a report by the examining physician that the disability benefit recipient is no longer incapable, the payment of a disability benefit shall be terminated not later than the following thirty-first day of August or upon employment as a teacher prior thereto. If the leave of absence has not expired, the board shall so certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. If the recipient was under contract at the time the recipient was found disabled, the employer by the first day of the next succeeding year shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

A disability benefit shall terminate if the disability benefit recipient

becomes employed as a teacher in any public or private school or institution in this state or elsewhere. An individual receiving a disability benefit from the system shall be ineligible for any employment as a teacher and it shall be unlawful for any employer to employ the individual as a teacher. If any employer should employ or reemploy the individual prior to the termination of a disability benefit, the employer shall file notice of employment with the board designating the date of the employment. If the individual should be paid both a disability benefit and also compensation for teaching service for all or any part of the same month, the secretary of the board shall certify to the employer or to the superintendent of public instruction the amount of the disability benefit received by the individual during the employment, which amount shall be deducted from any amount due the employing district under ~~Chapters 3306. and Chapter 3317.~~ of the Revised Code or shall be paid by the employer to the annuity and pension reserve fund.

Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file an annual statement of earnings or current medical information if the board's physician certifies that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

A disability benefit also may be terminated by the board at the request of the disability benefit recipient.

If disability retirement under section 3307.63 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the teachers' savings fund and the employers' trust fund, respectively. If the total disability benefit paid was less than the amount of the accumulated contributions of the member transferred to the annuity and pension reserve fund at the time of the member's disability retirement, then the difference shall be transferred from the annuity and pension reserve fund to another fund as required. In determining the amount of a member's account following the termination of disability retirement for any reason, the total amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3307.631 of the Revised

Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

If a former disability benefit recipient again becomes a contributor, other than as an other system retirant under section 3307.35 of the Revised Code, to this retirement system, the school employees retirement system, or the public employees retirement system, and completes at least two additional years of service credit, the former disability benefit recipient shall receive credit for the period as a disability benefit recipient.

Sec. 3309.22. (A)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, contributor, former contributor, retirant, or beneficiary that includes the address, telephone number, social security number, record of contributions, correspondence with the system, and other information the board determines to be confidential.

(2) The records of the board shall be open to public inspection, except for the following, which shall be excluded, except with the written authorization of the individual concerned:

(a) The individual's statement of previous service and other information as provided for in section 3309.28 of the Revised Code;

(b) Any information identifying by name and address the amount of a monthly allowance or benefit paid to the individual;

(c) The individual's personal history record.

(B) All medical reports and recommendations required by the system are privileged except as follows:

(1) Copies of medical reports or recommendations shall be made available to the personal physician, attorney, or authorized agent of the individual concerned upon written release received from the individual or the individual's agent, or when necessary for the proper administration of the fund, to the board assigned physician.

(2) Documentation required by section 2929.193 of the Revised Code shall be provided to a court holding a hearing under that section.

(C) Any person who is a contributor of the system shall be furnished, on written request, with a statement of the amount to the credit of the person's account. The board need not answer more than one such request of a person in any one year.

(D) Notwithstanding the exceptions to public inspection in division (A)(2) of this section, the board may furnish the following information:

(1) If a member, former member, contributor, former contributor, or retirant is subject to an order issued under section 2907.15 of the Revised

Code or an order issued under division (A) or (B) of section 2929.192 of the Revised Code or is convicted of or pleads guilty to a violation of section 2921.41 of the Revised Code, on written request of a prosecutor as defined in section 2935.01 of the Revised Code, the board shall furnish to the prosecutor the information requested from the individual's personal history record.

(2) Pursuant to a court or administrative order issued under section 3119.80, 3119.81, 3121.02, 3121.03, or 3123.06 of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under that section.

(3) At the written request of any person, the board shall provide to the person a list of the names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries. The costs of compiling, copying, and mailing the list shall be paid by such person.

(4) Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients of public assistance pursuant to section 5101.181 of the Revised Code, the board shall inform the auditor of state of the name, current or most recent employer address, and social security number of each contributor whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The board and its employees shall, except for purposes of furnishing the auditor of state with information required by this section, preserve the confidentiality of recipients of public assistance in compliance with ~~division (A)~~ of section 5101.181 of the Revised Code.

(5) The system shall comply with orders issued under section 3105.87 of the Revised Code.

On the written request of an alternate payee, as defined in section 3105.80 of the Revised Code, the system shall furnish to the alternate payee information on the amount and status of any amounts payable to the alternate payee under an order issued under section 3105.171 or 3105.65 of the Revised Code.

(6) At the request of any person, the board shall make available to the person copies of all documents, including resumes, in the board's possession regarding filling a vacancy of an employee member or retirant member of the board. The person who made the request shall pay the cost of compiling, copying, and mailing the documents. The information described in this division is a public record.

(7) The system shall provide the notice required by section 3309.673 of the Revised Code to the prosecutor assigned to the case.

(E) A statement that contains information obtained from the system's records that is signed by an officer of the retirement system and to which the system's official seal is affixed, or copies of the system's records to which the signature and seal are attached, shall be received as true copies of the system's records in any court or before any officer of this state.

Sec. 3309.41. (A) A disability benefit recipient shall retain membership status and shall be considered on leave of absence from employment during the first five years following the effective date of a disability benefit, notwithstanding any contrary provisions in Chapter 124. or 3319. of the Revised Code.

(B) The school employees retirement board shall require a disability benefit recipient to undergo an annual medical examination, except that the board may waive the medical examination if the board's physician or physicians certify that the recipient's disability is ongoing. Should any disability benefit recipient refuse to submit to a medical examination, the recipient's disability benefit shall be suspended until withdrawal of the refusal. Should the refusal continue for one year, all the recipient's rights in and to the disability benefit shall be terminated as of the effective date of the original suspension.

(C) On completion of the examination by an examining physician or physicians selected by the board, the physician or physicians shall report and certify to the board whether the disability benefit recipient is no longer physically and mentally incapable of resuming the service from which the recipient was found disabled. If the board concurs in the report that the disability benefit recipient is no longer incapable, the payment of the disability benefit shall be terminated not later than three months after the date of the board's concurrence or upon employment as an employee. If the leave of absence has not expired, the retirement board shall certify to the disability benefit recipient's last employer before being found disabled that the recipient is no longer physically and mentally incapable of resuming service that is the same or similar to that from which the recipient was found disabled. The employer shall restore the recipient to the recipient's previous position and salary or to a position and salary similar thereto not later than the first day of the first month following termination of the disability benefit, unless the recipient was dismissed or resigned in lieu of dismissal for dishonesty, misfeasance, malfeasance, or conviction of a felony.

(D) Each disability benefit recipient shall file with the board an annual statement of earnings, current medical information on the recipient's condition, and any other information required in rules adopted by the board. The board may waive the requirement that a disability benefit recipient file

an annual statement of earnings or current medical information on the recipient's condition if the board's physician or physicians certify that the recipient's disability is ongoing.

The board shall annually examine the information submitted by the recipient. If a disability benefit recipient refuses to file the statement or information, the disability benefit shall be suspended until the statement and information are filed. If the refusal continues for one year, the recipient's right to the disability benefit shall be terminated as of the effective date of the original suspension.

(E) If a disability benefit recipient is employed by an employer covered by this chapter, the recipient's disability benefit shall cease.

(F) If disability retirement under section 3309.40 of the Revised Code is terminated for any reason, the annuity and pension reserves at that time in the annuity and pension reserve fund shall be transferred to the employees' savings fund and the employers' trust fund, respectively. If the total disability benefit paid is less than the amount of the accumulated contributions of the member transferred into the annuity and pension reserve fund at the time of the member's disability retirement, the difference shall be transferred from the annuity and pension reserve fund to another fund as may be required. In determining the amount of a member's account following the termination of disability retirement for any reason, the amount paid shall be charged against the member's refundable account.

If a disability allowance paid under section 3309.401 of the Revised Code is terminated for any reason, the reserve on the allowance at that time in the annuity and pension reserve fund shall be transferred from that fund to the employers' trust fund.

The board may terminate a disability benefit at the request of the recipient.

(G) If a disability benefit is terminated and a former disability benefit recipient again becomes a contributor, other than as an other system retiree as defined in section 3309.341 of the Revised Code, to this system, the public employees retirement system, or the state teachers retirement system, and completes an additional two years of service credit after the termination of the disability benefit, the former disability benefit recipient shall be entitled to full service credit for the period as a disability benefit recipient.

(H) If any employer employs any member who is receiving a disability benefit, the employer shall file notice of employment with the retirement board, designating the date of employment. In case the notice is not filed, the total amount of the benefit paid during the period of employment prior to notice shall be paid from amounts allocated under ~~Chapters 3306. and~~

Chapter 3317. of the Revised Code prior to its distribution to the school district in which the disability benefit recipient was so employed.

Sec. 3309.48. Any employee who left the service of an employer after attaining age sixty-five or over and such employer had failed or refused to deduct and transmit to the school employees retirement system the employee contributions as required by section 3309.47 of the Revised Code during any year for which membership was compulsory as determined by the school employees retirement board, shall be granted service credit without cost, which shall be considered as total service credit for the purposes of meeting the qualifications for service retirement provided by the law in effect on and retroactive to the first eligible retirement date following the date such employment terminated, but shall not be paid until formal application for such allowance on a form provided by the retirement board is received in the office of the retirement system. The total service credit granted under this section shall not exceed ten years for any such employee.

The liability incurred by the retirement board because of the service credit granted under this section shall be determined by the retirement board, the cost of which shall be equal to an amount that is determined by applying the combined employee and employer rates of contribution against the compensation of such employee at the rates of contribution and maximum salary provisions in effect during such employment for each year for which credit is granted, together with interest at the rate to be credited accumulated contributions at retirement, compounded annually from the first day of the month payment was due the retirement system to and including the month of deposit, the total amount of which shall be collected from the employer. Such amounts shall be certified by the retirement board to the superintendent of public instruction, who shall deduct the amount due the system from any funds due the affected school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code. The superintendent shall certify to the director of budget and management the amount due the system for payment. The total amount paid shall be deposited into the employers' trust fund, and shall not be considered as accumulated contributions of the employee in the event of the employee's death or withdrawal of funds.

Sec. 3309.51. (A) Each employer shall pay annually into the employers' trust fund, in such monthly or less frequent installments as the school employees retirement board requires, an amount certified by the school employees retirement board, which shall be as required by Chapter 3309. of the Revised Code.

Payments by school district boards of education to the employers' trust fund of the school employees retirement system may be made from the

amounts allocated under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code prior to their distribution to the individual school districts. The amount due from each school district may be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as is determined by the school employees retirement board.

Payments by governing authorities of community schools to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3314.08 of the Revised Code prior to their distribution to the individual community schools. The amount due from each community school shall be certified by the secretary of the system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

Payments by a science, technology, engineering, and mathematics school to the employers' trust fund of the school employees retirement system shall be made from the amounts allocated under section 3326.33 of the Revised Code prior to their distribution to the school. The amount due from a science, technology, engineering, and mathematics school shall be certified by the secretary of the school employees retirement system to the superintendent of public instruction monthly, or at such times as determined by the school employees retirement board.

(B) The superintendent shall deduct from the amount allocated to each community school under section 3314.08 of the Revised Code, to each school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, or to each science, technology, engineering, and mathematics school under section 3326.33 of the Revised Code the entire amounts due to the school employees retirement system from such school or school district upon the certification to the superintendent by the secretary thereof.

(C) Where an employer fails or has failed or refuses to make payments to the employers' trust fund, as provided for under Chapter 3309. of the Revised Code, the secretary of the school employees retirement system may certify to the state superintendent of public instruction, monthly or at such times as is determined by the school employees retirement board, the amount due from such employer, and the superintendent shall deduct from the amount allocated to the employer under section 3314.08 or 3326.33 or ~~Chapter 3306. or~~ 3317. of the Revised Code, as applicable, the entire amounts due to the system from the employer upon the certification to the superintendent by the secretary of the school employees retirement system.

(D) The superintendent shall certify to the director of budget and management the amounts thus due the system for payment.

Sec. 3309.66. The right of an individual to a pension, an annuity, or a

retirement allowance itself, the right of an individual to any optional benefit, any other right accrued or accruing to any individual under this chapter, the various funds created by section 3309.60 of the Revised Code, and all moneys, investments, and income from moneys and investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02 ~~or~~, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 3309.67, 3309.672, and 3309.673 of the Revised Code, shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter and in sections 3105.171, 3105.65, 3115.32, 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the Revised Code.

Sec. 3310.02. (A) The educational choice scholarship pilot program is hereby established. Under the program, the department of education annually shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code for up to ~~fourteen thousand~~ the following number of eligible students:

(1) Thirty thousand in the 2011-2012 school year;

(2) Sixty thousand in the 2012-2013 school year and thereafter. If

(B) If the number of students who apply for a scholarship exceeds ~~fourteen thousand~~ the number of scholarships available under division (A) of this section for the applicable school year, the department shall award scholarships in the following order of priority:

~~(A)~~(1) First, to eligible students who received scholarships in the prior school year;

~~(B)~~(2) Second, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code, who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in ~~this~~ division (B)(2) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under division ~~(A)~~(B)(1) of this section, the department shall select students described in ~~this~~ division (B)(2) of this section by lot to receive any remaining scholarships.

~~(C)~~(3) Third, to other eligible students who qualify under division (A) of section 3310.03 of the Revised Code. If the number of students described in ~~this~~ division (B)(3) of this section who apply for a scholarship exceeds

the number of available scholarships after awards are made under divisions ~~(A)(B)(1)~~ and ~~(B)(2)~~ of this section, the department shall select students described in ~~this~~ division (B)(3) of this section by lot to receive any remaining scholarships.

(4) Fourth, to eligible students with family incomes at or below two hundred per cent of the federal poverty guidelines who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(4) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (3) of this section, the department shall select students described in division (B)(4) of this section by lot to receive any remaining scholarships.

(5) Fifth, to other eligible students who qualify under division (B) of section 3310.03 of the Revised Code. If the number of students described in division (B)(5) of this section who apply for a scholarship exceeds the number of available scholarships after awards are made under divisions (B)(1) to (4) of this section, the department shall select students described in division (B)(5) of this section by lot to receive any remaining scholarships.

Sec. 3310.03. ~~(A)~~ A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code and the student satisfies one of the ~~following~~ conditions in division (A) or (B) of this section:

(A)(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was declared, in at least two of the three most recent ratings of school buildings published prior to the first day of July of the school year for which a scholarship is sought, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code;

(b) The building was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division

(A)(1) of this section.

(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (A)(1) of this section in the school year for which the scholarship is sought.

(5) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought, or is enrolled in a community school established under Chapter 3314. of the Revised Code, and all of the following apply to the student's resident district:

(a) The district has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level, respectively, is automatically assigned to a particular school building;

(b) In at least two of the three most recent ratings of school districts published prior to the first day of July of the school year for which a scholarship is sought, the district was declared to be in a state of academic emergency under section 3302.03 of the Revised Code;

(c) The district was not declared to be excellent or effective under that section in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(B)(1) The student is enrolled in a school building that is operated by the student's resident district and to which both of the following apply:

(a) The building was ranked, for at least two of the three most recent rankings published under section 3302.21 of the Revised Code prior to the first day of July of the school year for which a scholarship is sought, in the lowest ten per cent of all public school buildings according to performance index score under section 3302.21 of the Revised Code.

(b) The building was not declared to be excellent or effective under section 3302.03 of the Revised Code in the most recent rating published prior to the first day of July of the school year for which a scholarship is sought.

(2) The student is eligible to enroll in kindergarten in the school year for which a scholarship is sought and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section.

(3) The student is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (B)(1) of this section.

(4) The student is enrolled in a school building that is operated by the student's resident district or in a community school established under Chapter 3314. of the Revised Code and otherwise would be assigned under section 3319.01 of the Revised Code to a school building described in division (B)(1) of this section in the school year for which the scholarship is sought.

(C) A student who receives a scholarship under the educational choice scholarship pilot program remains an eligible student and may continue to receive scholarships in subsequent school years until the student completes grade twelve, so long as all of the following apply:

(1) The student's resident district remains the same, or the student transfers to a new resident district and otherwise would be assigned in the new resident district to a school building described in division (A)(1) or ~~(B)(1)~~ of this section;

(2) The student takes each assessment prescribed for the student's grade level under section 3301.0710 or 3301.0712 of the Revised Code while enrolled in a chartered nonpublic school;

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences.

~~(D)(1)~~ The department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(1) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(5) of this section with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(5) of this section. ~~However~~

(2) The department shall cease awarding first-time scholarships pursuant to divisions (B)(1) to (4) of this section with respect to a school building that, in the most recent ratings of school buildings under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (B)(1) of this section.

(3) However, students who have received scholarships in the prior school year remain eligible students pursuant to division ~~(B)(C)~~ of this section.

~~(E)~~ The state board of education shall adopt rules defining excused absences for purposes of division ~~(B)(C)~~(3) of this section.

Sec. 3310.05. A scholarship under the educational choice scholarship pilot program is not available for any student whose resident district is a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code. The two pilot programs are separate and distinct. ~~The general assembly has prescribed separate scholarship amounts for the two pilot programs in recognition of their, with~~ differing eligibility criteria. The pilot project scholarship program operating under sections 3313.974 to 3313.979 of the Revised Code is a district-wide program that may award scholarships to students who do not attend district schools that face academic challenges, whereas the educational choice scholarship pilot program established under sections 3310.01 to 3310.17 of the Revised Code is limited to students of individual district school buildings that face academic challenges.

Sec. 3310.08. (A) The amount paid for an eligible student under the educational choice scholarship pilot program shall be the lesser of the tuition of the chartered nonpublic school in which the student is enrolled or the maximum amount prescribed in section 3310.09 of the Revised Code.

(B)(1) The department shall pay to the parent of each eligible student for whom a scholarship is awarded under the program, or to the student if at least eighteen years of age, periodic partial payments of the scholarship.

(2) The department shall proportionately reduce or terminate the payments for any student who withdraws from a chartered nonpublic school prior to the end of the school year.

(C)(1) The department shall deduct ~~five thousand two hundred dollars~~ from the payments made to each school district under ~~Chapters 3306. and Chapter 3317., and,~~ if necessary, sections 321.24 and 323.156 of the Revised Code, the amount paid under division (B) of this section for each eligible student awarded a scholarship under the ~~educational choice scholarship pilot~~ program who is entitled under section 3313.64 or 3313.65 of the Revised Code to attend school in the district.

~~The amount deducted under division (C)(1) of this section funds scholarships for students under both the educational choice scholarship pilot program and the pilot project scholarship program under sections 3313.974 to 3313.979 of the Revised Code.~~

(2) If the department reduces or terminates payments to a parent or a student, as prescribed in division (B)(2) of this section, and the student enrolls in the schools of the student's resident district or in a community school, established under Chapter 3314. of the Revised Code, before the end of the school year, the department shall proportionally restore to the resident district the amount deducted for that student under division (C)(1) of this

section.

~~(D) In the case of any school district from which a deduction is made under division (C) of this section, the department shall disclose on the district's SF-3 form, or any successor to that form used to calculate a district's state funding for operating expenses, a comparison of the following:~~

~~(1) The district's state share of the adequacy amount payment, as calculated under section 3306.13 of the Revised Code with the scholarship students included in the district's formula ADM;~~

~~(2) What the district's state share of the adequacy amount payment would have been, as calculated under that section if the scholarship students were not included in the district's formula ADM.~~

~~This comparison shall display both the aggregate difference between the amounts described in divisions (D)(1) and (2) of this section, and the quotient of that aggregate difference divided by the number of eligible students for whom deductions are made under division (C) of this section.~~

Sec. 3310.41. (A) As used in this section:

(1) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the child's parent owes fees for the services provided to the child:

(a) A school district that is not the school district in which the child is entitled to attend school;

(b) A public entity other than a school district.

(2) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(3) "Formula ADM" and "category six special education ADM" have the same meanings as in section 3317.02 of the Revised Code.

(4) "Preschool child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(5) "Parent" has the same meaning as in section 3313.64 of the Revised Code, except that "parent" does not mean a parent whose custodial rights have been terminated.

(6) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(7) "Qualified special education child" is a child for whom all of the following conditions apply:

(a) The school district in which the child is entitled to attend school has

identified the child as autistic. A child who has been identified as having a "pervasive developmental disorder - not otherwise specified (PPD-NOS)" shall be considered to be an autistic child for purposes of this section.

(b) The school district in which the child is entitled to attend school has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(c) The child either:

(i) Was enrolled in the school district in which the child is entitled to attend school in any grade from preschool through twelve in the school year prior to the year in which a scholarship under this section is first sought for the child; or

(ii) Is eligible to enter school in any grade preschool through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship under this section is first sought for the child.

(8) "Registered private provider" means a nonpublic school or other nonpublic entity that has been approved by the department of education to participate in the program established under this section.

(9) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

(B) There is hereby established the autism scholarship program. Under the program, the department of education shall pay a scholarship to the parent of each qualified special education child upon application of that parent pursuant to procedures and deadlines established by rule of the state board of education. Each scholarship shall be used only to pay tuition for the child on whose behalf the scholarship is awarded to attend a special education program that implements the child's individualized education program and that is operated by an alternative public provider or by a registered private provider. Each scholarship shall be in an amount not to exceed the lesser of the tuition charged for the child by the special education program or twenty thousand dollars. The purpose of the scholarship is to permit the parent of a qualified special education child the choice to send the child to a special education program, instead of the one operated by or for the school district in which the child is entitled to attend school, to receive the services prescribed in the child's individualized education program once the individualized education program is finalized. ~~A~~ The services provided under the scholarship shall include an educational component.

A scholarship under this section shall not be awarded to the parent of a child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or while any administrative or judicial mediation or proceedings with respect to the

content of the child's individualized education program are pending. A scholarship under this section shall not be used for a child to attend a public special education program that operates under a contract, compact, or other bilateral agreement between the school district in which the child is entitled to attend school and another school district or other public provider, or for a child to attend a community school established under Chapter 3314. of the Revised Code. However, nothing in this section or in any rule adopted by the state board shall prohibit a parent whose child attends a public special education program under a contract, compact, or other bilateral agreement, or a parent whose child attends a community school, from applying for and accepting a scholarship under this section so that the parent may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program for which the parent is required to pay for services for the child. ~~A~~

A child attending a special education program with a scholarship under this section shall continue to be entitled to transportation to and from that program in the manner prescribed by law.

(C)(1) As prescribed in divisions (A)(2)(h), (B)(3)(g), and (B)(10) of section 3317.03 of the Revised Code, a child who is not a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the formula ADM and the category six special education ADM of the district in which the child is entitled to attend school and not in the formula ADM and the category six special education ADM of any other school district. As prescribed in divisions (B)(3)(h) and (B)(10) of section 3317.03 of the Revised Code, a child who is a preschool child with a disability for whom a scholarship is awarded under this section shall be counted in the preschool scholarship ADM and category six special education ADM of the school district in which the child is entitled to attend school and not in the preschool scholarship ADM or category six special education ADM of any other school district.

(2) In each fiscal year, the department shall deduct from the amounts paid to each school district under ~~Chapters 3306. and Chapter~~ 3317. of the Revised Code, and, if necessary, sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships awarded under this section for qualified special education children included in the formula ADM, or preschool scholarship ADM, and in the category six special education ADM of that school district as provided in division (C)(1) of this section. ~~When computing the school district's instructional services support under section 3306.05 of the Revised Code, the department shall add the district's preschool scholarship ADM to the district's formula ADM.~~

The scholarships deducted shall be considered as an approved special education and related services expense of the school district.

(3) From time to time, the department shall make a payment to the parent of each qualified special education child for whom a scholarship has been awarded under this section. The scholarship amount shall be proportionately reduced in the case of any such child who is not enrolled in the special education program for which a scholarship was awarded under this section for the entire school year. The department shall make no payments to the parent of a child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

(D) A scholarship shall not be paid to a parent for payment of tuition owed to a nonpublic entity unless that entity is a registered private provider. The department shall approve entities that meet the standards established by rule of the state board for the program established under this section.

(E) The state board shall adopt rules under Chapter 119. of the Revised Code prescribing procedures necessary to implement this section, including, but not limited to, procedures and deadlines for parents to apply for scholarships, standards for registered private providers, and procedures for approval of entities as registered private providers.

Sec. 3310.51. As used in sections 3310.51 to 3310.64 of the Revised Code:

(A) "Alternative public provider" means either of the following providers that agrees to enroll a child in the provider's special education program to implement the child's individualized education program and to which the eligible applicant owes fees for the services provided to the child:

(1) A school district that is not the school district in which the child is entitled to attend school or the child's school district of residence, if different;

(2) A public entity other than a school district.

(B) "Child with a disability" and "individualized education program" have the same meanings as in section 3323.01 of the Revised Code.

(C) "Eligible applicant" means any of the following:

(1) Either of the natural or adoptive parents of a qualified special education child, except as otherwise specified in this division. When the marriage of the natural or adoptive parents of the student has been terminated by a divorce, dissolution of marriage, or annulment, or when the natural or adoptive parents of the student are living separate and apart under a legal separation decree, and a court has issued an order allocating the parental rights and responsibilities with respect to the child, "eligible

applicant" means the residential parent as designated by the court. If the court issues a shared parenting decree, "eligible applicant" means either parent. "Eligible applicant" does not mean a parent whose custodial rights have been terminated.

(2) The custodian of a qualified special education child, when a court has granted temporary, legal, or permanent custody of the child to an individual other than either of the natural or adoptive parents of the child or to a government agency;

(3) The guardian of a qualified special education child, when a court has appointed a guardian for the child;

(4) The grandparent of a qualified special education child, when the grandparent is the child's attorney in fact under a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code or when the grandparent has executed a caregiver authorization affidavit under sections 3109.65 to 3109.73 of the Revised Code;

(5) The surrogate parent appointed for a qualified special education child pursuant to division (B) of section 3323.05 and section 3323.051 of the Revised Code;

(6) A qualified special education child, if the child does not have a custodian or guardian and the child is at least eighteen years of age.

(D) "Entitled to attend school" means entitled to attend school in a school district under sections 3313.64 and 3313.65 of the Revised Code.

(E) "Formula ADM" and "formula amount" have the same meanings as in section 3317.02 of the Revised Code.

(F) "Qualified special education child" is a child for whom all of the following conditions apply:

(1) The child is at least five years of age and less than twenty-two years of age.

(2) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has identified the child as a child with a disability.

(3) The school district in which the child is entitled to attend school, or the child's school district of residence if different, has developed an individualized education program under Chapter 3323. of the Revised Code for the child.

(4) The child either:

(a) Was enrolled in the schools of the school district in which the child is entitled to attend school in any grade from kindergarten through twelve in the school year prior to the school year in which a scholarship is first sought for the child;

(b) Is eligible to enter school in any grade kindergarten through twelve in the school district in which the child is entitled to attend school in the school year in which a scholarship is first sought for the child.

(5) The department of education has not approved a scholarship for the child under the educational choice scholarship pilot program, under sections 3310.01 to 3310.17 of the Revised Code, the autism scholarship program, under section 3310.41 of the Revised Code, or the pilot project scholarship program, under sections 3313.974 to 3313.979 of the Revised Code for the same school year in which a scholarship under the Jon Peterson special needs scholarship program is sought.

(6) The child and the child's parents are in compliance with the state compulsory attendance law under Chapter 3321. of the Revised Code.

(G) "Registered private provider" means a nonpublic school or other nonpublic entity that has been registered by the superintendent of public instruction under section 3310.58 of the Revised Code.

(H) "Scholarship" means a scholarship awarded under the Jon Peterson special needs scholarship program pursuant to sections 3310.51 to 3310.64 of the Revised Code.

(I) "School district of residence" has the same meaning as in section 3323.01 of the Revised Code. A community school established under Chapter 3314. of the Revised Code is not a "school district of residence" for purposes of sections 3310.51 to 3310.64 of the Revised Code.

(J) "School year" has the same meaning as in section 3313.62 of the Revised Code.

(K) "Special education program" means a school or facility that provides special education and related services to children with disabilities.

Sec. 3310.52. (A) The Jon Peterson special needs scholarship program is hereby established. Under the program, beginning with the 2012-2013 school year, subject to division (B) of this section, the department of education annually shall pay a scholarship to an eligible applicant for services provided by an alternative public provider or a registered private provider for a qualified special education child. The scholarship shall be used only to pay all or part of the fees for the child to attend the special education program operated by the alternative public provider or registered private provider to implement the child's individualized education program, in lieu of the child's attending the special education program operated by the school district in which the child is entitled to attend school, and other services agreed to by the provider and eligible applicant that are not included in the individualized education program but are associated with educating the child. Upon agreement with the eligible applicant, the

alternative public provider or registered private provider may modify the services provided to the child.

(B) The number of scholarships awarded under the program in any fiscal year shall not exceed five per cent of the total number of students residing in the state identified as children with disabilities during the previous fiscal year.

(C) No scholarship or renewal of a scholarship shall be awarded to an eligible applicant on behalf of a qualified special education child for the next school year, unless on or before the application deadline the eligible applicant completes the application for the scholarship or renewal, in the manner prescribed by the department, and notifies the school district in which the child is entitled to attend school that the eligible applicant has applied for the scholarship or renewal.

The application deadline for academic terms that begin between the first day of July and the thirty-first day of December shall be the fifteenth day of April that precedes the first day of instruction. The application deadline for academic terms that begin between the first day of January and the thirtieth day of June shall be the fifteenth day of November that precedes the first day of instruction.

Sec. 3310.521. (A) As a condition of receiving payments for a scholarship, each eligible applicant shall attest to receipt of the profile prescribed by division (B) of this section. Such attestation shall be made and submitted to the department of education in the form and manner as required by the department.

(B) The alternative public provider or registered private provider that enrolls a qualified special education child shall submit in writing to the eligible applicant to whom a scholarship is awarded on behalf of that child a profile of the provider's special education program, in a form as prescribed by the department, that shall contain the following:

(1) Methods of instruction that will be utilized by the provider to provide services to the qualified special education child;

(2) Qualifications of teachers, instructors, and other persons who will be engaged by the provider to provide services to the qualified special education child.

Sec. 3310.522. In order to maintain eligibility for a scholarship under the program, a student shall take each assessment prescribed by sections 3301.0710 and 3301.0712 of the Revised Code, unless the student is excused from taking that assessment under federal law or the student's individualized education program.

Notwithstanding division (K) of section 3301.0711 of the Revised Code,

each registered private provider that enrolls a student who is awarded a scholarship under this section shall administer each assessment prescribed by sections 3301.0710 and 3301.0712 of the Revised Code to that student, unless the student is excused from taking that assessment, and shall report to the department the results of each assessment so administered.

Nothing in this section requires any chartered nonpublic school that is a registered private provider to administer any achievement assessment, except for an Ohio graduation test prescribed by division (B)(1) of section 3301.0710 of the Revised Code, as required by section 3313.612 of the Revised Code, to any student enrolled in the school who is not a scholarship student.

Sec. 3310.53. (A) Except for development of the child's individualized education program, as specified in division (B) of this section, the school district in which a qualified special education child is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the child with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child continues to attend the special education program operated by either an alternative public provider or a registered private provider for which a scholarship is awarded under the Jon Peterson special needs scholarship program. If at any time, the eligible applicant for the child decides no longer to accept scholarship payments and enrolls the child in the special education program of the school district in which the child is entitled to attend school, that district shall provide the child with a free appropriate public education under Chapter 3323. of the Revised Code.

(B) Each eligible applicant and each qualified special education child have a continuing right to the development of an individualized education program for the child that complies with Chapter 3323. of the Revised Code, 20 U.S.C. 1400 et seq., and administrative rules or guidelines adopted by the Ohio department of education or the United States department of education. The school district in which a qualified special education child is entitled to attend school, or the child's school district of residence if different, shall develop each individualized education program for the child in accordance with those provisions.

(C) Each school district shall notify an eligible applicant of the applicant's and qualified special education child's rights under sections 3310.51 to 3310.64 of the Revised Code by providing to each eligible applicant the comparison document prescribed in section 3323.052 of the Revised Code. An eligible applicant's receipt of that document, as acknowledged in a format prescribed by the department of education, shall

constitute notice that the eligible applicant has been informed of those rights. Upon receipt of that document, subsequent acceptance of a scholarship constitutes the eligible applicant's informed consent to the provisions of sections 3310.51 to 3310.64 of the Revised Code.

Sec. 3310.54. A qualified special education child in any of grades kindergarten through twelve for whom a scholarship is awarded under the Jon Peterson special needs scholarship program shall be counted in the formula ADM and category one through six special education ADM, as appropriate, of the school district in which the child is entitled to attend school. A qualified special education child shall not be counted in the formula ADM or category one through six special education ADM of any other school district.

Sec. 3310.55. The department of education shall deduct from a school district's state education aid, as defined in section 3317.02 of the Revised Code, and if necessary, from its payment under sections 321.24 and 323.156 of the Revised Code, the aggregate amount of scholarships paid under section 3310.57 of the Revised Code for qualified special education children included in the formula ADM and the category one through six special education ADM of that school district.

Sec. 3310.56. (A) The amount of the scholarship awarded and paid to an eligible applicant for services for a qualified special education child under the Jon Peterson special needs scholarship program in each school year shall be the least of the amounts prescribed in divisions (A)(1), (2), or (3) of this section, as follows:

(1) The amount of fees charged for that school year by the alternative public provider or registered private provider;

(2) The sum of the amounts calculated under divisions (A)(2)(a) and (b) of this section:

(a) The sum of the formula amount 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 for fiscal year 2009;

(b) An amount equal to \$5,732 times the following multiple prescribed for the child's disability:

(i) For a student in category one, 0.2892;

(ii) For a student in category two, 0.3691;

(iii) For a student in category three, 1.7695;

(iv) For a student in category four, 2.3646;

(v) For a student in category five, 3.1129;

(vi) For a student in category six, 4.7342.

Before applying the multiples specified in divisions (A)(2)(b)(i) to (vi)

of this section, they first shall be adjusted by multiplying them by 0.90.

(3) Twenty thousand dollars.

(B) As used in division (A)(2)(b) of this section, a child with a disability is in:

(1) "Category one" if the child's primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(2) "Category two" if the child is identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor, as defined in section 3317.02 of the Revised Code;

(3) "Category three" if the child is identified as vision impaired, hearing disabled, or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(4) "Category four" if the child is identified as orthopedically disabled, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major, as defined in section 3317.02 of the Revised Code;

(5) "Category five" if the child is identified as having multiple disabilities, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(6) "Category six" if the child is identified as autistic, having traumatic brain injuries, or both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

Sec. 3310.57. The department of education shall make periodic payments to an eligible applicant for services for each qualified special education child for whom a scholarship has been awarded. The total of all payments made to an applicant in each school year shall not exceed the amount calculated for the child under section 3310.56 of the Revised Code.

The department shall proportionately reduce the scholarship amount in the case of a child who is not enrolled in the special education program of an alternative public provider or a registered private provider for the entire school year.

In accordance with division (A) of section 3310.62 of the Revised Code, the department shall make no payments to an applicant for a first-time scholarship for a qualified special education child while any administrative or judicial mediation or proceedings with respect to the content of the child's individualized education program are pending.

Sec. 3310.58. No nonpublic school or entity shall receive payments from an eligible applicant for services for a qualified special education child

under the Jon Peterson special needs scholarship program until the school or entity registers with the superintendent of public instruction. The superintendent shall register and designate as a registered private provider any nonpublic school or entity that meets the following requirements:

(A) The school or entity complies with the antidiscrimination provisions of 42 U.S.C. 2000d, regardless of whether the school or entity receives federal financial assistance.

(B) If the school or entity is not chartered by the state board under section 3301.16 of the Revised Code, the school or entity agrees to comply with sections 3319.39, 3319.391, and 3319.392 of the Revised Code as if it were a school district.

(C) The teaching and nonteaching professionals employed by the school or entity, or employed by any subcontractors of the school or entity, hold credentials determined by the state board to be appropriate for the qualified special education children enrolled in the special education program it operates.

(D) The school's or entity's educational program shall be approved by the department of education.

(E) The school or entity meets applicable health and safety standards established by law.

(F) The school or entity agrees to retain on file documentation as required by the department of education.

(G) The school or entity agrees to provide a record of the implementation of the individualized education program for each qualified special education child enrolled in the school's or entity's special education program, including evaluation of the child's progress, to the school district in which the child is entitled to attend school, in the form and manner prescribed by the department.

(H) The school or entity agrees that, if it declines to enroll a particular qualified special education child, it will notify in writing the eligible applicant of its reasons for declining to enroll the child.

Sec. 3310.59. The superintendent of public instruction shall revoke the registration of any school or entity if, after a hearing, the superintendent determines that the school or entity is in violation of any provision of section 3310.522 or 3310.58 of the Revised Code.

Sec. 3310.60. A qualified special education child attending a special education program at an alternative public provider or a registered private provider with a scholarship shall be entitled to transportation to and from that program in the manner prescribed by law.

Sec. 3310.61. An eligible applicant on behalf of a child who currently

attends a public special education program under a contract, compact, or other bilateral agreement, or on behalf of a child who currently attends a community school, shall not be prohibited from applying for and accepting a scholarship so that the applicant may withdraw the child from that program or community school and use the scholarship for the child to attend a special education program operated by an alternative public provider or a registered private provider.

Sec. 3310.62. (A) A scholarship under the Jon Peterson special needs scholarship program shall not be awarded for the first time to an eligible applicant on behalf of a qualified special education child while the child's individualized education program is being developed by the school district in which the child is entitled to attend school, or by the child's school district of residence if different, or while any administrative or judicial mediation or proceedings with respect to the content of that individualized education program are pending.

(B) Development of individualized education programs subsequent to the one developed for the child the first time a scholarship was awarded on behalf of the child and the prosecuting, by the eligible applicant on behalf of the child, of administrative or judicial mediation or proceedings with respect to any of those subsequent individualized education programs do not affect the applicant's and the child's continued eligibility for scholarship payments.

(C) In the case of any child for whom a scholarship has been awarded, if the school district in which the child is entitled to attend school has agreed to provide some services for the child under an agreement entered into with the eligible applicant or with the alternative public provider or registered private provider implementing the child's individualized education program, or if the district is required by law to provide some services for the child, including transportation services under sections 3310.60 and 3327.01 of the Revised Code, the district shall not discontinue the services it is providing pending completion of any administrative proceedings regarding those services. The prosecuting, by the eligible applicant on behalf of the child, of administrative proceedings regarding the services provided by the district does not affect the applicant's and the child's continued eligibility for scholarship payments.

(D) The department of education shall continue to make payments to the eligible applicant under section 3310.57 of the Revised Code while either of the following are pending:

(1) Administrative or judicial mediation or proceedings with respect to a subsequent individualized education program for the child referred to in division (B) of this section;

(2) Administrative proceedings regarding services provided by the district under division (C) of this section.

Sec. 3310.63. (A) Only for the purpose of administering the Jon Peterson special needs scholarship program, the department of education may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any qualified special education child for whom a scholarship is sought under the program:

(1) The school district in which the child is entitled to attend school;

(2) If applicable, the community school in which the child is enrolled;

(3) The independent contractor engaged to create and maintain data verification codes.

(B) Upon a request by the department under division (A) of this section for the data verification code of a qualified special education child or a request by the eligible applicant for the child for that code, the school district or community school shall submit that code to the department or applicant in the manner specified by the department. If the child has not been assigned a code, because the child will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that child and submit the code to the department or applicant by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child.

The department annually shall submit to each school district the name and data verification code of each child residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(C) The department shall not release any data verification code that it receives under this section to any person except as provided by law.

(D) Any document relative to the Jon Peterson special needs scholarship program that the department holds in its files that contains both a qualified special education child's name or other personally identifiable information and the child's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3310.64. The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary to implement sections 3310.51 to 3310.63 of the Revised Code including, but not limited to, procedures for parents to apply for scholarships, standards for registered private providers, and procedures for registration of private providers.

Sec. 3311.05. (A) The territory within the territorial limits of a county, or the territory included in a district formed under ~~either~~ section 3311.053 ~~or~~ ~~3311.059~~ of the Revised Code, exclusive of the territory embraced in any city school district or exempted village school district, and excluding the territory detached therefrom for school purposes and including the territory attached thereto for school purposes constitutes an educational service center.

(B) A county school financing district created under section 3311.50 of the Revised Code is not the school district described in division (A) of this section or any other school district but is a taxing district.

Sec. 3311.054. (A) The initial members of any new governing board of an educational service center established in accordance with this section shall be all of the members of the governing boards of the former educational service centers whose territory comprises the new educational service center. The initial members of any such governing board shall serve until the first Monday of January immediately following the first election of governing board members conducted under division (C) of this section.

Notwithstanding section 3313.11 of the Revised Code, that section shall not apply to the filling of any vacancy among the initial members of any governing board established in accordance with this section. Any such vacancy shall be filled for the remainder of the term by a majority vote of all the remaining members of the governing board.

(B) Prior to the next first day of April in an odd-numbered year that occurs at least ninety days after the date on which any new governing board of an educational service center is initially established in accordance with this section, the governing board or, at the governing board's option, an executive committee of the governing board appointed by the governing board shall do both of the following:

(1) Designate the number of elected members comprising all subsequent governing boards of the educational service center, which number shall be an odd number not to exceed nine.

(2) Divide the educational service center into a number of subdistricts equal to the number of governing board members designated under division (B)(1) of this section and number the subdistricts. Each subdistrict shall be as nearly equal in population as possible and shall be composed of adjacent and compact territory. To the extent possible, each subdistrict shall be composed only of territory located in one county. In addition, the subdistricts shall be bounded as far as possible by corporation lines, streets, alleys, avenues, public grounds, canals, watercourses, ward boundaries, voting precinct boundaries, or school district boundaries.

If the new governing board fails to divide the territory of the educational service center in accordance with this division, the superintendent of public instruction shall establish the subdistricts within thirty days.

(C) At the next regular municipal election following the deadline for creation of the subdistricts of an educational service center under division (B) of this section, an entire new governing board shall be elected. All members of such governing board shall be elected from those subdistricts.

(D) Within ninety days after the official announcement of the results of each successive federal decennial census, each governing board of an educational service center established in accordance with this section shall redistrict the educational service center's territory into a number of subdistricts equal to the number of board members designated under division (B)(1) of this section and number the subdistricts. Each such redistricting shall be done in accordance with the standards for subdistricts in division (B)(2) of this section. At the next regular municipal election following the announcement of the results of each such successive census, all elected governing board members shall again be elected from the subdistricts most recently created under this division.

If a governing board fails to redistrict the territory of its educational service center in accordance with this division, the superintendent of public instruction shall redistrict the service center within thirty days.

(E) All members elected pursuant to this section shall take office on the first Monday of January immediately following the election. Whenever all elected governing board members are elected at one election under division (C) or (D) of this section, the terms of each of the members elected from even-numbered subdistricts shall be for two years and the terms of each of the members elected from odd-numbered subdistricts shall be for four years. Thereafter, successors shall be elected for four-year terms in the same manner as is provided by law for the election of members of school boards except that any successor elected at a regular municipal election immediately preceding any election at which an entire new governing board is elected shall be elected for a two-year term.

Sec. 3311.056. After at least one election of board members has occurred under division (B) of section 3313.053, division (C) of section 3311.054, or section 3311.057 of the Revised Code, the elected governing board members of an educational service center created under division (A) of section 3311.053 of the Revised Code may by resolution adopt a plan for adding appointed members to that governing board. A plan may provide for adding to the board a number of appointed members that is up to one less than the number of elected members on the board except that the total

number of elected and appointed board members shall be an odd number. A plan shall provide for the terms of the appointed board members. The appointed board members in each plan shall be appointed by a majority vote of the full number of elected members on the board and vacancies shall be filled as provided in the plan. Each plan shall specify the qualifications for the appointed board members of an educational service center ~~and shall at least require appointed board members to be electors residing in the service center.~~ Appointed members may be representative of the client school districts of the service center. As used in this section, "client school district" has the same meaning as in section 3317.11 of the Revised Code.

A governing board adopting a plan under this section shall submit the plan to the state board of education for approval. The state board may approve or disapprove a plan or make recommendations for modifications in a plan. A plan shall take effect thirty days after approval by the state board and, when effective, appointments to the board shall be made in accordance with the plan.

The elected members of the governing board of an educational service center with a plan in effect under this section may adopt, by unanimous vote of all the elected members, a resolution to revise or rescind the plan in effect under this section. All revisions shall comply with the requirements in this section for appointed board members. A resolution revising or rescinding a plan shall specify the dates and manner in which the revision or rescission is to take place. The revision or rescission of a plan shall be submitted to the state board of education for approval. The state board may approve or disapprove a revision or rescission of a plan or make recommendations for modifications. Upon approval of a revision or rescission by the state board, the revised plan or rescission of the plan shall go into effect as provided in the revision or rescission.

Sec. 3311.0510. (A) If all of the local school districts that make up the territory of an educational service center have severed from the territory of that service center, upon the effective date of the severance of the last remaining local school district to make up the territory of the service center, the governing board of that service center shall be abolished and such service center shall be dissolved by order of the superintendent of public instruction. The superintendent's order shall provide for the equitable division and disposition of the assets, property, debts, and obligations of the service center among the local school districts, of which the territory of the service center is or previously was made up, and the city and exempted village school districts with which the service center had agreements under section 3313.843 of the Revised Code for the service center's last fiscal year

of operation. The superintendent's order shall provide that the tax duplicate of each of those school districts shall be bound for and assume the district's equitable share of the outstanding indebtedness of the service center. The superintendent's order is final and is not appealable.

Immediately upon the abolishment of the service center governing board pursuant to this section, the superintendent of public instruction shall appoint a qualified individual to administer the dissolution of the service center and to implement the terms of the superintendent's dissolution order.

Prior to distributing assets to any school district under this section, but after paying in full other debts and obligations of the service center under this section, the superintendent of public instruction may assess against the remaining assets of the service center the amount of the costs incurred by the department of education in performing the superintendent's duties under this division, including the fees, if any, owed to the individual appointed to administer the superintendent's dissolution order. Any excess cost incurred by the department under this division shall be divided equitably among the local school districts, of which the territory of the service center is or previously was made up, and the city and exempted village school districts with which the service center had agreements under section 3313.843 of the Revised Code for the service center's last fiscal year of operation. Each district's share of that excess cost shall be bound against the tax duplicate of that district.

(B) A final audit of the former service center shall be performed in accordance with procedures established by the auditor of state.

(C) The public records of an educational service center that is dissolved under this section shall be transferred in accordance with this division. Public records maintained by the service center in connection with services provided by the service center to local school districts shall be transferred to each of the respective local school districts. Public records maintained by the service center in connection with services provided under an agreement with a city or exempted village school district pursuant to section 3313.843 of the Revised Code shall be transferred to each of the respective city or exempted village school districts. All other public records maintained by the service center at the time the service center ceases operations shall be transferred to the Ohio historical society for analysis and disposition by the society in its capacity as archives administrator for the state and its political subdivisions pursuant to division (C) of section 149.30 and section 149.31 of the Revised Code.

Sec. 3311.06. (A) As used in this section:

(1) "Annexation" and "annexed" mean annexation for municipal

purposes under sections 709.02 to 709.37 of the Revised Code.

(2) "Annexed territory" means territory that has been annexed for municipal purposes to a city served by an urban school district, but on September 24, 1986, has not been transferred to the urban school district.

(3) "Urban school district" means a city school district with an average daily membership for the 1985-1986 school year in excess of twenty thousand that is the school district of a city that contains annexed territory.

(4) "Annexation agreement" means an agreement entered into under division (F) of this section that has been approved by the state board of education or an agreement entered into prior to September 24, 1986, that meets the requirements of division (F) of this section and has been filed with the state board.

(B) The territory included within the boundaries of a city, local, exempted village, or joint vocational school district shall be contiguous except where a natural island forms an integral part of the district, where the state board of education authorizes a noncontiguous school district, as provided in division (E)(1) of this section, or where a local school district is created pursuant to section 3311.26 of the Revised Code from one or more local school districts, one of which has entered into an agreement under section 3313.42 of the Revised Code.

(C)(1) When all of the territory of a school district is annexed to a city or village, such territory thereby becomes a part of the city school district or the school district of which the village is a part, and the legal title to school property in such territory for school purposes shall be vested in the board of education of the city school district or the school district of which the village is a part.

(2) When the territory so annexed to a city or village comprises part but not all of the territory of a school district, the said territory becomes part of the city school district or the school district of which the village is a part only upon approval by the state board of education, unless the district in which the territory is located is a party to an annexation agreement with the city school district.

Any urban school district that has not entered into an annexation agreement with any other school district whose territory would be affected by any transfer under this division and that desires to negotiate the terms of transfer with any such district shall conduct any negotiations under division (F) of this section as part of entering into an annexation agreement with such a district.

Any school district, except an urban school district, desiring state board approval of a transfer under this division shall make a good faith effort to

negotiate the terms of transfer with any other school district whose territory would be affected by the transfer. Before the state board may approve any transfer of territory to a school district, except an urban school district, under this section, it must receive the following:

(a) A resolution requesting approval of the transfer, passed by at least one of the school districts whose territory would be affected by the transfer;

(b) Evidence determined to be sufficient by the state board to show that good faith negotiations have taken place or that the district requesting the transfer has made a good faith effort to hold such negotiations;

(c) If any negotiations took place, a statement signed by all boards that participated in the negotiations, listing the terms agreed on and the points on which no agreement could be reached.

(D) The state board of education shall adopt rules governing negotiations held by any school district except an urban school district pursuant to division (C)(2) of this section. The rules shall encourage the realization of the following goals:

(1) A discussion by the negotiating districts of the present and future educational needs of the pupils in each district;

(2) The educational, financial, and territorial stability of each district affected by the transfer;

(3) The assurance of appropriate educational programs, services, and opportunities for all the pupils in each participating district, and adequate planning for the facilities needed to provide these programs, services, and opportunities.

Districts involved in negotiations under such rules may agree to share revenues from the property included in the territory to be transferred, establish cooperative programs between the participating districts, and establish mechanisms for the settlement of any future boundary disputes.

(E)(1) If territory annexed after September 24, 1986, is part of a school district that is a party to an annexation agreement with the urban school district serving the annexing city, the transfer of such territory shall be governed by the agreement. If the agreement does not specify how the territory is to be dealt with, the boards of education of the district in which the territory is located and the urban school district shall negotiate with regard to the transfer of the territory which shall be transferred to the urban school district unless, not later than ninety days after the effective date of municipal annexation, the boards of education of both districts, by resolution adopted by a majority of the members of each board, agree that the territory will not be transferred and so inform the state board of education.

If territory is transferred under this division the transfer shall take effect on the first day of July occurring not sooner than ninety-one days after the effective date of the municipal annexation. Territory transferred under this division need not be contiguous to the district to which it is transferred.

(2) Territory annexed prior to September 24, 1986, by a city served by an urban school district shall not be subject to transfer under this section if the district in which the territory is located is a party to an annexation agreement or becomes a party to such an agreement not later than ninety days after September 24, 1986. If the district does not become a party to an annexation agreement within the ninety-day period, transfer of territory shall be governed by division (C)(2) of this section. If the district subsequently becomes a party to an agreement, territory annexed prior to September 24, 1986, other than territory annexed under division (C)(2) of this section prior to the effective date of the agreement, shall not be subject to transfer under this section.

(F) An urban school district may enter into a comprehensive agreement with one or more school districts under which transfers of territory annexed by the city served by the urban school district after September 24, 1986, shall be governed by the agreement. Such agreement must provide for the establishment of a cooperative education program under section 3313.842 of the Revised Code in which all the parties to the agreement are participants and must be approved by resolution of the majority of the members of each of the boards of education of the school districts that are parties to it. An agreement may provide for interdistrict payments based on local revenue growth resulting from development in any territory annexed by the city served by the urban school district.

An agreement entered into under this division may be altered, modified, or terminated only by agreement, by resolution approved by the majority of the members of each board of education, of all school districts that are parties to the agreement, except that with regard to any provision that affects only the urban school district and one of the other districts that is a party, that district and the urban district may modify or alter the agreement by resolution approved by the majority of the members of the board of that district and the urban district. Alterations, modifications, terminations, and extensions of an agreement entered into under this division do not require approval of the state board of education, but shall be filed with the board after approval and execution by the parties.

If an agreement provides for interdistrict payments, each party to the agreement, except any school district specifically exempted by the agreement, shall agree to make an annual payment to the urban school

district with respect to any of its territory that is annexed territory in an amount not to exceed the amount certified for that year under former section 3317.029 of the Revised Code as that section existed prior to July 1, 1998; except that such limitation of annual payments to amounts certified under former section 3317.029 of the Revised Code does not apply to agreements or extensions of agreements entered into on or after June 1, 1992, unless such limitation is expressly agreed to by the parties. The agreement may provide that all or any part of the payment shall be waived if the urban school district receives its payment with respect to such annexed territory under former section 3317.029 of the Revised Code and that all or any part of such payment may be waived if the urban school district does not receive its payment with respect to such annexed territory under such section.

With respect to territory that is transferred to the urban school district after September 24, 1986, the agreement may provide for annual payments by the urban school district to the school district whose territory is transferred to the urban school district subsequent to annexation by the city served by the urban school district.

(G) In the event territory is transferred from one school district to another under this section, an equitable division of the funds and indebtedness between the districts involved shall be made under the supervision of the state board of education and that board's decision shall be final. Such division shall not include funds payable to or received by a school district under Chapter ~~3306.~~ or 3317. of the Revised Code or payable to or received by a school district from the United States or any department or agency thereof. In the event such transferred territory includes real property owned by a school district, the state board of education, as part of such division of funds and indebtedness, shall determine the true value in money of such real property and all buildings or other improvements thereon. The board of education of the school district receiving such territory shall forthwith pay to the board of education of the school district losing such territory such true value in money of such real property, buildings, and improvements less such percentage of the true value in money of each school building located on such real property as is represented by the ratio of the total enrollment in day classes of the pupils residing in the territory transferred enrolled at such school building in the school year in which such annexation proceedings were commenced to the total enrollment in day classes of all pupils residing in the school district losing such territory enrolled at such school building in such school year. The school district receiving such payment shall place the proceeds thereof in its sinking fund or bond retirement fund.

(H) The state board of education, before approving such transfer of territory, shall determine that such payment has been made and shall apportion to the acquiring school district such percentage of the indebtedness of the school district losing the territory as is represented by the ratio that the assessed valuation of the territory transferred bears to the total assessed valuation of the entire school district losing the territory as of the effective date of the transfer, provided that in ascertaining the indebtedness of the school district losing the territory the state board of education shall disregard such percentage of the par value of the outstanding and unpaid bonds and notes of said school district issued for construction or improvement of the school building or buildings for which payment was made by the acquiring district as is equal to the percentage by which the true value in money of such building or buildings was reduced in fixing the amount of said payment.

(I) No transfer of school district territory or division of funds and indebtedness incident thereto, pursuant to the annexation of territory to a city or village shall be completed in any other manner than that prescribed by this section regardless of the date of the commencement of such annexation proceedings, and this section applies to all proceedings for such transfers and divisions of funds and indebtedness pending or commenced on or after October 2, 1959.

Sec. 3311.19. (A) The management and control of a joint vocational school district shall be vested in the joint vocational school district board of education. Where a joint vocational school district is composed only of two or more local school districts located in one county, or when all the participating districts are in one county and the boards of such participating districts so choose, the educational service center governing board of the county in which the joint vocational school district is located shall serve as the joint vocational school district board of education. Where a joint vocational school district is composed of local school districts of more than one county, or of any combination of city, local, or exempted village school districts or educational service centers, unless administration by the educational service center governing board has been chosen by all the participating districts in one county pursuant to this section, the board of education of the joint vocational school district shall be composed of one or more persons who are members of the boards of education from each of the city or exempted village school districts or members of the educational service centers' governing boards affected to be appointed by the boards of education or governing boards of such school districts and educational service centers. In such joint vocational school districts the number and

terms of members of the joint vocational school district board of education and the allocation of a given number of members to each of the city and exempted village districts and educational service centers shall be determined in the plan for such district, provided that each such joint vocational school district board of education shall be composed of an odd number of members.

(B) Notwithstanding division (A) of this section, a governing board of an educational service center that has members of its governing board serving on a joint vocational school district board of education may make a request to the joint vocational district board that the joint vocational school district plan be revised to provide for one or more members of boards of education of local school districts that are within the territory of the educational service district and within the joint vocational school district to serve in the place of or in addition to its educational service center governing board members. If agreement is obtained among a majority of the boards of education and governing boards that have a member serving on the joint vocational school district board of education and among a majority of the local school district boards of education included in the district and located within the territory of the educational service center whose board requests the substitution or addition, the state board of education may revise the joint vocational school district plan to conform with such agreement.

(C) If the board of education of any school district or educational service center governing board included within a joint vocational district that has had its board or governing board membership revised under division (B) of this section requests the joint vocational school district board to submit to the state board of education a revised plan under which one or more joint vocational board members chosen in accordance with a plan revised under such division would again be chosen in the manner prescribed by division (A) of this section, the joint vocational board shall submit the revised plan to the state board of education, provided the plan is agreed to by a majority of the boards of education represented on the joint vocational board, a majority of the local school district boards included within the joint vocational district, and each educational service center governing board affected by such plan. The state board of education may revise the joint vocational school district plan to conform with the revised plan.

(D) The vocational schools in such joint vocational school district shall be available to all youth of school age within the joint vocational school district subject to the rules adopted by the joint vocational school district board of education in regard to the standards requisite to admission. A joint vocational school district board of education shall have the same powers,

duties, and authority for the management and operation of such joint vocational school district as is granted by law, except by this chapter and Chapters 124., ~~3306.~~, 3317., 3323., and 3331. of the Revised Code, to a board of education of a city school district, and shall be subject to all the provisions of law that apply to a city school district, except such provisions in this chapter and Chapters 124., ~~3306.~~, 3317., 3323., and 3331. of the Revised Code.

(E) Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, the educational service center superintendent shall be the executive officer for the joint vocational school district, and the governing board may provide for additional compensation to be paid to the educational service center superintendent by the joint vocational school district, but the educational service center superintendent shall have no continuing tenure other than that of educational service center superintendent. The superintendent of schools of a joint vocational school district shall exercise the duties and authority vested by law in a superintendent of schools pertaining to the operation of a school district and the employment and supervision of its personnel. The joint vocational school district board of education shall appoint a treasurer of the joint vocational school district who shall be the fiscal officer for such district and who shall have all the powers, duties, and authority vested by law in a treasurer of a board of education. Where a governing board of an educational service center has been designated to serve as the joint vocational school district board of education, such board may appoint the educational service center superintendent as the treasurer of the joint vocational school district.

(F) Each member of a joint vocational school district board of education may be paid such compensation as the board provides by resolution, but it shall not exceed one hundred twenty-five dollars per member for each meeting attended plus mileage, at the rate per mile provided by resolution of the board, to and from meetings of the board.

The board may provide by resolution for the deduction of amounts payable for benefits under section 3313.202 of the Revised Code.

Each member of a joint vocational school district board may be paid such compensation as the board provides by resolution for attendance at an approved training program, provided that such compensation shall not exceed sixty dollars per day for attendance at a training program three hours or fewer in length and one hundred twenty-five dollars a day for attendance at a training program longer than three hours in length. However, no board member shall be compensated for the same training program under this

section and section 3313.12 of the Revised Code.

Sec. 3311.21. (A) In addition to the resolutions authorized by sections 5705.194, 5705.199, 5705.21, 5705.212, and 5705.213 of the Revised Code, the board of education of a joint vocational or cooperative education school district by a vote of two-thirds of its full membership may at any time adopt a resolution declaring the necessity to levy a tax in excess of the ten-mill limitation for a period not to exceed ten years to provide funds for any one or more of the following purposes, which may be stated in the following manner in such resolution, the ballot, and the notice of election: purchasing a site or enlargement thereof and for the erection and equipment of buildings; for the purpose of enlarging, improving, or rebuilding thereof; for the purpose of providing for the current expenses of the joint vocational or cooperative school district; or for a continuing period for the purpose of providing for the current expenses of the joint vocational or cooperative education school district. The resolution shall specify the amount of the proposed rate and, if a renewal, whether the levy is to renew all, or a portion of, the existing levy, and shall specify the first year in which the levy will be imposed. If the levy provides for but is not limited to current expenses, the resolution shall apportion the annual rate of the levy between current expenses and the other purpose or purposes. Such apportionment may but need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for current expenses and the other purpose or purposes shall be limited by such apportionment. The portion of any such rate actually levied for current expenses of a joint vocational or cooperative education school district shall be used in applying ~~division (A)(1) of section 3306.01 and~~ division (A) of section 3317.01 of the Revised Code. The portion of any such rate not apportioned to the current expenses of a joint vocational or cooperative education school district shall be used in applying division (B) of this section. On the adoption of such resolution, the joint vocational or cooperative education school district board of education shall certify the resolution to the board of elections of the county containing the most populous portion of the district, which board shall receive resolutions for filing and send them to the boards of elections of each county in which territory of the district is located, furnish all ballots for the election as provided in section 3505.071 of the Revised Code, and prepare the election notice; and the board of elections of each county in which the territory of such district is located shall make the other necessary arrangements for the submission of the question to the electors of the joint vocational or cooperative education school district at the next primary or general election occurring not less than ninety days after the resolution was received from

the joint vocational or cooperative education school district board of education, or at a special election to be held at a time designated by the district board of education consistent with the requirements of section 3501.01 of the Revised Code, which date shall not be earlier than ninety days after the adoption and certification of the resolution.

The board of elections of the county or counties in which territory of the joint vocational or cooperative education school district is located shall cause to be published in ~~one or more newspapers~~ a newspaper of general circulation in that district an advertisement of the proposed tax levy question, together with a statement of the amount of the proposed levy once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot, ~~and, if~~ If the board of elections operates and maintains a web site, the board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to that election.

If a majority of the electors voting on the question of levying such tax vote in favor of the levy, the joint vocational or cooperative education school district board of education shall annually make the levy within the district at the rate specified in the resolution and ballot or at any lesser rate, and the county auditor of each affected county shall annually place the levy on the tax list and duplicate of each school district in the county having territory in the joint vocational or cooperative education school district. The taxes realized from the levy shall be collected at the same time and in the same manner as other taxes on the duplicate, and the taxes, when collected, shall be paid to the treasurer of the joint vocational or cooperative education school district and deposited to a special fund, which shall be established by the joint vocational or cooperative education school district board of education for all revenue derived from any tax levied pursuant to this section and for the proceeds of anticipation notes which shall be deposited in such fund. After the approval of the levy, the joint vocational or cooperative education school district board of education may anticipate a fraction of the proceeds of the levy and from time to time, during the life of the levy, but in any year prior to the time when the tax collection from the levy so anticipated can be made for that year, issue anticipation notes in an amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected in each year up to a period of five years after the date of the issuance of the notes, less an amount equal to the proceeds of the levy obligated for each year by the issuance of anticipation notes, provided that the total amount maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of the levy for that year. Each issue of notes shall

be sold as provided in Chapter 133. of the Revised Code, and shall, except for such limitation that the total amount of such notes maturing in any one year shall not exceed fifty per cent of the anticipated proceeds of the levy for that year, mature serially in substantially equal installments, during each year over a period not to exceed five years after their issuance.

(B) Prior to the application of section 319.301 of the Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

(C) The form of ballot cast at an election under division (A) of this section shall be as prescribed by section 5705.25 of the Revised Code.

Sec. 3311.213. (A) With the approval of the board of education of a joint vocational school district ~~which~~ that is in existence, any school district in the county or counties comprising the joint vocational school district or any school district in a county adjacent to a county comprising part of a joint vocational school district may become a part of the joint vocational school district. On the adoption of a resolution of approval by the board of education of the joint vocational school district, it shall advertise a copy of such resolution in a newspaper of general circulation in the school district proposing to become a part of such joint vocational school district once each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the date of the adoption of such resolution. Such resolution shall not become effective until the later of the sixty-first day after its adoption or until the board of elections certifies the results of an election in favor of joining of the school district to the joint vocational school district if such an election is held under division (B) of this section.

(B) During the sixty-day period following the date of the adoption of a resolution to join a school district to a joint vocational school district under division (A) of this section, the electors of the school district that proposes joining the joint vocational school district may petition for a referendum vote on the resolution. The question whether to approve or disapprove the resolution shall be submitted to the electors of such school district if a number of qualified electors equal to twenty per cent of the number of electors in the school district who voted for the office of governor at the most recent general election for that office sign a petition asking that the question of whether the resolution shall be disapproved be submitted to the electors. The petition shall be filed with the board of elections of the county in which the school district is located. If the school district is located in

more than one county, the petition shall be filed with the board of elections of the county in which the majority of the territory of the school district is located. The board shall certify the validity and sufficiency of the signatures on the petition.

The board of elections shall immediately notify the board of education of the joint vocational school district and the board of education of the school district that proposes joining the joint vocational school district that the petition has been filed.

The effect of the resolution shall be stayed until the board of elections certifies the validity and sufficiency of the signatures on the petition. If the board of elections determines that the petition does not contain a sufficient number of valid signatures and sixty days have passed since the adoption of the resolution, the resolution shall become effective.

If the board of elections certifies that the petition contains a sufficient number of valid signatures, the board shall submit the question to the qualified electors of the school district on the day of the next general or primary election held at least ninety days after but no later than six months after the board of elections certifies the validity and sufficiency of signatures on the petition. If there is no general or primary election held at least ninety days after but no later than six months after the board of elections certifies the validity and sufficiency of signatures on the petition, the board shall submit the question to the electors at a special election to be held on the next day specified for special elections in division (D) of section 3501.01 of the Revised Code that occurs at least ninety days after the board certifies the validity and sufficiency of signatures on the petition. The election shall be conducted and canvassed and the results shall be certified in the same manner as in regular elections for the election of members of a board of education.

If a majority of the electors voting on the question disapprove the resolution, the resolution shall not become effective.

(C) If the resolution becomes effective, the board of education of the joint vocational school district shall notify the county auditor of the county in which the school district becoming a part of the joint vocational school district is located, who shall thereupon have any outstanding levy for building purposes, bond retirement, or current expenses in force in the joint vocational school district spread over the territory of the school district becoming a part of the joint vocational school district. On the addition of a city or exempted village school district or an educational service center to the joint vocational school district, pursuant to this section, the board of education of such joint vocational school district shall submit to the state

board of education a proposal to enlarge the membership of such board by the addition of one or more persons at least one of whom shall be a member of the board of education or governing board of such additional school district or educational service center, and the term of each such additional member. On the addition of a local school district to the joint vocational school district, pursuant to this section, the board of education of such joint vocational school district may submit to the state board of education a proposal to enlarge the membership of such board by the addition of one or more persons who are members of the educational service center governing board of such additional local school district. On approval by the state board of education additional members shall be added to such joint vocational school district board of education.

Sec. 3311.214. (A) With the approval of the state board of education, the boards of education of any two or more joint vocational school districts may, by the adoption of identical resolutions by a majority of the members of each such board, propose that one new joint vocational school district be created by adding together all of the territory of each of the districts and dissolving such districts. A copy of each resolution shall be filed with the state board of education for its approval or disapproval. The resolutions shall include a provision that the board of education of the new district shall be composed of the members from the same boards of education that composed the membership of the board of each of the districts to be dissolved, except that, if an even number of districts are to be dissolved, one additional member shall be added, who may be from any school district included in the territory of any of the districts to be dissolved as designated in the resolutions. The members of the new board shall have the same terms of office as they had under the respective plans of the districts adopting the resolutions, except that, if the new board has an additional member, ~~he~~ the additional member shall have a term as specified in the resolutions.

If the state board approves the resolutions, the board of education of each district to be dissolved shall advertise a copy of the resolution in a newspaper of general circulation in its district once each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the date the resolutions are approved by the state board. The resolutions shall become effective on the first day of July next succeeding the sixtieth day following approval by the state board unless prior to the expiration of such sixty-day period, qualified electors residing in one of the districts to be dissolved equal in number to a majority of the qualified electors of that district voting at the last general election file with the state board a petition of remonstrance against creation of the proposed new

district.

(B) When a resolution becomes effective under division (A) of this section, each district in which a resolution was adopted and the board of each such district are dissolved. The territory of each dissolved district becomes a part of the new joint vocational school district. The net indebtedness of each dissolved district shall be assumed in full by the new district and the funds and property of each dissolved district shall become in full the funds and property of the new district. All existing contracts of each dissolved board shall be honored by the board of the new district until their expiration dates. The board of the new district shall notify the county auditor of each county in which each dissolved district was located that a resolution has become effective and a new district has been created and shall certify to each auditor any changes that might be required in the tax rate as a result of the creation of the new district.

(C) As used in this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the school district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

Sec. 3311.29. (A) Except as provided under division (B) or (C) of this section, no school district shall be created and no school district shall exist which does not maintain within such district public schools consisting of grades kindergarten through twelve and any such existing school district not maintaining such schools shall be dissolved and its territory joined with another school district or districts by order of the state board of education if no agreement is made among the surrounding districts voluntarily, which order shall provide an equitable division of the funds, property, and indebtedness of the dissolved school district among the districts receiving its territory. The state board of education may authorize exceptions to school districts where topography, sparsity of population, and other factors make compliance impracticable.

The superintendent of public instruction is without authority to distribute funds under Chapter ~~3306~~ or 3317. of the Revised Code to any school district that does not maintain schools with grades kindergarten through twelve and to which no exception has been granted by the state board of education.

(B) Division (A) of this section does not apply to any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(C)(1)(a) Except as provided in division (C)(3) of this section, division (A) of this section does not apply to any cooperative education school

district established pursuant to section 3311.521 of the Revised Code nor to the city, exempted village, or local school districts that have territory within such a cooperative education district.

(b) The cooperative district and each city, exempted village, or local district with territory within the cooperative district shall maintain the grades that the resolution adopted or amended pursuant to section 3311.521 of the Revised Code specifies.

(2) Any cooperative education school district described under division (C)(1) of this section that fails to maintain the grades it is specified to operate shall be dissolved by order of the state board of education unless prior to such an order the cooperative district is dissolved pursuant to section 3311.54 of the Revised Code. Any such order shall provide for the equitable adjustment, division, and disposition of the assets, property, debts, and obligations of the district among each city, local, and exempted village school district whose territory is in the cooperative district and shall provide that the tax duplicate of each city, local, and exempted village school district whose territory is in the cooperative district shall be bound for and assume its share of the outstanding indebtedness of the cooperative district.

(3) If any city, exempted village, or local school district described under division (C)(1) of this section fails to maintain the grades it is specified to operate the cooperative district within which it has territory shall be dissolved in accordance with division (C)(2) of this section and upon that dissolution any city, exempted village, or local district failing to maintain grades kindergarten through twelve shall be subject to the provisions for dissolution in division (A) of this section.

Sec. 3311.50. (A) As used in this section, "county school financing district" means a taxing district consisting of the following territory:

(1) The territory that constitutes the educational service center on the date that the governing board of that educational service center adopts a resolution under division (B) of this section declaring that the territory of the educational service center is a county school financing district, exclusive of any territory subsequently withdrawn from the district under division (D) of this section;

(2) Any territory that has been added to the county school financing district under this section.

A county school financing district may include the territory of a city, local, or exempted village school district whose territory also is included in the territory of one or more other county school financing districts.

(B) The governing board of any educational service center may, by resolution, declare that the territory of the educational service center is a

county school financing district. The resolution shall state the purpose for which the county school financing district is created which may be for any one or more of the following purposes:

(1) To levy taxes for the provision of special education by the school districts that are a part of the district, including taxes for permanent improvements for special education;

(2) To levy taxes for the provision of specified educational programs and services by the school districts that are a part of the district, as identified in the resolution creating the district, including the levying of taxes for permanent improvements for those programs and services;

(3) To levy taxes for permanent improvements of school districts that are a part of the district.

The governing board of the educational service center that creates a county school financing district shall serve as the taxing authority of the district and may use educational service center governing board employees to perform any of the functions necessary in the performance of its duties as a taxing authority. A county school financing district shall not employ any personnel.

With the approval of a majority of the members of the board of education of each school district within the territory of the county school financing district, the taxing authority of the financing district may amend the resolution creating the district to broaden or narrow the purposes for which it was created.

A governing board of an educational service center may create more than one county school financing district. If a governing board of an educational service center creates more than one such district, it shall clearly distinguish among the districts it creates by including a designation of each district's purpose in the district's name.

(C) A majority of the members of a board of education of a city, local, or exempted village school district may adopt a resolution requesting that its territory be joined with the territory of any county school financing district. Copies of the resolution shall be filed with the state board of education and the taxing authority of the county school financing district. Within sixty days of its receipt of such a resolution, the county school financing district's taxing authority shall vote on the question of whether to accept the school district's territory as part of the county school financing district. If a majority of the members of the taxing authority vote to accept the territory, the school district's territory shall thereupon become a part of the county school financing district unless the county school financing district has in effect a tax imposed under section 5705.211 of the Revised Code. If the county

school financing district has such a tax in effect, the taxing authority shall certify a copy of its resolution accepting the school district's territory to the school district's board of education, which may then adopt a resolution, with the affirmative vote of a majority of its members, proposing the submission to the electors of the question of whether the district's territory shall become a part of the county school financing district and subject to the taxes imposed by the financing district. The resolution shall set forth the date on which the question shall be submitted to the electors, which shall be at a special election held on a date specified in the resolution, which shall not be earlier than ninety days after the adoption and certification of the resolution. A copy of the resolution shall immediately be certified to the board of elections of the proper county, which shall make arrangements for the submission of the proposal to the electors of the school district. The board of the joining district shall publish notice of the election in ~~one or more newspapers~~ a newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. Additionally, if the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The question appearing on the ballot shall read:

"Shall the territory within (name of the school district proposing to join the county school financing district) be added to (name) county school financing district, and a property tax for the purposes of (here insert purposes) at a rate of taxation not exceeding (here insert the outstanding tax rate) be in effect for (here insert the number of years the tax is to be in effect or "a continuing period of time," as applicable)"?

If the proposal is approved by a majority of the electors voting on it, the joinder shall take effect on the first day of July following the date of the election, and the county board of elections shall notify the county auditor of each county in which the school district joining its territory to the county school financing district is located.

(D) The board of any city, local, or exempted village school district whose territory is part of a county school financing district may withdraw its territory from the county school financing district thirty days after submitting to the governing board that is the taxing authority of the district and the state board a resolution proclaiming such withdrawal, adopted by a majority vote of its members, but any county school financing district tax levied in such territory on the effective date of the withdrawal shall remain in effect in such territory until such tax expires or is renewed. No board may

adopt a resolution withdrawing from a county school financing district that would take effect during the forty-five days preceding the date of an election at which a levy proposed under section 5705.215 of the Revised Code is to be voted upon.

(E) A city, local, or exempted village school district does not lose its separate identity or legal existence by reason of joining its territory to a county school financing district under this section and an educational service center does not lose its separate identity or legal existence by reason of creating a county school financing district that accepts or loses territory under this section.

Sec. 3311.52. A cooperative education school district may be established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code.

(A) A cooperative education school district may be established upon the adoption of identical resolutions within a sixty-day period by a majority of the members of the board of education of each city, local, and exempted village school district that is within the territory of a county school financing district.

A copy of each resolution shall be filed with the governing board of the educational service center which created the county school financing district. Upon the filing of the last such resolution, the educational service center governing board shall immediately notify each board of education filing such a resolution of the date on which the last resolution was filed.

Ten days after the date on which the last resolution is filed with the educational service center governing board or ten days after the last of any notices required under division (C) of this section is received by the educational service center governing board, whichever is later, the county school financing district shall be dissolved and the new cooperative education school district and the board of education of the cooperative education school district shall be established.

On the date that any county school financing district is dissolved and a cooperative education school district is established under this section, each of the following shall apply:

(1) The territory of the dissolved district becomes the territory of the new district.

(2) Any outstanding tax levy in force in the dissolved district shall be spread over the territory of the new district and shall remain in force in the new district until the levy expires or is renewed.

(3) Any funds of the dissolved district shall be paid over in full to the new district.

(4) Any net indebtedness of the dissolved district shall be assumed in full by the new district. As used in division (A)(4) of this section, "net indebtedness" means the difference between the par value of the outstanding and unpaid bonds and notes of the dissolved district and the amount held in the sinking fund and other indebtedness retirement funds for their redemption.

When a county school financing district is dissolved and a cooperative education school district is established under this section, the governing board of the educational service center that created the dissolved district shall give written notice of this fact to the county auditor and the board of elections of each county having any territory in the new district.

(B) The resolutions adopted under division (A) of this section shall include all of the following provisions:

(1) Provision that the governing board of the educational service center which created the county school financing district shall be the board of education of the cooperative education school district, except that provision may be made for the composition, selection, and terms of office of an alternative board of education of the cooperative district, which board shall include at least one member selected from or by the members of the board of education of each city, local, and exempted village school district and at least one member selected from or by the members of the educational service center governing board within the territory of the cooperative district;

(2) Provision that the treasurer and superintendent of the educational service center which created the county school financing district shall be the treasurer and superintendent of the cooperative education school district, except that provision may be made for the selection of a treasurer or superintendent of the cooperative district other than the treasurer or superintendent of the educational service center, which provision shall require one of the following:

(a) The selection of one person as both the treasurer and superintendent of the cooperative district, which provision may require such person to be the treasurer or superintendent of any city, local, or exempted village school district or educational service center within the territory of the cooperative district;

(b) The selection of one person as the treasurer and another person as the superintendent of the cooperative district, which provision may require either one or both such persons to be treasurers or superintendents of any city, local, or exempted village school districts or educational service center within the territory of the cooperative district.

(3) A statement of the educational program the board of education of the cooperative education school district will conduct, including but not necessarily limited to the type of educational program, the grade levels proposed for inclusion in the program, the timetable for commencing operation of the program, and the facilities proposed to be used or constructed to be used by the program;

(4) A statement of the annual amount, or the method for determining that amount, of funds or services or facilities that each city, local, and exempted village school district within the territory of the cooperative district is required to pay to or provide for the use of the board of education of the cooperative education school district;

(5) Provision for adopting amendments to the provisions of divisions (B)(2) to (4) of this section.

(C) If the resolutions adopted under division (A) of this section provide for a board of education of the cooperative education school district that is not the governing board of the educational service center that created the county school financing district, each board of education of each city, local, or exempted village school district and the governing board of the educational service center within the territory of the cooperative district shall, within thirty days after the date on which the last resolution is filed with the educational service center governing board under division (A) of this section, select one or more members of the board of education of the cooperative district as provided in the resolutions filed with the educational service center governing board. Each such board shall immediately notify the educational service center governing board of each such selection.

(D) Except for the powers and duties in this chapter and Chapters 124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the Revised Code, a cooperative education school district established pursuant to divisions (A) to (C) of this section or pursuant to section 3311.521 of the Revised Code has all the powers of a city school district and its board of education has all the powers and duties of a board of education of a city school district with respect to the educational program specified in the resolutions adopted under division (A) of this section. All laws applicable to a city school district or the board of education or the members of the board of education of a city school district, except such laws in this chapter and Chapters 124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the Revised Code, are applicable to a cooperative education school district and its board.

The treasurer and superintendent of a cooperative education school district shall have the same respective duties and powers as a treasurer and superintendent of a city school district, except for any powers and duties in

this chapter and Chapters 124., ~~3306.~~, 3317., 3318., 3323., and 3331. of the Revised Code.

(E) For purposes of this title, any student included in the formula ADM certified for any city, exempted village, or local school district under section 3317.03 of the Revised Code by virtue of being counted, in whole or in part, in the average daily membership of a cooperative education school district under division (A)(2)(f) of that section shall be construed to be enrolled both in that city, exempted village, or local school district and in that cooperative education school district. This division shall not be construed to mean that any such individual student may be counted more than once for purposes of determining the average daily membership of any one school district.

Sec. 3311.53. (A)(1) The board of education of any city, local, or exempted village school district that wishes to become part of a cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code may adopt a resolution proposing to become a part of the cooperative education school district.

(2) The board of education of any city, local, or exempted village school district that is contiguous to a cooperative education school district established pursuant to section 3311.521 of the Revised Code and that wishes to become part of that cooperative district may adopt a resolution proposing to become part of that cooperative district.

(B) If, after the adoption of a resolution in accordance with division (A) of this section, the board of education of the cooperative education school district named in that resolution also adopts a resolution accepting the new district, the board of the district wishing to become part of the cooperative district shall advertise a copy of the cooperative district board's resolution in a newspaper of general circulation in the school district proposing to become a part of the cooperative education school district once each week for ~~at least two weeks, or as provided in section 7.16 of the Revised Code,~~ immediately following the date of the adoption of the resolution. The resolution shall become legally effective on the sixtieth day after its adoption, unless prior to the expiration of that sixty-day period qualified electors residing in the school district proposed to become a part of the cooperative education school district equal in number to a majority of the qualified electors voting at the last general election file with the board of education a petition of remonstrance against the transfer. If the resolution becomes legally effective, both of the following shall apply:

(1) The resolution that established the cooperative education school district pursuant to divisions (A) to (C) of section 3311.52 or section 3311.521 of the Revised Code shall be amended to reflect the addition of the

new district to the cooperative district.

(2) The board of education of the cooperative education school district shall give written notice of this fact to the county auditor and the board of elections of each county in which the school district becoming a part of the cooperative education school district has territory. Any such county auditor shall thereupon have any outstanding levy for building purposes, bond retirement, or current expenses in force in the cooperative education school district spread over the territory of the school district becoming a part of the cooperative education school district.

(C) If the board of education of the cooperative education school district is not the governing board of an educational service center, the board of education of the cooperative education school district shall, on the addition of a city, local, or exempted village school district to the district pursuant to this section, submit to the state board of education a proposal to enlarge the membership of the board. In the case of a cooperative district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code, the proposal shall add one or more persons to the district's board, at least one of whom shall be a member of or selected by the board of education of the additional school district, and shall specify the term of each such additional member. In the case of a cooperative district established pursuant to section 3311.521 of the Revised Code, the proposal shall add two or more persons to the district's board, at least two of whom shall be a member of or selected by the board of education of the additional school district, and shall specify the term of each such additional member. On approval by the state board of education, the additional members shall be added to the cooperative education school district board of education.

Sec. 3311.73. (A) No later than ninety days before the general election held in the first even-numbered year occurring at least four years after the date it assumed control of the municipal school district pursuant to division (B) of section 3311.71 of the Revised Code, the board of education appointed under that division shall notify the board of elections of each county containing territory of the municipal school district of the referendum election required by division (B) of this section.

(B) At the general election held in the first even-numbered year occurring at least four years after the date the new board assumed control of a municipal school district pursuant to division (B) of section 3311.71 of the Revised Code, the following question shall be submitted to the electors residing in the school district:

"Shall the mayor of (here insert the name of the applicable municipal corporation) continue to appoint the members of the board of

education of the (here insert the name of the municipal school district)?"

The board of elections of the county in which the majority of the school district's territory is located shall make all necessary arrangements for the submission of the question to the electors, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the district for the election of county officers, provided that in any such election in which only part of the electors of a precinct are qualified to vote, the board of elections may assign voters in such part to an adjoining precinct. Such an assignment may be made to an adjoining precinct in another county with the consent and approval of the board of elections of such other county. Notice of the election shall be published in a newspaper of general circulation in the school district once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election, ~~and, if~~. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. The notice shall state the question on which the election is being held. The ballot shall be in the form prescribed by the secretary of state. Costs of submitting the question to the electors shall be charged to the municipal school district in accordance with section 3501.17 of the Revised Code.

(C) If a majority of electors voting on the issue proposed in division (B) of this section approve the question, the mayor shall appoint a new board on the immediately following first day of July pursuant to division (F) of section 3311.71 of the Revised Code.

(D) If a majority of electors voting on the issue proposed in division (B) of this section disapprove the question, a new seven-member board of education shall be elected at the next regular election occurring in November of an odd-numbered year. At such election, four members shall be elected for terms of four years and three members shall be elected for terms of two years. Thereafter, their successors shall be elected in the same manner and for the same terms as members of boards of education of a city school district. All members of the board of education of a municipal school district appointed pursuant to division (B) of section 3311.71 of the Revised Code shall continue to serve after the end of the terms to which they were appointed until their successors are qualified and assume office in accordance with section 3313.09 of the Revised Code.

Sec. 3311.76. (A) Notwithstanding Chapters 3302., ~~3306.~~, and 3317. of the Revised Code, upon written request of the district chief executive officer the state superintendent of public instruction may exempt a municipal school district from any rules adopted under Title XXXIII of the Revised

Code except for any rule adopted under Chapter 3307. or 3309., sections 3319.07 to 3319.21, or Chapter 3323. of the Revised Code, and may authorize a municipal school district to apply funds allocated to the district under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code, except those specifically allocated to purposes other than current expenses, to the payment of debt charges on the district's public obligations. The request must specify the provisions from which the district is seeking exemption or the application requested and the reasons for the request. The state superintendent shall approve the request if the superintendent finds the requested exemption or application is in the best interest of the district's students. The superintendent shall approve or disapprove the request within thirty days and shall notify the district board and the district chief executive officer of approval or reasons for disapproving the request.

(B) In addition to the rights, authority, and duties conferred upon a municipal school district and its board of education in sections 3311.71 to 3311.76 of the Revised Code, a municipal school district and its board shall have all of the rights, authority, and duties conferred upon a city school district and its board by law that are not inconsistent with sections 3311.71 to 3311.76 of the Revised Code.

Sec. 3313.29. The treasurer of each board of education shall keep an account of all school funds of the district. The treasurer shall receive all vouchers for payments and disbursements made to and by the board and preserve such vouchers for a period of ten years unless copied or reproduced according to the procedure prescribed in section 9.01 of the Revised Code. Thereafter, such vouchers may be destroyed by the treasurer upon applying to and obtaining an order from the school district records commission in the manner prescribed by section ~~149.41~~ 149.381 of the Revised Code, except that it shall not be necessary to copy or reproduce such vouchers before their destruction. The treasurer shall render a statement to the board and to the superintendent of the school district, monthly, or more often if required, showing the revenues and receipts from whatever sources derived, the various appropriations made by the board, the expenditures and disbursements therefrom, the purposes thereof, the balances remaining in each appropriation, and the assets and liabilities of the school district. At the end of the fiscal year such statement shall be a complete exhibit of the financial affairs of the school district which may be published and distributed with the approval of the board. All monthly and yearly statements as required in this section shall be available for examination by the public.

On request of the principal or other chief administrator of any nonpublic

school located within the school district's territory, the treasurer shall provide such principal or administrator with an account of the moneys received by the district under division ~~(F)~~(E) of section 3317.024 of the Revised Code as reported to the district's board in the treasurer's most recent monthly statement.

Sec. 3313.372. (A) As used in this section, "energy conservation measure" means an installation or modification of an installation in, or remodeling of, a building, to reduce energy consumption. It includes:

- (1) Insulation of the building structure and systems within the building;
- (2) Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- (3) Automatic energy control systems;
- (4) Heating, ventilating, or air conditioning system modifications or replacements;
- (5) Caulking and weatherstripping;
- (6) Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility, unless such increase in illumination is necessary to conform to the applicable state or local building code for the proposed lighting system;
- (7) Energy recovery systems;
- (8) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
- (9) Any other modification, installation, or remodeling approved by the Ohio school facilities commission as an energy conservation measure.

(B) A board of education of a city, exempted village, local, or joint vocational school district may enter into an installment payment contract for the purchase and installation of energy conservation measures. The provisions of such installment payment contracts dealing with interest charges and financing terms shall not be subject to the competitive bidding requirements of section 3313.46 of the Revised Code, and shall be on the following terms:

- (1) Not less than one-fifteenth of the costs thereof shall be paid within two years from the date of purchase.
- (2) The remaining balance of the costs thereof shall be paid within fifteen years from the date of purchase.

An installment payment contract entered into by a board of education under this section shall require the board to contract in accordance with

division (A) of section 3313.46 of the Revised Code for the installation, modification, or remodeling of energy conservation measures unless division (A) of section 3313.46 of the Revised Code does not apply pursuant to division (B)(3) of that section.

(C) The board may issue the notes of the school district signed by the president and the treasurer of the board and specifying the terms of the purchase and securing the deferred payments provided in this section, payable at the times provided and bearing interest at a rate not exceeding the rate determined as provided in section 9.95 of the Revised Code. The notes may contain an option for prepayment and shall not be subject to Chapter 133. of the Revised Code. In the resolution authorizing the notes, the board may provide, without the vote of the electors of the district, for annually levying and collecting taxes in amounts sufficient to pay the interest on and retire the notes, except that the total net indebtedness of the district without a vote of the electors incurred under this and all other sections of the Revised Code, except section 3318.052 of the Revised Code, shall not exceed one per cent of the district's tax valuation. Revenues derived from local taxes or otherwise, for the purpose of conserving energy or for defraying the current operating expenses of the district, may be applied to the payment of interest and the retirement of such notes. The notes may be sold at private sale or given to the contractor under the installment payment contract authorized by division (B) of this section.

(D) Debt incurred under this section shall not be included in the calculation of the net indebtedness of a school district under section 133.06 of the Revised Code.

(E) No school district board shall enter into an installment payment contract under division (B) of this section unless it first obtains a report of the costs of the energy conservation measures and the savings thereof as described under division (G) of section 133.06 of the Revised Code as a requirement for issuing energy securities, makes a finding that the amount spent on such measures is not likely to exceed the amount of money it would save in energy costs and resultant operational and maintenance costs as described in that division, except that that finding shall cover the ensuing fifteen years, and the Ohio school facilities commission determines that the district board's findings are reasonable and approves the contract as described in that division.

The district board shall monitor the savings and maintain a report of those savings, which shall be ~~available~~ submitted to the commission in the same manner as required by division (G) of section 133.06 of the Revised Code in the case of energy securities.

Sec. 3313.41. (A) Except as provided in divisions (C), (D), (F), and (G) of this section, when a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it shall sell the property at public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation in the school district, by publication as provided in section 7.16 of the Revised Code, or by posting notices in five of the most public places in the school district in which the property, if it is real property, is situated, or, if it is personal property, in the school district of the board of education that owns the property. The board may offer real property for sale as an entire tract or in parcels.

(B) When the board of education has offered real or personal property for sale at public auction at least once pursuant to division (A) of this section, and the property has not been sold, the board may sell it at a private sale. Regardless of how it was offered at public auction, at a private sale, the board shall, as it considers best, sell real property as an entire tract or in parcels, and personal property in a single lot or in several lots.

(C) If a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it may sell the property to the adjutant general; to any subdivision or taxing authority as respectively defined in divisions (A) and (C) of section 5705.01 of the Revised Code, township park district, board of park commissioners established under Chapter 755. of the Revised Code, or park district established under Chapter 1545. of the Revised Code; to a wholly or partially tax-supported university, university branch, or college; or to the board of trustees of a school district library, upon such terms as are agreed upon. The sale of real or personal property to the board of trustees of a school district library is limited, in the case of real property, to a school district library within whose boundaries the real property is situated, or, in the case of personal property, to a school district library whose boundaries lie in whole or in part within the school district of the selling board of education.

(D) When a board of education decides to trade as a part or an entire consideration, an item of personal property on the purchase price of an item of similar personal property, it may trade the same upon such terms as are agreed upon by the parties to the trade.

(E) The president and the treasurer of the board of education shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this section.

(F) When a board of education has identified a parcel of real property

that it determines is needed for school purposes, the board may, upon a majority vote of the members of the board, acquire that property by exchanging real property that the board owns in its corporate capacity for the identified real property or by using real property that the board owns in its corporate capacity as part or an entire consideration for the purchase price of the identified real property. Any exchange or acquisition made pursuant to this division shall be made by a conveyance executed by the president and the treasurer of the board.

(G)(H) When a school district board of education decides to dispose of real property ~~suitable for use as classroom space~~, prior to disposing of that property under divisions (A) to (F) of this section, it shall first offer that property for sale to the governing authorities of the start-up community schools established under Chapter 3314. of the Revised Code located within the territory of the school district, at a price that is not higher than the appraised fair market value of that property. If more than one community school governing authority accepts the offer made by the school district board, the board shall sell the property to the governing authority that accepted the offer first in time. If no community school governing authority accepts the offer within sixty days after the offer is made by the school district board, the board may dispose of the property in the applicable manner prescribed under divisions (A) to (F) of this section.

~~(2) When a school district board of education has not used real property suitable for classroom space for academic instruction, administration, storage, or any other educational purpose for one full school year and has not adopted a resolution outlining a plan for using that property for any of those purposes within the next three school years, it shall offer that property for sale to the governing authorities of the start up community schools established under Chapter 3314. of the Revised Code located within the territory of the school district, at a price that is not higher than the appraised fair market value of that property. If more than one community school governing authority accepts the offer made by the school district board, the board shall sell the property to the governing authority that accepted the offer first in time.~~

(H) When a school district board of education has property that the board, by resolution, finds is not needed for school district use, is obsolete, or is unfit for the use for which it was acquired, the board may donate that property in accordance with this division if the fair market value of the property is, in the opinion of the board, two thousand five hundred dollars or less.

The property may be donated to an eligible nonprofit organization that

is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use school district property available to these organizations. The resolution shall include guidelines and procedures the board considers to be necessary to implement the donation program and shall indicate whether the school district will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the school district or as provided in section 7.16 of the Revised Code, notice of its intent to donate unneeded, obsolete, or unfit-for-use school district property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published ~~at least~~ twice. The second ~~and any subsequent~~ notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually in the board's office, ~~and, if~~ if the school district maintains a web site on the internet, the notice shall be posted continually at that web site.

The board or its representatives shall maintain a list of all nonprofit organizations that notify the board or its representative of their desire to obtain donated property under this division and that the board or its representative determines to be eligible, in accordance with the requirements set forth in this section and in the donation program's guidelines and procedures, to receive donated property.

The board or its representative also shall maintain a list of all school district property the board finds to be unneeded, obsolete, or unfit for use and to be available for donation under this division. The list shall be posted

continually in a conspicuous location in the board's office, and, if the school district maintains a web site on the internet, the list shall be posted continually at that web site. An item of property on the list shall be donated to the eligible nonprofit organization that first declares to the board or its representative its desire to obtain the item unless the board previously has established, by resolution, a list of eligible nonprofit organizations that shall be given priority with respect to the item's donation. Priority may be given on the basis that the purposes of a nonprofit organization have a direct relationship to specific school district purposes of programs provided or administered by the board. A resolution giving priority to certain nonprofit organizations with respect to the donation of an item of property shall specify the reasons why the organizations are given that priority.

Members of the board shall consult with the Ohio ethics commission, and comply with Chapters 102. and 2921. of the Revised Code, with respect to any donation under this division to a nonprofit organization of which a board member, any member of a board member's family, or any business associate of a board member is a trustee, officer, board member, or employee.

Sec. 3313.411. (A) As used in this section, "unused school facilities" means any real property that has been used by a school district for school operations, including, but not limited to, academic instruction or administration, since July 1, 1998, but has not been used in that capacity for two years.

(B) On and after the effective date of this section, any school district board of education shall offer any unused school facilities it owns in its corporate capacity for lease or sale to the governing authorities of community schools established under Chapter 3314. of the Revised Code that are located within the territory of the school district.

(1) If, not later than sixty days after the district board makes the offer, the governing authority of one community school located within the territory of the school district notifies the district treasurer in writing of its intention to purchase the property, the district board shall sell the property to the community school for the appraised fair market value of the property.

(2) If, not later than sixty days after the district board makes the offer, the governing authorities of two or more community schools located within the territory of the school district notify the district treasurer in writing of their intention to purchase the property, the board shall conduct a public auction in the manner required for auctions of district property under division (A) of section 3313.41 of the Revised Code. Only the governing authorities of all community schools located within the territory of the

school district are eligible to bid at the auction. The district board is not obligated to accept any bid for the property that is lower than the appraised fair market value of the property.

(3) If the governing authorities of two or more community schools located within the territory of the school district notify the district treasurer in writing of their intention to lease the property, the district board shall conduct a lottery to select the community school to which the district board shall lease the property.

(4) The lease price offered by a district board to the governing authority of a community school under this section shall not be higher than the fair market value for such a leasehold.

(5) If no community school governing authority accepts the offer to lease or buy the property within sixty days after the offer is made, the district board may offer the property to any other entity in accordance with divisions (A) to (F) of section 3313.41 of the Revised Code.

(C) Notwithstanding division (B) of this section, a school district board may renew any agreement it originally entered into prior to the effective date of this section to lease real property to an entity other than a community school. Nothing in this section shall affect the leasehold arrangements between the district board and that other entity.

Sec. 3313.46. (A) In addition to any other law governing the bidding for contracts by the board of education of any school district, when any such board determines to build, repair, enlarge, improve, or demolish any school building, the cost of which will exceed twenty-five thousand dollars, except in cases of urgent necessity, or for the security and protection of school property, and except as otherwise provided in division (D) of section 713.23 and in section 125.04 of the Revised Code, all of the following shall apply:

(1) The board shall cause to be prepared the plans, specifications, and related information as required in divisions (A), ~~(B)(1)~~, (2), and ~~(D)(3)~~ of section 153.01 of the Revised Code unless the board determines that other information is sufficient to inform any bidders of the board's requirements. However, if the board determines that such other information is sufficient for bidding a project, the board shall not engage in the construction of any such project involving the practice of professional engineering, professional surveying, or architecture, for which plans, specifications, and estimates have not been made by, and the construction thereof inspected by, a licensed professional engineer, licensed professional surveyor, or registered architect.

(2) The board shall advertise for bids once each week for a period of not less than two consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the district before the

date specified by the board for receiving bids. The board may also cause notice to be inserted in trade papers or other publications designated by it or to be distributed by electronic means, including posting the notice on the board's internet web site. If the board posts the notice on its web site, it may eliminate the second notice otherwise required to be published in a newspaper of general circulation within the school district, provided that the first notice published in such newspaper meets all of the following requirements:

- (a) It is published at least two weeks before the opening of bids.
 - (b) It includes a statement that the notice is posted on the board of education's internet web site.
 - (c) It includes the internet address of the board's internet web site.
 - (d) It includes instructions describing how the notice may be accessed on the board's internet web site.
- (3) Unless the board extends the time for the opening of bids they shall be opened at the time and place specified by the board in the advertisement for the bids.
- (4) Each bid shall contain the name of every person interested therein. Each bid shall meet the requirements of section 153.54 of the Revised Code.
- (5) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the bid, with the price thereof, or may require that bids be submitted without such separation.
- (6) None but the lowest responsible bid shall be accepted. The board may reject all the bids, or accept any bid for both labor and material for such improvement or repair, which is the lowest in the aggregate. In all other respects, the award of contracts for improvement or repair, but not for purchases made under section 3327.08 of the Revised Code, shall be pursuant to section 153.12 of the Revised Code.
- (7) The contract shall be between the board and the bidders. The board shall pay the contract price for the work pursuant to sections 153.13 and 153.14 of the Revised Code. The board shall approve and retain the estimates referred to in section 153.13 of the Revised Code and make them available to the auditor of state upon request.
- (8) When two or more bids are equal, in the whole, or in any part thereof, and are lower than any others, either may be accepted, but in no case shall the work be divided between such bidders.
- (9) When there is reason to believe there is collusion or combination among the bidders, or any number of them, the bids of those concerned therein shall be rejected.
- (B) Division (A) of this section does not apply to the board of education

of any school district in any of the following situations:

(1) The acquisition of educational materials used in teaching.

(2) If the board determines and declares by resolution adopted by two-thirds of all its members that any item is available and can be acquired only from a single source.

(3) If the board declares by resolution adopted by two-thirds of all its members that division (A) of this section does not apply to any installation, modification, or remodeling involved in any energy conservation measure undertaken through an installment payment contract under section 3313.372 of the Revised Code or undertaken pursuant to division (G) of section 133.06 of the Revised Code.

(4) The acquisition of computer software for instructional purposes and computer hardware for instructional purposes pursuant to division (B)(4) of section 3313.37 of the Revised Code.

(C) No resolution adopted pursuant to division (B)(2) or (3) of this section shall have any effect on whether sections 153.12 to 153.14 and 153.54 of the Revised Code apply to the board of education of any school district with regard to any item.

Sec. ~~3314.20~~ 3313.473. This section does not apply to any school district declared to be excellent or effective pursuant to division (B)(1) or (2) of section 3302.03 of the Revised Code.

(A) The state board of education shall adopt rules requiring school districts with a total student count of over five thousand, as determined pursuant to section 3317.03 of the Revised Code, to designate one school building to be operated by a site-based management council. The rules shall specify the composition of the council and the manner in which members of the council are to be selected and removed.

(B) The rules adopted under division (A) of this section shall specify those powers, duties, functions, and responsibilities that shall be vested in the management council and that would otherwise be exercised by the district board of education. The rules shall also establish a mechanism for resolving any differences between the council and the district board if there is disagreement as to their respective powers, duties, functions, and responsibilities.

(C) The board of education of any school district described by division (A) of this section may, in lieu of complying with the rules adopted under this section, file with the department of education an alternative structure for a district site-based management program in at least one of its school buildings. The proposal shall specify the composition of the council, which shall include an equal number of parents and teachers and the building

principal, and the method of selection and removal of the council members. The proposal shall also clearly delineate the respective powers, duties, functions, and responsibilities of the district board and the council. The district's proposal shall comply substantially with the rules adopted under division (A) of this section.

Sec. 3313.482. (A) Annually, prior to the first day of September, the board of education of each city, local, and exempted village school district shall adopt a resolution specifying a contingency plan under which the district's students will make up days on which it was necessary to close schools for any of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ division (B) of section 3317.01 of the Revised Code, if any such days must be made up in order to comply with the requirements of sections ~~3306.01,~~ 3313.48, 3313.481, and 3317.01 of the Revised Code. The plan shall provide for making up at least five school days. The plan may provide for making up some or all of the days a school is closed by increasing the length of other school days in the manner authorized in division (B) of this section. No resolution adopted pursuant to this division shall conflict with any collective bargaining agreement into which a board has entered pursuant to Chapter 4117. of the Revised Code and that is in effect in the district.

(B) Notwithstanding anything to the contrary in the contingency plan it adopts under division (A) of this section, if a school district closes or evacuates any school building for any of the reasons specified in ~~division (A)(2) of section 3306.01 and~~ division (B) of section 3317.01 of the Revised Code, or as a result of a bomb threat or any other report of an alleged or impending explosion, and if, as a result of the closing or evacuation, the school district would be unable to meet the requirements of sections ~~3306.01,~~ 3313.48, 3313.481, and 3317.01 of the Revised Code regarding the number of days schools must be open for instruction or the requirements of the state minimum standards for the school day that are established by the department of education regarding the number of hours there must be in the school day, the school district may increase the length of one or more other school days for the school that was closed or evacuated, in increments of one-half hour, to make up the number of hours or days that the school building in question was so closed or evacuated for the purpose of satisfying the requirements of those sections.

A school district that makes up, as described in this division, all of the hours or days that its school buildings were closed or evacuated for any of the reasons identified in this division shall be deemed to have complied with the requirements of sections ~~3306.01,~~ 3313.48, 3313.481, and 3317.01 of the Revised Code regarding the number of days schools must be open for

instruction and the requirements of the state minimum standards regarding the number of hours there must be in the school day.

Sec. 3313.533. (A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the state board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;

(2) Restrictions on student participation in extracurricular or

interscholastic activities;

(3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.

(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:

(a) A description of the educational program provided at the alternative school, which shall include:

(i) Provisions for the school to be configured in clusters or small learning communities;

(ii) Provisions for the incorporation of education technology into the curriculum;

(iii) Provisions for accelerated learning programs in reading and mathematics.

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously

monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of ~~at least~~ two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names, titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties.

(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the

board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section.

Sec. 3313.538. (A) No student who attends school in this state shall be denied the opportunity to participate in interscholastic athletics solely because the student's parents do not reside in this state, if the student resides in this state with the student's grandparent, uncle, aunt, or sibling who has legal or temporary custody of the student or is the guardian of the student.

(B) No school district, school, interscholastic conference, or organization that regulates interscholastic conferences or events shall have a rule, bylaw, or other regulation that conflicts with this section.

(C) As used in this section, "legal custody," "temporary custody," and "guardian" have the same meanings as in section 2151.011 of the Revised Code.

Sec. 3313.55. The board of education of any school district in which is located a state, district, county, or municipal hospital for children with epilepsy or any public institution, except state institutions for the care and treatment of delinquent, unstable, or socially maladjusted children, shall make provision for the education of all educable children therein; except that in the event another school district within the same county or an adjoining county is the source of sixty per cent or more of the children in

said hospital or institution, the board of that school district shall make provision for the education of all the children therein. In any case in which a board provides educational facilities under this section, the board that provides the facilities shall be entitled to all moneys authorized for the attendance of pupils as provided in Chapter ~~3306~~ or 3317. of the Revised Code, tuition as provided in section 3317.08 of the Revised Code, and such additional compensation as is provided for crippled children in sections 3323.01 to 3323.12 of the Revised Code. Any board that provides the educational facilities for children in county or municipal institutions established for the care and treatment of children who are delinquent, unstable, or socially maladjusted shall not be entitled to any moneys provided for crippled children in sections 3323.01 to 3323.12 of the Revised Code.

Sec. 3313.603. (A) As used in this section:

(1) "One unit" means a minimum of one hundred twenty hours of course instruction, except that for a laboratory course, "one unit" means a minimum of one hundred fifty hours of course instruction.

(2) "One-half unit" means a minimum of sixty hours of course instruction, except that for physical education courses, "one-half unit" means a minimum of one hundred twenty hours of course instruction.

(B) Beginning September 15, 2001, except as required in division (C) of this section and division (C) of section 3313.614 of the Revised Code, the requirements for graduation from every high school shall include twenty units earned in grades nine through twelve and shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit;
- (3) Mathematics, three units;
- (4) Physical education, one-half unit;
- (5) Science, two units until September 15, 2003, and three units thereafter, which at all times shall include both of the following:
 - (a) Biological sciences, one unit;
 - (b) Physical sciences, one unit.
- (6) Social studies, three units, which shall include both of the following:
 - (a) American history, one-half unit;
 - (b) American government, one-half unit.
- (7) Elective units, seven units until September 15, 2003, and six units thereafter.

Each student's electives shall include at least one unit, or two half units, chosen from among the areas of business/technology, fine arts, and/or

foreign language.

(C) Beginning with students who enter ninth grade for the first time on or after July 1, 2010, except as provided in divisions (D) to (F) of this section, the requirements for graduation from every public and chartered nonpublic high school shall include twenty units that are designed to prepare students for the workforce and college. The units shall be distributed as follows:

- (1) English language arts, four units;
- (2) Health, one-half unit, which shall include instruction in nutrition and the benefits of nutritious foods and physical activity for overall health;
- (3) Mathematics, four units, which shall include one unit of algebra II or the equivalent of algebra II;
- (4) Physical education, one-half unit;
- (5) Science, three units with inquiry-based laboratory experience that engages students in asking valid scientific questions and gathering and analyzing information, which shall include the following, or their equivalent:
 - (a) Physical sciences, one unit;
 - (b) Life sciences, one unit;
 - (c) Advanced study in one or more of the following sciences, one unit:
 - (i) Chemistry, physics, or other physical science;
 - (ii) Advanced biology or other life science;
 - (iii) Astronomy, physical geology, or other earth or space science.
- (6) Social studies, three units, which shall include both of the following:
 - (a) American history, one-half unit;
 - (b) American government, one-half unit.

Each school shall integrate the study of economics and financial literacy, as expressed in the social studies academic content standards adopted by the state board of education under division (A)(1) of section 3301.079 of the Revised Code and the academic content standards for financial literacy and entrepreneurship adopted under division (A)(2) of that section, into one or more existing social studies credits required under division (C)(6) of this section, or into the content of another class, so that every high school student receives instruction in those concepts. In developing the curriculum required by this paragraph, schools shall use available public-private partnerships and resources and materials that exist in business, industry, and through the centers for economics education at institutions of higher education in the state.

(7) Five units consisting of one or any combination of foreign language, fine arts, business, career-technical education, family and consumer

sciences, technology, agricultural education, a junior reserve officer training corps (JROTC) program approved by the congress of the United States under title 10 of the United States Code, or English language arts, mathematics, science, or social studies courses not otherwise required under division (C) of this section.

Ohioans must be prepared to apply increased knowledge and skills in the workplace and to adapt their knowledge and skills quickly to meet the rapidly changing conditions of the twenty-first century. National studies indicate that all high school graduates need the same academic foundation, regardless of the opportunities they pursue after graduation. The goal of Ohio's system of elementary and secondary education is to prepare all students for and seamlessly connect all students to success in life beyond high school graduation, regardless of whether the next step is entering the workforce, beginning an apprenticeship, engaging in post-secondary training, serving in the military, or pursuing a college degree.

The Ohio core curriculum is the standard expectation for all students entering ninth grade for the first time at a public or chartered nonpublic high school on or after July 1, 2010. A student may satisfy this expectation through a variety of methods, including, but not limited to, integrated, applied, career-technical, and traditional coursework.

Whereas teacher quality is essential for student success in completing the Ohio core curriculum, the general assembly shall appropriate funds for strategic initiatives designed to strengthen schools' capacities to hire and retain highly qualified teachers in the subject areas required by the curriculum. Such initiatives are expected to require an investment of \$120,000,000 over five years.

Stronger coordination between high schools and institutions of higher education is necessary to prepare students for more challenging academic endeavors and to lessen the need for academic remediation in college, thereby reducing the costs of higher education for Ohio's students, families, and the state. The state board and the chancellor of the Ohio board of regents shall develop policies to ensure that only in rare instances will students who complete the Ohio core curriculum require academic remediation after high school.

School districts, community schools, and chartered nonpublic schools shall integrate technology into learning experiences ~~whenever practicable~~ across the curriculum in order to maximize efficiency, enhance learning, and prepare students for success in the technology-driven twenty-first century. Districts and schools ~~may~~ shall use distance and web-based course delivery as a method of providing or augmenting all instruction required under this

division, including laboratory experience in science. Districts and schools shall ~~whenever practicable~~ utilize technology access and electronic learning opportunities provided by the eTech Ohio commission, the Ohio learning network, education technology centers, public television stations, and other public and private providers.

(D) Except as provided in division (E) of this section, a student who enters ninth grade on or after July 1, 2010, and before July 1, 2014, may qualify for graduation from a public or chartered nonpublic high school even though the student has not completed the Ohio core curriculum prescribed in division (C) of this section if all of the following conditions are satisfied:

(1) After the student has attended high school for two years, as determined by the school, the student and the student's parent, guardian, or custodian sign and file with the school a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(2) The student and parent, guardian, or custodian fulfill any procedural requirements the school stipulates to ensure the student's and parent's, guardian's, or custodian's informed consent and to facilitate orderly filing of statements under division (D)(1) of this section.

(3) The student and the student's parent, guardian, or custodian and a representative of the student's high school jointly develop an individual career plan for the student that specifies the student matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(4) The student's high school provides counseling and support for the student related to the plan developed under division (D)(3) of this section during the remainder of the student's high school experience.

(5) The student successfully completes, at a minimum, the curriculum prescribed in division (B) of this section.

The department of education, in collaboration with the chancellor, shall analyze student performance data to determine if there are mitigating factors that warrant extending the exception permitted by division (D) of this section to high school classes beyond those entering ninth grade before July 1, 2014. The department shall submit its findings and any recommendations not later than August 1, 2014, to the speaker and minority leader of the house of representatives, the president and minority leader of the senate, the chairpersons and ranking minority members of the standing committees of the house of representatives and the senate that consider education

legislation, the state board of education, and the superintendent of public instruction.

(E) Each school district and chartered nonpublic school retains the authority to require an even more rigorous minimum curriculum for high school graduation than specified in division (B) or (C) of this section. A school district board of education, through the adoption of a resolution, or the governing authority of a chartered nonpublic school may stipulate any of the following:

(1) A minimum high school curriculum that requires more than twenty units of academic credit to graduate;

(2) An exception to the district's or school's minimum high school curriculum that is comparable to the exception provided in division (D) of this section but with additional requirements, which may include a requirement that the student successfully complete more than the minimum curriculum prescribed in division (B) of this section;

(3) That no exception comparable to that provided in division (D) of this section is available.

(F) A student enrolled in a dropout prevention and recovery program, which program has received a waiver from the department, may qualify for graduation from high school by successfully completing a competency-based instructional program administered by the dropout prevention and recovery program in lieu of completing the Ohio core curriculum prescribed in division (C) of this section. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board under division ~~(E)~~(D)(6) of section 3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring

a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (F)(4) of this section during the remainder of the student's high school experience.

(6) The program requires the student and the student's parent, guardian, or custodian to sign and file, in accordance with procedural requirements stipulated by the program, a written statement asserting the parent's, guardian's, or custodian's consent to the student's graduating without completing the Ohio core curriculum and acknowledging that one consequence of not completing the Ohio core curriculum is ineligibility to enroll in most state universities in Ohio without further coursework.

(7) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(G) Every high school may permit students below the ninth grade to take advanced work. If a high school so permits, it shall award high school credit for successful completion of the advanced work and shall count such advanced work toward the graduation requirements of division (B) or (C) of this section if the advanced work was both:

(1) Taught by a person who possesses a license or certificate issued under section 3301.071, 3319.22, or 3319.222 of the Revised Code that is valid for teaching high school;

(2) Designated by the board of education of the city, local, or exempted village school district, the board of the cooperative education school district, or the governing authority of the chartered nonpublic school as meeting the high school curriculum requirements.

Each high school shall record on the student's high school transcript all high school credit awarded under division (G) of this section. In addition, if the student completed a seventh- or eighth-grade fine arts course described in division (K) of this section and the course qualified for high school credit under that division, the high school shall record that course on the student's high school transcript.

(H) The department shall make its individual academic career plan available through its Ohio career information system web site for districts and schools to use as a tool for communicating with and providing guidance to students and families in selecting high school courses.

(I) Units earned in English language arts, mathematics, science, and social studies that are delivered through integrated academic and career-technical instruction are eligible to meet the graduation requirements of division (B) or (C) of this section.

(J) The state board, in consultation with the chancellor, shall adopt a statewide plan implementing methods for students to earn units of high school credit based on a demonstration of subject area competency, instead of or in combination with completing hours of classroom instruction. The state board shall adopt the plan not later than March 31, 2009, and commence phasing in the plan during the 2009-2010 school year. The plan shall include a standard method for recording demonstrated proficiency on high school transcripts. Each school district, and community school, ~~and chartered nonpublic school~~ shall comply with the state board's plan adopted under this division and award units of high school credit in accordance with the plan. The state board may adopt existing methods for earning high school credit based on a demonstration of subject area competency as necessary prior to the 2009-2010 school year.

(K) This division does not apply to students who qualify for graduation from high school under division (D) or (F) of this section, or to students pursuing a career-technical instructional track as determined by the school district board of education or the chartered nonpublic school's governing authority. Nevertheless, the general assembly encourages such students to consider enrolling in a fine arts course as an elective.

Beginning with students who enter ninth grade for the first time on or after July 1, 2010, each student enrolled in a public or chartered nonpublic high school shall complete two semesters or the equivalent of fine arts to graduate from high school. The coursework may be completed in any of grades seven to twelve. Each student who completes a fine arts course in grade seven or eight may elect to count that course toward the five units of electives required for graduation under division (C)(7) of this section, if the course satisfied the requirements of division (G) of this section. In that case, the high school shall award the student high school credit for the course and count the course toward the five units required under division (C)(7) of this section. If the course in grade seven or eight did not satisfy the requirements of division (G) of this section, the high school shall not award the student high school credit for the course but shall count the course toward the two semesters or the equivalent of fine arts required by this division.

(L) Notwithstanding anything to the contrary in this section, the board of education of each school district and the governing authority of each chartered nonpublic school may adopt a policy to excuse from the high

school physical education requirement each student who, during high school, has participated in interscholastic athletics, marching band, or cheerleading for at least two full seasons or in the junior reserve officer training corps for at least two full school years. If the board or authority adopts such a policy, the board or authority shall not require the student to complete any physical education course as a condition to graduate. However, the student shall be required to complete one-half unit, consisting of at least sixty hours of instruction, in another course of study. In the case of a student who has participated in the junior reserve officer training corps for at least two full school years, credit received for that participation may be used to satisfy the requirement to complete one-half unit in another course of study.

Sec. 3313.61. (A) A diploma shall be granted by the board of education of any city, exempted village, or local school district that operates a high school to any person to whom all of the following apply:

(1) The person has successfully completed the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code, or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that no school district shall require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early;

(2) Subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division unless the person was excused from taking any such assessment pursuant to section 3313.532 of the Revised Code or unless division (H) or (L) of this section applies to the person;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the person has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite~~

~~score, designated under division (C)(1) of section 3301.0712 of the Revised Code, except to the extent that the person is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of this section.~~

(3) The person is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

Except as provided in divisions (C), (E), (J), and (L) of this section, no diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, an honors diploma shall be granted, in accordance with rules of the state board, by any such district board to anyone who accomplishes all of the following:

(1) Successfully completes the curriculum in any high school or the individualized education program developed for the person by any high school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the person entered the ninth grade prior to the date prescribed by rule of the state board of education under division ~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the person either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the person has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.~~

(3) Has met additional criteria established by the state board for the granting of such a diploma.

An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. Except as provided in divisions (C), (E), and (J) of this section, no honors diploma shall be granted to anyone failing to comply with this division and

no more than one honors diploma shall be granted to any student under this division.

The state board shall adopt rules prescribing the granting of honors diplomas under this division. These rules may prescribe the granting of honors diplomas that recognize a student's achievement as a whole or that recognize a student's achievement in one or more specific subjects or both. The rules may prescribe the granting of an honors diploma recognizing technical expertise for a career-technical student. In any case, the rules shall designate two or more criteria for the granting of each type of honors diploma the board establishes under this division and the number of such criteria that must be met for the granting of that type of diploma. The number of such criteria for any type of honors diploma shall be at least one less than the total number of criteria designated for that type and no one or more particular criteria shall be required of all persons who are to be granted that type of diploma.

(C) Any district board administering any of the assessments required by section 3301.0710 of the Revised Code to any person requesting to take such assessment pursuant to division (B)(8)(b) of section 3301.0711 of the Revised Code shall award a diploma to such person if the person attains at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments administered and if the person has previously attained the applicable scores on all the other assessments required by division (B)(1) of that section or has been exempted or excused from attaining the applicable score on any such assessment pursuant to division (H) or (L) of this section or from taking any such assessment pursuant to section 3313.532 of the Revised Code.

(D) Each diploma awarded under this section shall be signed by the president and treasurer of the issuing board, the superintendent of schools, and the principal of the high school. Each diploma shall bear the date of its issue, be in such form as the district board prescribes, and be paid for out of the district's general fund.

(E) A person who is a resident of Ohio and is eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of a correctional institution operated by the state or any political subdivision thereof, shall be granted such diploma by the correctional institution operating the programs in which such credits were earned, and by the board of education of the school district in which the inmate resided immediately prior to the inmate's placement in the institution. The diploma granted by the correctional institution shall be signed by the director of the institution, and by the

person serving as principal of the institution's high school and shall bear the date of issue.

(F) Persons who are not residents of Ohio but who are inmates of correctional institutions operated by the state or any political subdivision thereof, and who are eligible under state board of education minimum standards to receive a high school diploma based in whole or in part on credits earned while an inmate of the correctional institution, shall be granted a diploma by the correctional institution offering the program in which the credits were earned. The diploma granted by the correctional institution shall be signed by the director of the institution and by the person serving as principal of the institution's high school and shall bear the date of issue.

(G) The state board of education shall provide by rule for the administration of the assessments required by section 3301.0710 of the Revised Code to inmates of correctional institutions.

(H) Any person to whom all of the following apply shall be exempted from attaining the applicable score on the assessment in social studies designated under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board under division ~~(E)~~(D)(4) of section 3301.0712 of the Revised Code, or the test in citizenship designated under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001:

- (1) The person is not a citizen of the United States;
- (2) The person is not a permanent resident of the United States;
- (3) The person indicates no intention to reside in the United States after the completion of high school.

(I) Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section and section 3311.611 of the Revised Code do not apply to the board of education of any joint vocational school district or any cooperative education school district established pursuant to divisions (A) to (C) of section 3311.52 of the Revised Code.

(J) Upon receipt of a notice under division (D) of section 3325.08 of division (D) of section 3328.25 of the Revised Code that a student has received a diploma under ~~that~~ either section, the board of education receiving the notice may grant a high school diploma under this section to the student, except that such board shall grant the student a diploma if the student meets the graduation requirements that the student would otherwise have had to meet to receive a diploma from the district. The diploma granted

under this section shall be of the same type the notice indicates the student received under section 3325.08 or 3328.25 of the Revised Code.

(K) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ met the requirements of the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

(L) Any student described by division (A)(1) of this section may be awarded a diploma without attaining the applicable scores designated on the assessments prescribed under division (B) of section 3301.0710 of the Revised Code provided an individualized education program specifically exempts the student from attaining such scores. This division does not negate the requirement for such a student to take all such assessments or alternate assessments required by division (C)(1) of section 3301.0711 of the Revised Code for the purpose of assessing student progress as required by federal law.

Sec. 3313.611. (A) The state board of education shall adopt, by rule, standards for awarding high school credit equivalent to credit for completion of high school academic and vocational education courses to applicants for diplomas under this section. The standards may permit high school credit to be granted to an applicant for any of the following:

- (1) Work experiences or experiences as a volunteer;
- (2) Completion of academic, vocational, or self-improvement courses offered to persons over the age of twenty-one by a chartered public or nonpublic school;
- (3) Completion of academic, vocational, or self-improvement courses offered by an organization, individual, or educational institution other than a chartered public or nonpublic school;
- (4) Other life experiences considered by the board to provide knowledge and learning experiences comparable to that gained in a classroom setting.

(B) The board of education of any city, exempted village, or local school district that operates a high school shall grant a diploma of adult education to any applicant if all of the following apply:

- (1) The applicant is a resident of the district;
- (2) The applicant is over the age of twenty-one and has not been issued

a diploma as provided in section 3313.61 of the Revised Code;

(3) Subject to section 3313.614 of the Revised Code, the applicant has met the assessment requirements of division (B)(3)(a) or (b) of this section, as applicable.

(a) Prior to the date prescribed by rule of the state board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised Code, the applicant either:

(i) Has attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all of the assessments required by that division or was excused or exempted from any such assessment pursuant to section 3313.532 or was exempted from attaining the applicable score on any such assessment pursuant to division (H) or (L) of section 3313.61 of the Revised Code;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) On or after the date prescribed by rule of the state board under division ~~(E)~~(D)(3) of section 3301.0712 of the Revised Code, has ~~attained~~ ~~or met the requirements of~~ the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~, except and only to the extent that the applicant is excused from some portion of that assessment system pursuant to section 3313.532 of the Revised Code or division (H) or (L) of section 3313.61 of the Revised Code.

(4) The district board determines, in accordance with the standards adopted under division (A) of this section, that the applicant has attained sufficient high school credits, including equivalent credits awarded under such standards, to qualify as having successfully completed the curriculum required by the district for graduation.

(C) If a district board determines that an applicant is not eligible for a diploma under division (B) of this section, it shall inform the applicant of the reason the applicant is ineligible and shall provide a list of any courses required for the diploma for which the applicant has not received credit. An applicant may reapply for a diploma under this section at any time.

(D) If a district board awards an adult education diploma under this section, the president and treasurer of the board and the superintendent of schools shall sign it. Each diploma shall bear the date of its issuance, be in such form as the district board prescribes, and be paid for from the district's general fund, except that the state board may by rule prescribe standard language to be included on each diploma.

(E) As used in this division, "limited English proficient student" has the

same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ has not met the requirements of the assessments required by division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.612. (A) No nonpublic school chartered by the state board of education shall grant a high school diploma to any person unless, subject to section 3313.614 of the Revised Code, the person has met the assessment requirements of division (A)(1) or (2) of this section, as applicable.

(1) If the person entered the ninth grade prior to the date prescribed by rule of the state board under division ~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the person has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(2) If the person entered the ninth grade on or after the date prescribed by rule of the state board under division (E)(2) of section 3301.0712 of the Revised Code, the person has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.~~

(B) This section does not apply to either of the following:

(1) Any person with regard to any assessment from which the person was excused pursuant to division (C)(1)(c) of section 3301.0711 of the Revised Code;

(2) Any person with regard to the social studies assessment under division (B)(1) of section 3301.0710 of the Revised Code, any social studies end-of-course examination required under division (B)(2) of that section if such an exemption is prescribed by rule of the state board of education under division ~~(E)(D)~~(4) of section 3301.0712 of the Revised Code, or the citizenship test under former division (B) of section 3301.0710 of the Revised Code as it existed prior to September 11, 2001, if all of the following apply:

(a) The person is not a citizen of the United States;

(b) The person is not a permanent resident of the United States;

(c) The person indicates no intention to reside in the United States after

completion of high school.

(C) As used in this division, "limited English proficient student" has the same meaning as in division (C)(3) of section 3301.0711 of the Revised Code.

Notwithstanding division (C)(3) of section 3301.0711 of the Revised Code, no limited English proficient student who has not either attained the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments required by that division, or ~~attained the composite score designated for~~ met the requirements of the assessments ~~required by~~ under division (B)(2) of that section, shall be awarded a diploma under this section.

Sec. 3313.614. (A) As used in this section, a person "fulfills the curriculum requirement for a diploma" at the time one of the following conditions is satisfied:

(1) The person successfully completes the high school curriculum of a school district, a community school, a chartered nonpublic school, or a correctional institution.

(2) The person successfully completes the individualized education program developed for the person under section 3323.08 of the Revised Code.

(3) A board of education issues its determination under section 3313.611 of the Revised Code that the person qualifies as having successfully completed the curriculum required by the district.

(B) This division specifies the assessment requirements that must be fulfilled as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who fulfills the curriculum requirement for a diploma before September 15, 2000, is not required to pass any proficiency test or achievement test in science as a condition to receiving a diploma.

(2) A person who began ninth grade prior to July 1, 2003, is not required to pass the Ohio graduation test prescribed under division (B)(1) of section 3301.0710 or any assessment prescribed under division (B)(2) of that section in any subject as a condition to receiving a diploma once the person has passed the ninth grade proficiency test in the same subject, so long as the person passed the ninth grade proficiency test prior to September 15, 2008. However, any such person who passes the Ohio graduation test in any subject prior to passing the ninth grade proficiency test in the same subject shall be deemed to have passed the ninth grade proficiency test in that subject as a condition to receiving a diploma. For this purpose, the ninth grade proficiency test in citizenship substitutes for the Ohio graduation test

in social studies. If a person began ninth grade prior to July 1, 2003, but does not pass a ninth grade proficiency test or the Ohio graduation test in a particular subject before September 15, 2008, and passage of a test in that subject is a condition for the person to receive a diploma, the person must pass the Ohio graduation test instead of the ninth grade proficiency test in that subject to receive a diploma.

(3) A person who begins ninth grade on or after July 1, 2003, in a school district, community school, or chartered nonpublic school is not eligible to receive a diploma based on passage of ninth grade proficiency tests. Each such person who begins ninth grade prior to the date prescribed by the state board of education under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code must pass Ohio graduation tests to meet the assessment requirements applicable to that person as a condition to receiving a diploma.

(4) A person who begins ninth grade on or after the date prescribed by the state board of education under division ~~(E)~~(D)(5) of section 3301.0712 of the Revised Code is not eligible to receive a diploma based on passage of the Ohio graduation tests. Each such person must ~~attain or~~ meet the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code.~~

(C) This division specifies the curriculum requirement that shall be completed as a condition toward granting high school diplomas under sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code.

(1) A person who is under twenty-two years of age when the person fulfills the curriculum requirement for a diploma shall complete the curriculum required by the school district or school issuing the diploma for the first year that the person originally enrolled in high school, except for a person who qualifies for graduation from high school under either division (D) or (F) of section 3313.603 of the Revised Code.

(2) Once a person fulfills the curriculum requirement for a diploma, the person is never required, as a condition of receiving a diploma, to meet any different curriculum requirements that take effect pending the person's passage of proficiency tests or achievement tests or assessments, including changes mandated by section 3313.603 of the Revised Code, the state board, a school district board of education, or a governing authority of a community school or chartered nonpublic school.

Sec. 3313.617. (A) When a person who is at least sixteen years of age but less than nineteen years of age applies to the department of education to take the tests of general educational development, the person shall submit

with the application written approval from the superintendent of the school district in which the person was last enrolled, or the superintendent's designee, except that if the person was last enrolled in a community school established under Chapter 3314. of the Revised Code or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, the approval shall be from the principal of the school, or the principal's designee. The department may require the person also to submit written approval from the person's parent or guardian or a court official, if the person is younger than eighteen years of age.

(B) For the purpose of calculating graduation rates for the school district and building report cards under section 3302.03 of the Revised Code, the department shall count any person for whom approval is obtained from the superintendent or principal, or a designee, under division (A) of this section as a dropout from the district or school in which the person was last enrolled prior to obtaining the approval.

Sec. 3313.64. (A) As used in this section and in section 3313.65 of the Revised Code:

(1)(a) Except as provided in division (A)(1)(b) of this section, "parent" means either parent, unless the parents are separated or divorced or their marriage has been dissolved or annulled, in which case "parent" means the parent who is the residential parent and legal custodian of the child. When a child is in the legal custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent with residual parental rights, privileges, and responsibilities. When a child is in the permanent custody of a government agency or a person other than the child's natural or adoptive parent, "parent" means the parent who was divested of parental rights and responsibilities for the care of the child and the right to have the child live with the parent and be the legal custodian of the child and all residual parental rights, privileges, and responsibilities.

(b) When a child is the subject of a power of attorney executed under sections 3109.51 to 3109.62 of the Revised Code, "parent" means the grandparent designated as attorney in fact under the power of attorney. When a child is the subject of a caretaker authorization affidavit executed under sections 3109.64 to 3109.73 of the Revised Code, "parent" means the grandparent that executed the affidavit.

(2) "Legal custody," "permanent custody," and "residual parental rights, privileges, and responsibilities" have the same meanings as in section 2151.011 of the Revised Code.

(3) "School district" or "district" means a city, local, or exempted village school district and excludes any school operated in an institution

maintained by the department of youth services.

(4) Except as used in division (C)(2) of this section, "home" means a home, institution, foster home, group home, or other residential facility in this state that receives and cares for children, to which any of the following applies:

(a) The home is licensed, certified, or approved for such purpose by the state or is maintained by the department of youth services.

(b) The home is operated by a person who is licensed, certified, or approved by the state to operate the home for such purpose.

(c) The home accepted the child through a placement by a person licensed, certified, or approved to place a child in such a home by the state.

(d) The home is a children's home created under section 5153.21 or 5153.36 of the Revised Code.

(5) "Agency" means all of the following:

(a) A public children services agency;

(b) An organization that holds a certificate issued by the Ohio department of job and family services in accordance with the requirements of section 5103.03 of the Revised Code and assumes temporary or permanent custody of children through commitment, agreement, or surrender, and places children in family homes for the purpose of adoption;

(c) Comparable agencies of other states or countries that have complied with applicable requirements of section 2151.39 of the Revised Code or as applicable, sections 5103.20 to 5103.22 or 5103.23 to 5103.237 of the Revised Code.

(6) A child is placed for adoption if either of the following occurs:

(a) An agency to which the child has been permanently committed or surrendered enters into an agreement with a person pursuant to section 5103.16 of the Revised Code for the care and adoption of the child.

(b) The child's natural parent places the child pursuant to section 5103.16 of the Revised Code with a person who will care for and adopt the child.

(7) "Preschool child with a disability" has the same meaning as in section 3323.01 of the Revised Code.

(8) "Child," unless otherwise indicated, includes preschool children with disabilities.

(9) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of the congress of the United States, or section 5919.29 or 5923.21 of the Revised Code.

(B) Except as otherwise provided in section 3321.01 of the Revised Code for admittance to kindergarten and first grade, a child who is at least

five but under twenty-two years of age and any preschool child with a disability shall be admitted to school as provided in this division.

(1) A child shall be admitted to the schools of the school district in which the child's parent resides.

(2) A child who does not reside in the district where the child's parent resides shall be admitted to the schools of the district in which the child resides if any of the following applies:

(a) The child is in the legal or permanent custody of a government agency or a person other than the child's natural or adoptive parent.

(b) The child resides in a home.

(c) The child requires special education.

(3) A child who is not entitled under division (B)(2) of this section to be admitted to the schools of the district where the child resides and who is residing with a resident of this state with whom the child has been placed for adoption shall be admitted to the schools of the district where the child resides unless either of the following applies:

(a) The placement for adoption has been terminated.

(b) Another school district is required to admit the child under division (B)(1) of this section.

Division (B) of this section does not prohibit the board of education of a school district from placing a child with a disability who resides in the district in a special education program outside of the district or its schools in compliance with Chapter 3323. of the Revised Code.

(C) A district shall not charge tuition for children admitted under division (B)(1) or (3) of this section. If the district admits a child under division (B)(2) of this section, tuition shall be paid to the district that admits the child as provided in divisions (C)(1) to (3) of this section, unless division (C)(4) of this section applies to the child:

(1) If the child receives special education in accordance with Chapter 3323. of the Revised Code, the school district of residence, as defined in section 3323.01 of the Revised Code, shall pay tuition for the child in accordance with section 3323.091, 3323.13, 3323.14, or 3323.141 of the Revised Code regardless of who has custody of the child or whether the child resides in a home.

(2) For a child that does not receive special education in accordance with Chapter 3323. of the Revised Code, except as otherwise provided in division (C)(2)(d) of this section, if the child is in the permanent or legal custody of a government agency or person other than the child's parent, tuition shall be paid by:

(a) The district in which the child's parent resided at the time the court

removed the child from home or at the time the court vested legal or permanent custody of the child in the person or government agency, whichever occurred first;

(b) If the parent's residence at the time the court removed the child from home or placed the child in the legal or permanent custody of the person or government agency is unknown, tuition shall be paid by the district in which the child resided at the time the child was removed from home or placed in legal or permanent custody, whichever occurred first;

(c) If a school district cannot be established under division (C)(2)(a) or (b) of this section, tuition shall be paid by the district determined as required by section 2151.362 of the Revised Code by the court at the time it vests custody of the child in the person or government agency;

(d) If at the time the court removed the child from home or vested legal or permanent custody of the child in the person or government agency, whichever occurred first, one parent was in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, was not known to reside in this state, tuition shall be paid by the district determined under division (D) of section 3313.65 of the Revised Code as the district required to pay any tuition while the parent was in such facility or placement;

(e) If the department of education has determined, pursuant to division (A)(2) of section 2151.362 of the Revised Code, that a school district other than the one named in the court's initial order, or in a prior determination of the department, is responsible to bear the cost of educating the child, the district so determined shall be responsible for that cost.

(3) If the child is not in the permanent or legal custody of a government agency or person other than the child's parent and the child resides in a home, tuition shall be paid by one of the following:

(a) The school district in which the child's parent resides;

(b) If the child's parent is not a resident of this state, the home in which the child resides.

(4) Division (C)(4) of this section applies to any child who is admitted to a school district under division (B)(2) of this section, resides in a home that is not a foster home or a home maintained by the department of youth services, receives educational services at the home in which the child resides pursuant to a contract between the home and the school district providing those services, and does not receive special education.

In the case of a child to which division (C)(4) of this section applies, the total educational cost to be paid for the child shall be determined by a formula approved by the department of education, which formula shall be

designed to calculate a per diem cost for the educational services provided to the child for each day the child is served and shall reflect the total actual cost incurred in providing those services. The department shall certify the total educational cost to be paid for the child to both the school district providing the educational services and, if different, the school district that is responsible to pay tuition for the child. The department shall deduct the certified amount from the state basic aid funds payable under Chapter 3317.08 of the Revised Code to the district responsible to pay tuition and shall pay that amount to the district providing the educational services to the child.

(D) Tuition required to be paid under divisions (C)(2) and (3)(a) of this section shall be computed in accordance with section 3317.08 of the Revised Code. Tuition required to be paid under division (C)(3)(b) of this section shall be computed in accordance with section 3317.081 of the Revised Code. If a home fails to pay the tuition required by division (C)(3)(b) of this section, the board of education providing the education may recover in a civil action the tuition and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. If the prosecuting attorney or city director of law represents the board in such action, costs and reasonable attorney's fees awarded by the court, based upon the prosecuting attorney's, director's, or one of their designee's time spent preparing and presenting the case, shall be deposited in the county or city general fund.

(E) A board of education may enroll a child free of any tuition obligation for a period not to exceed sixty days, on the sworn statement of an adult resident of the district that the resident has initiated legal proceedings for custody of the child.

(F) In the case of any individual entitled to attend school under this division, no tuition shall be charged by the school district of attendance and no other school district shall be required to pay tuition for the individual's attendance. Notwithstanding division (B), (C), or (E) of this section:

(1) All persons at least eighteen but under twenty-two years of age who live apart from their parents, support themselves by their own labor, and have not successfully completed the high school curriculum or the individualized education program developed for the person by the high school pursuant to section 3323.08 of the Revised Code, are entitled to attend school in the district in which they reside.

(2) Any child under eighteen years of age who is married is entitled to attend school in the child's district of residence.

(3) A child is entitled to attend school in the district in which either of the child's parents is employed if the child has a medical condition that may

require emergency medical attention. The parent of a child entitled to attend school under division (F)(3) of this section shall submit to the board of education of the district in which the parent is employed a statement from the child's physician certifying that the child's medical condition may require emergency medical attention. The statement shall be supported by such other evidence as the board may require.

(4) Any child residing with a person other than the child's parent is entitled, for a period not to exceed twelve months, to attend school in the district in which that person resides if the child's parent files an affidavit with the superintendent of the district in which the person with whom the child is living resides stating all of the following:

(a) That the parent is serving outside of the state in the armed services of the United States;

(b) That the parent intends to reside in the district upon returning to this state;

(c) The name and address of the person with whom the child is living while the parent is outside the state.

(5) Any child under the age of twenty-two years who, after the death of a parent, resides in a school district other than the district in which the child attended school at the time of the parent's death is entitled to continue to attend school in the district in which the child attended school at the time of the parent's death for the remainder of the school year, subject to approval of that district board.

(6) A child under the age of twenty-two years who resides with a parent who is having a new house built in a school district outside the district where the parent is residing is entitled to attend school for a period of time in the district where the new house is being built. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being built, and stating the parent's intention to reside there upon its completion;

(b) A statement from the builder confirming that a new house is being built for the parent and that the house is at the location indicated in the parent's statement.

(7) A child under the age of twenty-two years residing with a parent who has a contract to purchase a house in a school district outside the district where the parent is residing and who is waiting upon the date of closing of the mortgage loan for the purchase of such house is entitled to attend school for a period of time in the district where the house is being

purchased. In order to be entitled to such attendance, the parent shall provide the district superintendent with the following:

(a) A sworn statement explaining the situation, revealing the location of the house being purchased, and stating the parent's intent to reside there;

(b) A statement from a real estate broker or bank officer confirming that the parent has a contract to purchase the house, that the parent is waiting upon the date of closing of the mortgage loan, and that the house is at the location indicated in the parent's statement.

The district superintendent shall establish a period of time not to exceed ninety days during which the child entitled to attend school under division (F)(6) or (7) of this section may attend without tuition obligation. A student attending a school under division (F)(6) or (7) of this section shall be eligible to participate in interscholastic athletics under the auspices of that school, provided the board of education of the school district where the student's parent resides, by a formal action, releases the student to participate in interscholastic athletics at the school where the student is attending, and provided the student receives any authorization required by a public agency or private organization of which the school district is a member exercising authority over interscholastic sports.

(8) A child whose parent is a full-time employee of a city, local, or exempted village school district, or of an educational service center, may be admitted to the schools of the district where the child's parent is employed, or in the case of a child whose parent is employed by an educational service center, in the district that serves the location where the parent's job is primarily located, provided the district board of education establishes such an admission policy by resolution adopted by a majority of its members. Any such policy shall take effect on the first day of the school year and the effective date of any amendment or repeal may not be prior to the first day of the subsequent school year. The policy shall be uniformly applied to all such children and shall provide for the admission of any such child upon request of the parent. No child may be admitted under this policy after the first day of classes of any school year.

(9) A child who is with the child's parent under the care of a shelter for victims of domestic violence, as defined in section 3113.33 of the Revised Code, is entitled to attend school free in the district in which the child is with the child's parent, and no other school district shall be required to pay tuition for the child's attendance in that school district.

The enrollment of a child in a school district under this division shall not be denied due to a delay in the school district's receipt of any records required under section 3313.672 of the Revised Code or any other records

required for enrollment. Any days of attendance and any credits earned by a child while enrolled in a school district under this division shall be transferred to and accepted by any school district in which the child subsequently enrolls. The state board of education shall adopt rules to ensure compliance with this division.

(10) Any child under the age of twenty-two years whose parent has moved out of the school district after the commencement of classes in the child's senior year of high school is entitled, subject to the approval of that district board, to attend school in the district in which the child attended school at the time of the parental move for the remainder of the school year and for one additional semester or equivalent term. A district board may also adopt a policy specifying extenuating circumstances under which a student may continue to attend school under division (F)(10) of this section for an additional period of time in order to successfully complete the high school curriculum for the individualized education program developed for the student by the high school pursuant to section 3323.08 of the Revised Code.

(11) As used in this division, "grandparent" means a parent of a parent of a child. A child under the age of twenty-two years who is in the custody of the child's parent, resides with a grandparent, and does not require special education is entitled to attend the schools of the district in which the child's grandparent resides, provided that, prior to such attendance in any school year, the board of education of the school district in which the child's grandparent resides and the board of education of the school district in which the child's parent resides enter into a written agreement specifying that good cause exists for such attendance, describing the nature of this good cause, and consenting to such attendance.

In lieu of a consent form signed by a parent, a board of education may request the grandparent of a child attending school in the district in which the grandparent resides pursuant to division (F)(11) of this section to complete any consent form required by the district, including any authorization required by sections 3313.712, 3313.713, 3313.716, and 3313.718 of the Revised Code. Upon request, the grandparent shall complete any consent form required by the district. A school district shall not incur any liability solely because of its receipt of a consent form from a grandparent in lieu of a parent.

Division (F)(11) of this section does not create, and shall not be construed as creating, a new cause of action or substantive legal right against a school district, a member of a board of education, or an employee of a school district. This section does not affect, and shall not be construed as affecting, any immunities from defenses to tort liability created or

recognized by Chapter 2744. of the Revised Code for a school district, member, or employee.

(12) A child under the age of twenty-two years is entitled to attend school in a school district other than the district in which the child is entitled to attend school under division (B), (C), or (E) of this section provided that, prior to such attendance in any school year, both of the following occur:

(a) The superintendent of the district in which the child is entitled to attend school under division (B), (C), or (E) of this section contacts the superintendent of another district for purposes of this division;

(b) The superintendents of both districts enter into a written agreement that consents to the attendance and specifies that the purpose of such attendance is to protect the student's physical or mental well-being or to deal with other extenuating circumstances deemed appropriate by the superintendents.

While an agreement is in effect under this division for a student who is not receiving special education under Chapter 3323. of the Revised Code and notwithstanding Chapter 3327. of the Revised Code, the board of education of neither school district involved in the agreement is required to provide transportation for the student to and from the school where the student attends.

A student attending a school of a district pursuant to this division shall be allowed to participate in all student activities, including interscholastic athletics, at the school where the student is attending on the same basis as any student who has always attended the schools of that district while of compulsory school age.

(13) All school districts shall comply with the "McKinney-Vento Homeless Assistance Act," 42 U.S.C.A. 11431 et seq., for the education of homeless children. Each city, local, and exempted village school district shall comply with the requirements of that act governing the provision of a free, appropriate public education, including public preschool, to each homeless child.

When a child loses permanent housing and becomes a homeless person, as defined in 42 U.S.C.A. 11481(5), or when a child who is such a homeless person changes temporary living arrangements, the child's parent or guardian shall have the option of enrolling the child in either of the following:

(a) The child's school of origin, as defined in 42 U.S.C.A. 11432(g)(3)(C);

(b) The school that is operated by the school district in which the shelter where the child currently resides is located and that serves the geographic

area in which the shelter is located.

(14) A child under the age of twenty-two years who resides with a person other than the child's parent is entitled to attend school in the school district in which that person resides if both of the following apply:

(a) That person has been appointed, through a military power of attorney executed under section 574(a) of the "National Defense Authorization Act for Fiscal Year 1994," 107 Stat. 1674 (1993), 10 U.S.C. 1044b, or through a comparable document necessary to complete a family care plan, as the parent's agent for the care, custody, and control of the child while the parent is on active duty as a member of the national guard or a reserve unit of the armed forces of the United States or because the parent is a member of the armed forces of the United States and is on a duty assignment away from the parent's residence.

(b) The military power of attorney or comparable document includes at least the authority to enroll the child in school.

The entitlement to attend school in the district in which the parent's agent under the military power of attorney or comparable document resides applies until the end of the school year in which the military power of attorney or comparable document expires.

(G) A board of education, after approving admission, may waive tuition for students who will temporarily reside in the district and who are either of the following:

(1) Residents or domiciliaries of a foreign nation who request admission as foreign exchange students;

(2) Residents or domiciliaries of the United States but not of Ohio who request admission as participants in an exchange program operated by a student exchange organization.

(H) Pursuant to sections 3311.211, 3313.90, 3319.01, 3323.04, 3327.04, and 3327.06 of the Revised Code, a child may attend school or participate in a special education program in a school district other than in the district where the child is entitled to attend school under division (B) of this section.

(I)(1) Notwithstanding anything to the contrary in this section or section 3313.65 of the Revised Code, a child under twenty-two years of age may attend school in the school district in which the child, at the end of the first full week of October of the school year, was entitled to attend school as otherwise provided under this section or section 3313.65 of the Revised Code, if at that time the child was enrolled in the schools of the district but since that time the child or the child's parent has relocated to a new address located outside of that school district and within the same county as the child's or parent's address immediately prior to the relocation. The child may

continue to attend school in the district, and at the school to which the child was assigned at the end of the first full week of October of the current school year, for the balance of the school year. Division (I)(1) of this section applies only if both of the following conditions are satisfied:

(a) The board of education of the school district in which the child was entitled to attend school at the end of the first full week in October and of the district to which the child or child's parent has relocated each has adopted a policy to enroll children described in division (I)(1) of this section.

(b) The child's parent provides written notification of the relocation outside of the school district to the superintendent of each of the two school districts.

(2) At the beginning of the school year following the school year in which the child or the child's parent relocated outside of the school district as described in division (I)(1) of this section, the child is not entitled to attend school in the school district under that division.

(3) Any person or entity owing tuition to the school district on behalf of the child at the end of the first full week in October, as provided in division (C) of this section, shall continue to owe such tuition to the district for the child's attendance under division (I)(1) of this section for the lesser of the balance of the school year or the balance of the time that the child attends school in the district under division (I)(1) of this section.

(4) A pupil who may attend school in the district under division (I)(1) of this section shall be entitled to transportation services pursuant to an agreement between the district and the district in which the child or child's parent has relocated unless the districts have not entered into such agreement, in which case the child shall be entitled to transportation services in the same manner as a pupil attending school in the district under interdistrict open enrollment as described in division (H) of section 3313.981 of the Revised Code, regardless of whether the district has adopted an open enrollment policy as described in division (B)(1)(b) or (c) of section 3313.98 of the Revised Code.

(J) This division does not apply to a child receiving special education.

A school district required to pay tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount deducted under division ~~(F)~~(C) of section 3317.023 of the Revised Code equal to its own tuition rate for the same period of attendance. A school district entitled to receive tuition pursuant to division (C)(2) or (3) of this section or section 3313.65 of the Revised Code shall have an amount credited under division ~~(F)~~(C) of section 3317.023 of the Revised Code

equal to its own tuition rate for the same period of attendance. If the tuition rate credited to the district of attendance exceeds the rate deducted from the district required to pay tuition, the department of education shall pay the district of attendance the difference from amounts deducted from all districts' payments under division ~~(F)~~(C) of section 3317.023 of the Revised Code but not credited to other school districts under such division and from appropriations made for such purpose. The treasurer of each school district shall, by the fifteenth day of January and July, furnish the superintendent of public instruction a report of the names of each child who attended the district's schools under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code during the preceding six calendar months, the duration of the attendance of those children, the school district responsible for tuition on behalf of the child, and any other information that the superintendent requires.

Upon receipt of the report the superintendent, pursuant to division ~~(F)~~(C) of section 3317.023 of the Revised Code, shall deduct each district's tuition obligations under divisions (C)(2) and (3) of this section or section 3313.65 of the Revised Code and pay to the district of attendance that amount plus any amount required to be paid by the state.

(K) In the event of a disagreement, the superintendent of public instruction shall determine the school district in which the parent resides.

(L) Nothing in this section requires or authorizes, or shall be construed to require or authorize, the admission to a public school in this state of a pupil who has been permanently excluded from public school attendance by the superintendent of public instruction pursuant to sections 3301.121 and 3313.662 of the Revised Code.

(M) In accordance with division (B)(1) of this section, a child whose parent is a member of the national guard or a reserve unit of the armed forces of the United States and is called to active duty, or a child whose parent is a member of the armed forces of the United States and is ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being called to active duty or ordered to a temporary duty assignment outside of the district, as long as the child's parent continues to be a resident of that district, and regardless of where the child lives as a result of the parent's active duty status or temporary duty assignment. However, the district is not responsible for providing transportation for the child if the child lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

Sec. 3313.642. (A) Except as provided in division (B) of this section

and notwithstanding the provisions of sections 3313.48 and 3313.64 of the Revised Code, the board of education of a city, exempted village, or local school district shall not be required to furnish, free of charge, to the pupils attending the public schools any materials used in a course of instruction with the exception of the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code. The board may, however, make provision by appropriations transferred from the general fund of the district or otherwise for furnishing free of charge any materials used in a course of instruction to such pupils as it determines are in serious financial need of such materials.

(B) No board of education of a school district shall charge a fee to a pupil who is eligible for a free lunch under the "National School Lunch Act," 60 Stat. 230 (1946), 42 U.S.C. 1751, as amended, and the "Child Nutrition Act of 1966," 80 Stat. 885, 42 U.S.C. 1771, as amended, for any materials needed to enable the pupil to participate fully in a course of instruction. The prohibition in this division against charging a fee does not apply to any fee charged for any of the following:

(1) Any materials needed to enable a pupil to participate fully in extracurricular activities or in any pupil enrichment program that is not a course of instruction;

(2) Any tools, equipment, and materials that are necessary for workforce-readiness training within a career-technical education program that, to the extent the tools, equipment, and materials are not consumed, may be retained by the student upon course completion.

(C) Boards of education may adopt rules and regulations prescribing a schedule of fees for materials used in a course of instruction and prescribing a schedule of charges which may be imposed upon pupils for the loss, damage, or destruction of school apparatus, equipment, musical instruments, library material, textbooks, or electronic textbooks required to be furnished without charge, and for damage to school buildings, and may enforce the payment of such fees and charges by withholding the grades and credits of the pupils concerned.

Sec. 3313.6410. This section applies to any school that is operated by a school district and in which the enrolled students work primarily on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method.

(A) Any school to which this section applies shall withdraw from the school any student who, for two consecutive school years, has failed to participate in the spring administration of any assessment prescribed under section 3301.0710 or 3301.0712 of the Revised Code for the student's grade

level and was not excused from the assessment pursuant to division (C)(1) or (3) of section 3301.0711 of the Revised Code, regardless of whether a waiver was granted for the student under division (E) of section 3317.03 of the Revised Code. The school shall report any such student's data verification code, as assigned pursuant to section 3301.0714 of the Revised Code, to the department of education to be added to the list maintained by the department under section 3314.26 of the Revised Code.

(B) No school to which this section applies shall receive any state funds under Chapter ~~3306~~ or 3317. of the Revised Code for any enrolled student whose data verification code appears on the list maintained by the department under section 3314.26 of the Revised Code. Notwithstanding any provision of the Revised Code to the contrary, the parent of any such student shall pay tuition to the school district that operates the school in an amount equal to the state funds the district otherwise would receive for that student, as determined by the department. A school to which this section applies may withdraw any student for whom the parent does not pay tuition as required by this division.

Sec. 3313.65. (A) As used in this section and section 3313.64 of the Revised Code:

(1) A person is "in a residential facility" if the person is a resident or a resident patient of an institution, home, or other residential facility that is:

(a) Licensed as a nursing home, residential care facility, or home for the aging by the director of health under section 3721.02 of the Revised Code;

(b) Licensed as an adult care facility by the director of mental health under ~~Chapter 3722~~ sections 5119.70 to 5119.88 of the Revised Code;

(c) Maintained as a county home or district home by the board of county commissioners or a joint board of county commissioners under Chapter 5155. of the Revised Code;

(d) Operated or administered by a board of alcohol, drug addiction, and mental health services under section 340.03 or 340.06 of the Revised Code, or provides residential care pursuant to contracts made under section 340.03 or 340.033 of the Revised Code;

(e) Maintained as a state institution for the mentally ill under Chapter 5119. of the Revised Code;

(f) Licensed by the department of mental health under section 5119.20 or 5119.22 of the Revised Code;

(g) Licensed as a residential facility by the department of developmental disabilities under section 5123.19 of the Revised Code;

(h) Operated by the veteran's administration or another agency of the United States government;

(i) ~~The~~ Operated by the Ohio ~~soldiers' and sailors' veterans'~~ veterans' home.

(2) A person is "in a correctional facility" if any of the following apply:

(a) The person is an Ohio resident and is:

(i) Imprisoned, as defined in section 1.05 of the Revised Code;

(ii) Serving a term in a community-based correctional facility or a district community-based correctional facility;

(iii) Required, as a condition of parole, a post-release control sanction, a community control sanction, transitional control, or early release from imprisonment, as a condition of shock parole or shock probation granted under the law in effect prior to July 1, 1996, or as a condition of a furlough granted under the version of section 2967.26 of the Revised Code in effect prior to March 17, 1998, to reside in a halfway house or other community residential center licensed under section 2967.14 of the Revised Code or a similar facility designated by the court of common pleas that established the condition or by the adult parole authority.

(b) The person is imprisoned in a state correctional institution of another state or a federal correctional institution but was an Ohio resident at the time the sentence was imposed for the crime for which the person is imprisoned.

(3) A person is "in a juvenile residential placement" if the person is an Ohio resident who is under twenty-one years of age and has been removed, by the order of a juvenile court, from the place the person resided at the time the person became subject to the court's jurisdiction in the matter that resulted in the person's removal.

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

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

(B) If the circumstances described in division (C) of this section apply, the determination of what school district must admit a child to its schools and what district, if any, is liable for tuition shall be made in accordance with this section, rather than section 3313.64 of the Revised Code.

(C) A child who does not reside in the school district in which the child's parent resides and for whom a tuition obligation previously has not been established under division (C)(2) of section 3313.64 of the Revised Code shall be admitted to the schools of the district in which the child resides if at least one of the child's parents is in a residential or correctional facility or a juvenile residential placement and the other parent, if living and not in such a facility or placement, is not known to reside in this state.

(D) Regardless of who has custody or care of the child, whether the child resides in a home, or whether the child receives special education, if a

district admits a child under division (C) of this section, tuition shall be paid to that district as follows:

(1) If the child's parent is in a juvenile residential placement, by the district in which the child's parent resided at the time the parent became subject to the jurisdiction of the juvenile court;

(2) If the child's parent is in a correctional facility, by the district in which the child's parent resided at the time the sentence was imposed;

(3) If the child's parent is in a residential facility, by the district in which the parent resided at the time the parent was admitted to the residential facility, except that if the parent was transferred from another residential facility, tuition shall be paid by the district in which the parent resided at the time the parent was admitted to the facility from which the parent first was transferred;

(4) In the event of a disagreement as to which school district is liable for tuition under division (C)(1), (2), or (3) of this section, the superintendent of public instruction shall determine which district shall pay tuition.

(E) If a child covered by division (D) of this section receives special education in accordance with Chapter 3323. of the Revised Code, the tuition shall be paid in accordance with section 3323.13 or 3323.14 of the Revised Code. Tuition for children who do not receive special education shall be paid in accordance with division (J) of section 3313.64 of the Revised Code.

Sec. 3313.75. ~~(A)~~ The board of education of a city, exempted village, or local school district may authorize the opening of schoolhouses for any lawful purposes. ~~This~~

(B) In accordance with this section and section 3313.77 of the Revised Code, a district board may rent or lease facilities under its control to any public or nonpublic institution of higher education for the institution's use in providing evening and summer classes.

~~(C) This~~ section does not authorize a board to rent or lease a schoolhouse when such rental or lease interferes with the public schools in such district, or for any purpose other than is authorized by law.

Sec. 3313.816. ~~(A)~~ No public or chartered nonpublic school shall permit the sale of a la carte beverage items other than the following during the regular and extended school day:

~~(A)~~ For a school in which the majority of grades offered are in the range from kindergarten to grade four:

~~(a)(1)~~ Water;

~~(b)(i)~~ Prior to January 1, 2014, eight ounces or less of low fat or fat free milk, including flavored milk, that contains not more than one hundred seventy calories per eight ounces;

~~(ii) Beginning January 1, 2014, eight ounces or less of low fat or fat free milk, including flavored milk, that contains not more than one hundred fifty calories per eight ounces.~~

~~(e)(2) Milk;~~

~~(3) Eight ounces or less of one hundred per cent fruit juice, or a one hundred per cent fruit juice and water blend with no added sweeteners, that contains not more than one hundred sixty calories per eight ounces.~~

~~(2)(B) For a school in which the majority of grades offered are in the range from grade five to grade eight:~~

~~(a)(1) Water;~~

~~(b)(i) Prior to January 1, 2014, eight ounces or less of low fat or fat free milk, including flavored milk, that contains not more than one hundred seventy calories per eight ounces;~~

~~(ii) Beginning January 1, 2014, eight ounces or less of low fat or fat free milk, including flavored milk, that contains not more than one hundred fifty calories per eight ounces.~~

~~(e)(2) Milk;~~

~~(3) Ten ounces or less of one hundred per cent fruit juice, or a one hundred per cent fruit juice and water blend with no added sweeteners, that contains not more than one hundred sixty calories per eight ounces.~~

~~(3)(C) For a school in which the majority of grades offered are in the range from grade nine to grade twelve:~~

~~(a)(1) Water;~~

~~(b)(i) Prior to January 1, 2014, sixteen ounces or less of low fat or fat free milk, including flavored milk, that contains not more than one hundred seventy calories per eight ounces;~~

~~(ii) Beginning January 1, 2014, sixteen ounces or less of low fat or fat free milk, including flavored milk, that contains not more than one hundred fifty calories per eight ounces.~~

~~(e)(2) Milk;~~

~~(3) Twelve ounces or less of one hundred per cent fruit juice, or a one hundred per cent fruit juice and water blend with no added sweeteners, that contains not more than one hundred sixty calories per eight ounces;~~

~~(d)(4) Twelve ounces or less of any beverage that contains not more than sixty-six calories per eight ounces;~~

~~(e)(5) Any size of a beverage that contains not more than ten calories per eight ounces, which may include caffeinated beverages and beverages with added sweeteners, carbonation, or artificial flavoring.~~

~~(B)(D) Each public and chartered nonpublic school shall require at least fifty per cent of the a la carte beverage items available for sale from each of~~

the following sources during the regular and extended school day to be water or other beverages that contain not more than ten calories per eight ounces:

- (1) A school food service program;
- (2) A vending machine located on school property that does not sell only milk or reimbursable meals;
- (3) A store operated by the school, a student association, or other school-sponsored organization.

Sec. 3313.842. (A) The boards of education or governing authorities of any two or more school districts or community schools may enter into an agreement for joint or cooperative establishment and operation of any educational program including any class, course, or program that may be included in a school district's or community school's graded course of study and staff development programs for teaching and nonteaching school employees. Each school district or community school that is party to such an agreement may contribute funds of the district or school in support of the agreement and for the establishment and operation of any educational program established under the agreement. The agreement shall designate one of the districts or community schools as ~~the district~~ responsible for receiving and disbursing the funds contributed by the ~~districts that are~~ parties to the agreement.

(B) Notwithstanding sections 3313.48 and 3313.64 of the Revised Code, any school district that is party to an agreement for joint or cooperative establishment and operation of an educational program may charge fees or tuition for students who participate in the program and are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code. Except as otherwise provided in division (H) of section 3321.01 of the Revised Code, no community school that is party to the agreement shall charge fees or tuition for students who participate in the program and are reported by the school under division (B)(2) of section 3314.08 of the Revised Code.

Sec. 3313.843. (A) Notwithstanding division (D) of section 3311.52 of the Revised Code, this section does not apply to ~~either of the following:~~

- ~~(1) Any any cooperative education school district;~~
- ~~(2) Any city or exempted village school district with a total student count of thirteen thousand or more determined pursuant to section 3317.03 of the Revised Code that has not entered into one or more agreements pursuant to this section prior to July 1, 1993, unless the district's total student count did not exceed thirteen thousand at the time it entered into an initial agreement under this section.~~

~~(B)(1) The board of education of a each city ~~or~~, exempted village, or local school district ~~and~~ with an average daily student enrollment of sixteen thousand or less, reported for the district on the most recent report card issued under section 3302.03 of the Revised Code, shall enter into an agreement with the governing board of an educational service center ~~may enter into an agreement, through adoption of identical resolutions,~~ under which the educational service center governing board will provide services to the ~~city or exempted village school~~ district.~~

~~(2) The board of education of a city, exempted village, or local school district with an average daily student enrollment of more than sixteen thousand may enter into an agreement with the governing board of an educational service center, under which the educational service center governing board will provide services to the district.~~

~~(3) Services provided under ~~the~~ an agreement entered into under division (B)(1) or (2) of this section shall be specified in the agreement, and may include any ~~one or a combination~~ of the following: supervisory teachers; in-service and continuing education programs for ~~city or exempted village school~~ district personnel; curriculum services ~~as provided to the local school districts under the supervision of the service center governing board;~~ research and development programs; academic instruction for which the governing board employs teachers pursuant to section 3319.02 of the Revised Code; ~~and~~ assistance in the provision of special accommodations and classes for students with disabilities; or any other services the district board and service center governing board agree can be better provided by the service center and are not provided under an agreement entered into under section 3313.845 of the Revised Code. Services included in the agreement shall be provided to the ~~city or exempted village~~ district in the same manner ~~they are provided to local school districts under the governing board's supervision, unless otherwise specified in the agreement.~~ The ~~city or exempted village~~ district board of education shall reimburse the educational service center governing board pursuant to section 3317.11 of the Revised Code.~~

~~(C) If an educational service center received funding under division (B) of former section 3317.11 or division (F) of section 3317.11 of the Revised Code for an agreement under this section involving a city school district whose total student count was less than thirteen thousand, the service center may continue to receive funding under that division for such an agreement in any subsequent year if the city district's total student count exceeds thirteen thousand. However, only the first thirteen thousand pupils in the formula ADM of such district shall be included in determining the amount~~

~~of the per pupil subsidy the service center shall receive under division (F) of section 3317.11 of the Revised Code.~~

~~(D)~~ Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education by the first day of July of the school year for which the agreement is in effect.

(D)(1) An agreement for services from an educational service center entered into under this section may be terminated by the school district board of education, at its option, by notifying the governing board of the service center by January 1, 2012, or by the first day of January of any odd-numbered year thereafter, that the district board intends to terminate the agreement in that year, and that termination shall be effective on the thirtieth day of June of that year. The failure of a district board to notify an educational service center of its intent to terminate an agreement by the first day of January of an odd-numbered year shall result in renewal of the existing agreement for the following two school years.

(2) If the school district that terminates an agreement for services under division (D)(1) of this section is also subject to the requirement of division (B)(1) of this section, the district board shall enter into a new agreement with a different educational service center so that the new agreement is effective on the first day of July of that same year.

Sec. 3313.845. The board of education of a city, exempted village, or local school district and the governing board of an educational service center may enter into an agreement, ~~through adoption of identical resolutions,~~ under which the educational service center will provide services to the school district. Services provided under the agreement and the amount to be paid for such services shall be mutually agreed to by the district board of education and the service center governing board, and shall be specified in the agreement. Payment for services specified in the agreement shall be made pursuant to division (D) of section 3317.11 of the Revised Code and shall not include any deduction under division (B), (C), or (F) of that section. Any agreement entered into pursuant to this section shall be valid only if a copy is filed with the department of education by the first day of the school year for which the agreement is in effect.

The authority granted under this section to the boards of education of city ~~and~~, exempted village, ~~and local~~ school districts is in addition to the authority granted to such boards under section 3313.843 of the Revised Code. ~~No city or exempted village district that is eligible to receive services from an educational service center under section 3313.843 of the Revised Code may receive any of the services described in division (B) of that section pursuant to an agreement entered into with an educational service~~

~~center under this section.~~

~~If a local school district enters into an agreement with an educational service center under this section and the district is not located within the territory of the service center, the agreement shall not require the district to receive any supervisory services described in division (B) of section 3317.11 of the Revised Code from the service center. The supervisory services described in that section shall be provided to the district by the educational service center of the territory in which the district is located.~~

Sec. 3313.846. The governing board of an educational service center may enter into a contract with any political subdivision as defined in section 2744.01 of the Revised Code, not including school districts, community schools, or STEM schools contracting for services under section 3313.843, 3313.844, 3313.845, or 3326.45 of the Revised Code, under which the educational service center will provide services to the political subdivision. Services provided under the contract and the amount to be paid for such services shall be mutually agreed to by the parties and shall be specified in the contract. The political subdivision shall directly pay an educational service center for services specified in the contract. The board of the educational service center shall file a copy of each contract entered into under this section with the department of education by the first day the contract is in effect.

Sec. 3313.88. (A)(1) Prior to the first day of August of each school year, the board of education of any school district or the governing authority of any chartered nonpublic school may submit to the department of education a plan to require students to access and complete classroom lessons posted on the district's or nonpublic school's web portal or web site in order to make up days in that school year on which it is necessary to close schools for any of the reasons specified in division (B) of section 3317.01 of the Revised Code in excess of the number of days permitted under sections 3313.48, 3313.481, and 3317.01 of the Revised Code.

Prior to the first day of August of each school year, the governing authority of any community school established under Chapter 3314, that is not an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, may submit to the department a plan to require students to access and complete classroom lessons posted on the school's web portal or web site in order to make up days or hours in that school year on which it is necessary to close the school for any of the reasons specified in division (L)(4) of section 3314.08 of the Revised Code so that the school is in compliance with the minimum number of hours required under Chapter 3314. of the Revised Code.

A plan submitted by a school district board or chartered nonpublic school governing authority shall provide for making up any number of days, up to a maximum of three days. A plan submitted by a community school governing authority shall provide for making up any number of hours, up to a maximum of the equivalent of three days. Provided the plan meets all requirements of this section, the department shall permit the board or governing authority to implement the plan for the applicable school year.

(2) Each plan submitted under this section by a school district board of education shall include the written consent of the teachers' employee representative designated under division (B) of section 4117.04 of the Revised Code.

(3) Each plan submitted under this section shall provide for the following:

(a) Not later than the first day of November of the school year, each classroom teacher shall develop a sufficient number of lessons for each course taught by the teacher that school year to cover the number of make-up days or hours specified in the plan. The teacher shall designate the order in which the lessons are to be posted on the district's, community school's, or nonpublic school's web portal or web site in the event of a school closure. Teachers may be granted up to one professional development day to create lesson plans for those lessons.

(b) To the extent possible and necessary, a classroom teacher shall update or replace, based on current instructional progress, one or more of the lesson plans developed under division (A)(3)(a) of this section before they are posted on the web portal or web site under division (A)(3)(c) of this section or distributed under division (B) of this section.

(c) As soon as practicable after a school closure, a district or school employee responsible for web portal or web site operations shall make the designated lessons available to students on the district's, community school's, or nonpublic school's portal or site. A lesson shall be posted for each course that was scheduled to meet on the day or hours of the closure.

(d) Each student enrolled in a course for which a lesson is posted on the portal or site shall be granted a two-week period from the date of posting to complete the lesson. The student's classroom teacher shall grade the lesson in the same manner as other lessons. The student may receive an incomplete or failing grade if the lesson is not completed on time.

(e) If a student does not have access to a computer at the student's residence and the plan does not include blizzard bags under division (B) of this section, the student shall be permitted to work on the posted lessons at school after the student's school reopens. If the lessons were posted prior to

the reopening, the student shall be granted a two-week period from the date of the reopening, rather than from the date of posting as otherwise required under division (A)(3)(d) of this section, to complete the lessons. The district board or community school or nonpublic school governing authority may provide the student access to a computer before, during, or after the regularly scheduled school day or may provide a substantially similar paper lesson in order to complete the lessons.

(B)(1) In addition to posting classroom lessons online under division (A) of this section, the board of education of any school district or governing authority of any community or chartered nonpublic school may include in the plan distribution of "blizzard bags," which are paper copies of the lessons posted online.

(2) If a school opts to use blizzard bags, teachers shall prepare paper copies in conjunction with the lessons to be posted online and update the paper copies whenever the teacher updates the online lesson plans.

(3) The board of education of any school district or governing authority of any community or chartered nonpublic school that opts to use blizzard bags shall specify in the plan the method of distribution of blizzard bag lessons, which may include, but not be limited to, requiring distribution by a specific deadline or requiring distribution prior to anticipated school closure as directed by the superintendent of a school district or the principal, director, chief administrative officer, or the equivalent, of a school.

(4) Students shall turn in completed lessons in accordance with division (A)(3)(d) of this section.

(C)(1) No school district that implements a plan in accordance with this section shall be considered to have failed to comply with division (B) of section 3317.01 of the Revised Code with respect to the number of make-up days specified in the plan.

(2) No community school that implements a plan in accordance with this section shall be considered to have failed to comply with the minimum number of hours required under Chapter 3314. of the Revised Code with respect to the number of make-up hours specified in the plan.

Sec. 3313.911. The state board of education may adopt a resolution assigning a city, exempted village, or local school district that is not a part of a joint vocational school district to membership in a joint vocational school district. A copy of the resolution shall be certified to the board of education of the joint vocational school district and the board of education of the district proposed to be assigned. The board of education of the joint vocational school district shall advertise a copy of the resolution in a newspaper of general circulation in the district proposed to be assigned once

each week for ~~at least~~ two weeks, or as provided in section 7.16 of the Revised Code, immediately following the certification of the resolution to the board. The assignment shall take effect on the ninety-first day after the state board adopts the resolution, unless prior to that date qualified electors residing in the school district proposed for assignment, equal in number to ten per cent of the qualified electors of that district voting at the last general election, file a petition against the assignment.

The petition of referendum shall be filed with the treasurer of the board of education of the district proposed to be assigned to the joint vocational school district. The treasurer shall give the person presenting the petition a receipt showing the time of day, date, and purpose of the petition. The treasurer shall cause the board of elections to determine the sufficiency of signatures on the petition and if the signatures are found to be sufficient, shall present the petition to the board of education of the district. The board of education shall promptly certify the question to the board of elections for the purpose of having the question placed on the ballot at the next general, primary, or special election not earlier than sixty days after the date of the certification.

Only those qualified electors residing in the district proposed for assignment to the joint vocational school district are qualified to vote on the question. If a majority of the electors voting on the question vote against the assignment, it shall not take place, and the state board of education shall require the district to contract with the joint vocational school district or another school district as authorized by section 3313.91 of the Revised Code.

If a majority of the electors voting on the question do not vote against the assignment, the assignment shall take immediate effect, and the board of education of the joint vocational school district shall notify the county auditor of the county in which the school district becoming a part of the joint vocational school district is located to have any outstanding levy of the joint vocational school district spread over the territory of the school district that has become a part of the joint vocational school district.

The assignment of a school district to a joint vocational school district pursuant to this section is subject to any agreements made between the board of education of the assigned school district and the board of education of the joint vocational school district. Such an agreement may include provisions for a payment by the assigned school district to the joint vocational school district of an amount to be contributed toward the cost of the existing facilities of the joint vocational school district.

On the assignment of a school district to a joint vocational school

district pursuant to this section, the joint vocational school district's board of education shall submit a proposal to the state board of education to enlarge or reorganize the membership of the joint vocational school district's board of education if expansion or reorganization of the board is necessary in order to comply with section 3311.19 of the Revised Code.

Sec. 3313.97. Notwithstanding division (D) of section 3311.19 and division (D) of section 3311.52 of the Revised Code, this section does not apply to any joint vocational or cooperative education school district.

(A) As used in this section:

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

(2) "Alternative school" means a school building other than the one to which a student is assigned by the district superintendent.

(3) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(B) The board of education of each city, local, and exempted village school district shall adopt an open enrollment policy allowing students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code to enroll in an alternative school. Each policy shall provide for the following:

(1) Application procedures, including deadlines for application and for notification of students and principals of alternative schools whenever a student's application is accepted. The policy shall require a student to apply only if the student wishes to attend an alternative school.

(2) The establishment of district capacity limits by grade level, school building, and education program;

(3) A requirement that students enrolled in a school building or living in any attendance area of the school building established by the superintendent or board be given preference over applicants;

(4) Procedures to ensure that an appropriate racial balance is maintained in the district schools.

Each policy may permit a student to permanently transfer to an alternative school so that the student need not reapply annually for permission to attend the alternative school.

(C) Except as provided in section 3313.982 of the Revised Code, the procedures for admitting applicants to alternative schools shall not include:

(1) Any requirement of academic ability, or any level of athletic, artistic, or other extracurricular skills;

(2) Limitations on admitting applicants because of disabling conditions, except that a board may require a student receiving services under Chapter

3323. of the Revised Code to attend school where the services described in the student's IEP are available;

(3) A requirement that the student be proficient in the English language;

(4) Rejection of any applicant because the student has been subject to disciplinary proceedings, except that if an applicant has been suspended or expelled for ten consecutive days or more in the term for which admission is sought or in the term immediately preceding the term for which admission is sought, the procedures may include a provision denying admission of such applicant to an alternative school.

(D)(1) Notwithstanding Chapter 3327. of the Revised Code, and except as provided in division (D)(2) of this section, a district board is not required to provide transportation to a nondisabled student enrolled in an alternative school unless such student can be picked up and dropped off at a regular school bus stop designated in accordance with the board's transportation policy or unless the board is required to provide additional transportation to the student in accordance with a court-approved desegregation plan.

(2) A district board shall provide transportation to any student described in 20 U.S.C. 6316(b)(1)(F) to the extent required by division (E) of section 3302.04 of the Revised Code, except that no district board shall be required to provide transportation to any such student after the school in which the student was enrolled immediately prior to enrolling in the alternative school makes adequate yearly progress, as defined in section 3302.01 of the Revised Code, for two consecutive school years.

(E) Each school board shall provide information about the policy adopted under this section and the application procedures and deadlines to the parent of each student in the district and to the general public.

(F) The state board of education shall monitor school districts to ensure compliance with this section and the districts' policies.

Sec. 3313.975. As used in this section and in sections 3313.975 to 3313.979 of the Revised Code, "the pilot project school district" or "the district" means any school district included in the pilot project scholarship program pursuant to this section.

(A) The superintendent of public instruction shall establish a pilot project scholarship program and shall include in such program any school districts that are or have ever been under federal court order requiring supervision and operational management of the district by the state superintendent. The program shall provide for a number of students residing in any such district to receive scholarships to attend alternative schools, and for an equal number of students to receive tutorial assistance grants while attending public school in any such district.

(B) The state superintendent shall establish an application process and deadline for accepting applications from students residing in the district to participate in the scholarship program. In the initial year of the program students may only use a scholarship to attend school in grades kindergarten through third.

The state superintendent shall award as many scholarships and tutorial assistance grants as can be funded given the amount appropriated for the program. In no case, however, shall more than fifty per cent of all scholarships awarded be used by students who were enrolled in a nonpublic school during the school year of application for a scholarship.

(C)(1) The pilot project program shall continue in effect each year that the general assembly has appropriated sufficient money to fund scholarships and tutorial assistance grants. In each year the program continues, ~~no~~ new students may receive scholarships ~~unless they are enrolled~~ in grades kindergarten to ~~eight~~ twelve. ~~However, any A student who has received a scholarship the preceding year may continue to receive one until the student has completed grade ten. Beginning in the 2005-2006 academic year, a student who previously has received a scholarship may receive a scholarship in grade eleven. Beginning in the 2006-2007 academic year, a student who previously has received a scholarship may receive a scholarship in grade twelve.~~

(2) If the general assembly discontinues the scholarship program, all students who are attending an alternative school under the pilot project shall be entitled to continued admittance to that specific school through all grades that are provided in such school, under the same conditions as when they were participating in the pilot project. The state superintendent shall continue to make scholarship payments in accordance with division (A) or (B) of section 3313.979 of the Revised Code for students who remain enrolled in an alternative school under this provision in any year that funds have been appropriated for this purpose.

If funds are not appropriated, the tuition charged to the parents of a student who remains enrolled in an alternative school under this provision shall not be increased beyond the amount equal to the amount of the scholarship plus any additional amount charged that student's parent in the most recent year of attendance as a participant in the pilot project, except that tuition for all the students enrolled in such school may be increased by the same percentage.

(D) Notwithstanding sections 124.39, 3307.54, and 3319.17 of the Revised Code, if the pilot project school district experiences a decrease in enrollment due to participation in a state-sponsored scholarship program

pursuant to sections 3313.974 to 3313.979 of the Revised Code, the district board of education may enter into an agreement with any teacher it employs to provide to that teacher severance pay or early retirement incentives, or both, if the teacher agrees to terminate the employment contract with the district board, provided any collective bargaining agreement in force pursuant to Chapter 4117. of the Revised Code does not prohibit such an agreement for termination of a teacher's employment contract.

Sec. 3313.978. (A) Annually by the first day of November, the superintendent of public instruction shall notify the pilot project school district of the number of initial scholarships that the state superintendent will be awarding in each of grades kindergarten through ~~eight~~ twelve.

The state superintendent shall provide information about the scholarship program to all students residing in the district, shall accept applications from any such students until such date as shall be established by the state superintendent as a deadline for applications, and shall establish criteria for the selection of students to receive scholarships from among all those applying prior to the deadline, which criteria shall give preference to students from low-income families. For each student selected, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the scholarship amount. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the scholarship amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the scholarship amount. The state superintendent shall notify students of their selection prior to the fifteenth day of January and whether they qualify for seventy-five or ninety per cent of the scholarship amount.

(1) A student receiving a pilot project scholarship may utilize it at an alternative public school by notifying the district superintendent, at any time before the beginning of the school year, of the name of the public school in an adjacent school district to which the student has been accepted pursuant to section 3327.06 of the Revised Code.

(2) A student may decide to utilize a pilot project scholarship at a registered private school in the district if all of the following conditions are met:

(a) By the fifteenth day of February of the preceding school year, or at any time prior to the start of the school year, the parent makes an application on behalf of the student to a registered private school.

(b) The registered private school notifies the parent and the state

superintendent as follows that the student has been admitted:

(i) By the fifteenth day of March of the preceding school year if the student filed an application by the fifteenth day of February and was admitted by the school pursuant to division (A) of section 3313.977 of the Revised Code;

(ii) Within one week of the decision to admit the student if the student is admitted pursuant to division (C) of section 3313.977 of the Revised Code.

(c) The student actually enrolls in the registered private school to which the student was first admitted or in another registered private school in the district or in a public school in an adjacent school district.

(B) The state superintendent shall also award in any school year tutorial assistance grants to a number of students equal to the number of students who receive scholarships under division (A) of this section. Tutorial assistance grants shall be awarded solely to students who are enrolled in the public schools of the district in a grade level covered by the pilot project. Tutorial assistance grants may be used solely to obtain tutorial assistance from a provider approved pursuant to division (D) of section 3313.976 of the Revised Code.

All students wishing to obtain tutorial assistance grants shall make application to the state superintendent by the first day of the school year in which the assistance will be used. The state superintendent shall award assistance grants in accordance with criteria the superintendent shall establish. For each student awarded a grant, the state superintendent shall also determine whether the student qualifies for seventy-five or ninety per cent of the grant amount and so notify the student. Students whose family income is at or above two hundred per cent of the maximum income level established by the state superintendent for low-income families shall qualify for seventy-five per cent of the grant amount and students whose family income is below two hundred per cent of that maximum income level shall qualify for ninety per cent of the grant amount.

(C)(1) In the case of basic scholarships for students in grades kindergarten through eight, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or three thousand dollars before fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and four thousand two hundred fifty dollars in fiscal year 2012 and thereafter.

In the case of basic scholarships for students in grades nine through twelve, the scholarship amount shall not exceed the lesser of the tuition charges of the alternative school the scholarship recipient attends or two

thousand seven hundred dollars before fiscal year 2007 ~~and~~, three thousand four hundred fifty dollars in fiscal year 2007 through fiscal year 2011, and five thousand dollars in fiscal year 2012 and thereafter.

(2) The state superintendent shall provide for an increase in the basic scholarship amount in the case of any student who is a mainstreamed student with a disability and shall further increase such amount in the case of any separately educated student with a disability. Such increases shall take into account the instruction, related services, and transportation costs of educating such students.

(3) In the case of tutorial assistance grants, the grant amount shall not exceed the lesser of the provider's actual charges for such assistance or:

(a) Before fiscal year 2007, a percentage established by the state superintendent, not to exceed twenty per cent, of the amount of the pilot project school district's average basic scholarship amount;

(b) In fiscal year 2007 and thereafter, four hundred dollars.

(4) No scholarship or tutorial assistance grant shall be awarded unless the state superintendent determines that twenty-five or ten per cent, as applicable, of the amount specified for such scholarship or grant pursuant to division (C)(1), (2), or (3) of this section will be furnished by a political subdivision, a private nonprofit or for profit entity, or another person. Only seventy-five or ninety per cent of such amounts, as applicable, shall be paid from state funds pursuant to section 3313.979 of the Revised Code.

(D)(1) Annually by the first day of November, the state superintendent shall estimate the maximum per-pupil scholarship amounts for the ensuing school year. The state superintendent shall make this estimate available to the general public at the offices of the district board of education together with the forms required by division (D)(2) of this section.

(2) Annually by the fifteenth day of January, the chief administrator of each registered private school located in the pilot project district and the principal of each public school in such district shall complete a parental information form and forward it to the president of the board of education. The parental information form shall be prescribed by the department of education and shall provide information about the grade levels offered, the numbers of students, tuition amounts, achievement test results, and any sectarian or other organizational affiliations.

(E)(1) Only for the purpose of administering the pilot project scholarship program, the department may request from any of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any student who is seeking a scholarship under the program:

(a) The school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code;

(b) If applicable, the community school in which the student is enrolled;

(c) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (E)(1) of this section for the data verification code of a student seeking a scholarship or a request by the student's parent for that code, the school district or community school shall submit that code to the department or parent in the manner specified by the department. If the student has not been assigned a code, because the student will be entering kindergarten during the school year for which the scholarship is sought, the district shall assign a code to that student and submit the code to the department or parent by a date specified by the department. If the district does not assign a code to the student by the specified date, the department shall assign a code to the student.

The department annually shall submit to each school district the name and data verification code of each student residing in the district who is entering kindergarten, who has been awarded a scholarship under the program, and for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (E) of this section to any person except as provided by law.

(F) Any document relative to the pilot project scholarship program that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

(G)(1) The department annually shall compile the scores attained by scholarship students enrolled in registered private schools on the assessments administered to the students pursuant to division (A)(11) of section 3313.976 of the Revised Code. The scores shall be aggregated as follows:

(a) By school district, which shall include all scholarship students residing in the pilot project school district who are enrolled in a registered private school and were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code;

(b) By registered private school, which shall include all scholarship students enrolled in that school who were required to take an assessment pursuant to division (A)(11) of section 3313.976 of the Revised Code.

(2) The department shall disaggregate the student performance data described in division (G)(1) of this section according to the following categories:

- (a) Age;
- (b) Race and ethnicity;
- (c) Gender;
- (d) Students who have participated in the scholarship program for three or more years;
- (e) Students who have participated in the scholarship program for more than one year and less than three years;
- (f) Students who have participated in the scholarship program for one year or less;
- (g) Economically disadvantaged students.

(3) The department shall post the student performance data required under divisions (G)(1) and (2) of this section on its web site and shall include that data in the information about the scholarship program provided to students under division (A) of this section. In reporting student performance data under this division, the department shall not include any data that is statistically unreliable or that could result in the identification of individual students. For this purpose, the department shall not report performance data for any group that contains less than ten students.

(4) The department shall provide the parent of each scholarship student enrolled in a registered private school with information comparing the student's performance on the assessments administered pursuant to division (A)(11) of section 3313.976 of the Revised Code with the average performance of similar students enrolled in the building operated by the pilot project school district that the scholarship student would otherwise attend. In calculating the performance of similar students, the department shall consider age, grade, race and ethnicity, gender, and socioeconomic status.

Sec. 3313.981. (A) The state board of education shall adopt rules requiring all of the following:

(1) The board of education of each city, exempted village, and local school district to annually report to the department of education all of the following:

(a) The number of adjacent district or other district students, as applicable, and adjacent district or other district joint vocational students, as applicable, enrolled in the district and the number of native students enrolled in adjacent or other districts, in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code;

(b) Each adjacent district or other district student's or adjacent district or other district joint vocational student's date of enrollment in the district;

(c) The full-time equivalent number of adjacent district or other district students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(d) Each native student's date of enrollment in an adjacent or other district.

(2) The board of education of each joint vocational school district to annually report to the department all of the following:

(a) The number of adjacent district or other district joint vocational students, as applicable, enrolled in the district;

(b) The full-time equivalent number of adjacent district or other district joint vocational students enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code and the full-time equivalent number of such students enrolled in vocational education programs or classes described in division (B) of that section;

(c) For each adjacent district or other district joint vocational student, the city, exempted village, or local school district in which the student is also enrolled.

(3) Prior to the first full school week in October each year, the superintendent of each city, local, or exempted village school district that admits adjacent district or other district students or adjacent district or other district joint vocational students in accordance with a policy adopted under division (B) of section 3313.98 of the Revised Code to notify each adjacent or other district where those students are entitled to attend school under section 3313.64 or 3313.65 of the Revised Code of the number of the adjacent or other district's native students who are enrolled in the superintendent's district under the policy.

The rules shall provide for the method of counting students who are enrolled for part of a school year in an adjacent or other district or as an adjacent district or other district joint vocational student.

(B) From the payments made to a city, exempted village, or local school district under Chapter ~~3306~~. 3317. of the Revised Code and, if necessary, from the payments made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract both of the following:

(1) An amount equal to the number of the district's native students reported under division (A)(1) of this section who are enrolled in adjacent or

other school districts pursuant to policies adopted by such districts under division (B) of section 3313.98 of the Revised Code multiplied by the adjusted formula amount;

(2) The excess costs computed in accordance with division (E) of this section for any such native students receiving special education and related services in adjacent or other school districts or as an adjacent district or other district joint vocational student;

(3) For the full-time equivalent number of the district's native students reported under division (A)(1)(c) or (2)(b) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to ~~the formula amount~~ \$5,732 times the applicable multiple prescribed by that section.

(C) To the payments made to a city, exempted village, or local school district under Chapter ~~3306.~~ 3317. of the Revised Code, the department of education shall annually add all of the following:

(1) An amount equal to the adjusted formula amount multiplied by the remainder obtained by subtracting the number of adjacent district or other district joint vocational students from the number of adjacent district or other district students enrolled in the district, as reported under division (A)(1) of this section;

(2) The excess costs computed in accordance with division (E) of this section for any adjacent district or other district students, except for any adjacent or other district joint vocational students, receiving special education and related services in the district;

(3) For the full-time equivalent number of the adjacent or other district students who are not adjacent district or other district joint vocational students and are reported under division (A)(1)(c) of this section as enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code, an amount equal to ~~the formula amount~~ \$5,732 times the applicable multiple prescribed by that section;

(4) An amount equal to the number of adjacent district or other district joint vocational students reported under division (A)(1) of this section multiplied by an amount equal to twenty per cent of the adjusted formula amount.

(D) To the payments made to a joint vocational school district under Chapter 3317. of the Revised Code, the department of education shall add, for each adjacent district or other district joint vocational student reported under division (A)(2) of this section, both of the following:

(1) The adjusted formula amount;

(2) An amount equal to the full-time equivalent number of students

reported pursuant to division (A)(2)(b) of this section times ~~the formula amount~~ \$5,732 times the applicable multiple prescribed by section 3317.014 of the Revised Code.

(E)(1) A city, exempted village, or local school board providing special education and related services to an adjacent or other district student in accordance with an IEP shall, pursuant to rules of the state board, compute the excess costs to educate such student as follows:

(a) Subtract the adjusted formula amount from the actual costs to educate the student;

(b) From the amount computed under division (E)(1)(a) of this section subtract the amount of any funds received by the district under Chapter ~~3306~~. 3317. of the Revised Code to provide special education and related services to the student.

(2) The board shall report the excess costs computed under this division to the department of education.

(3) If any student for whom excess costs are computed under division (E)(1) of this section is an adjacent or other district joint vocational student, the department of education shall add the amount of such excess costs to the payments made under Chapter ~~3306~~. 3317. of the Revised Code to the joint vocational school district enrolling the student.

(F) As provided in division (D)(1)(b) of section 3317.03 of the Revised Code, no joint vocational school district shall count any adjacent or other district joint vocational student enrolled in the district in its formula ADM certified under section 3317.03 of the Revised Code.

(G) No city, exempted village, or local school district shall receive a payment under division (C) of this section for a student, and no joint vocational school district shall receive a payment under division (D) of this section for a student, if for the same school year that student is counted in the district's formula ADM certified under section 3317.03 of the Revised Code.

(H) Upon request of a parent, and provided the board offers transportation to native students of the same grade level and distance from school under section 3327.01 of the Revised Code, a city, exempted village, or local school board enrolling an adjacent or other district student shall provide transportation for the student within the boundaries of the board's district, except that the board shall be required to pick up and drop off a nonhandicapped student only at a regular school bus stop designated in accordance with the board's transportation policy. Pursuant to rules of the state board of education, such board may reimburse the parent from funds received for pupil transportation under section ~~3306.12~~ 3317.0212 of the

Revised Code, or other provisions of law, for the reasonable cost of transportation from the student's home to the designated school bus stop if the student's family has an income below the federal poverty line.

Sec. 3314.012. (A) Within ninety days of September 28, 1999, the superintendent of public instruction shall appoint representatives of the department of education, including employees who work with the education management information system ~~and employees of the office of community schools established by section 3314.11 of the Revised Code~~, to a committee to develop report card models for community schools. ~~The director of the legislative office of education oversight shall also appoint representatives to the committee.~~ The committee shall design model report cards appropriate for the various types of community schools approved to operate in the state. Sufficient models shall be developed to reflect the variety of grade levels served and the missions of the state's community schools. All models shall include both financial and academic data. The initial models shall be developed by March 31, 2000.

(B) The department of education shall issue an annual report card for each community school, regardless of how long the school has been in operation. The report card shall report the academic and financial performance of the school utilizing one of the models developed under division (A) of this section. The report card shall include all information applicable to school buildings under division (A) of section 3302.03 of the Revised Code. The ratings a community school receives under section 3302.03 of the Revised Code for its first two full school years shall not be considered toward automatic closure of the school under section 3314.35 of the Revised Code or any other matter that is based on report card ratings.

(C) Upon receipt of a copy of a contract between a sponsor and a community school entered into under this chapter, the department of education shall notify the community school of the specific model report card that will be used for that school.

(D) Report cards shall be distributed to the parents of all students in the community school, to the members of the board of education of the school district in which the community school is located, and to any person who requests one from the department.

Sec. 3314.013. (A)~~(1) Until July 1, 2000, no more than seventy-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under this chapter.~~

~~(2) After July 1, 2000, and until July 1, 2001, no more than one hundred twenty-five contracts between start-up schools and the state board of education may be in effect outside the pilot project area at any time under~~

~~this chapter.~~

~~(3) This division applies only to contracts between start-up schools and the state board of education and contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.~~

~~Until July 1, 2005, not more than two hundred twenty-five contracts to which this division applies may be in effect at any time under this chapter.~~

~~(4) This division applies only to contracts between start-up schools and entities described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code.~~

~~Except as otherwise provided in section 3314.014 of the Revised Code, after July 1, 2005, and until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than thirty plus the number of such contracts with schools that were open for operation as of May 1, 2005.~~

~~(5) This division applies only to contracts between a conversion school that is an internet- or computer-based community school or a start-up school and the board of education of the school district in which the school is or is proposed to be located.~~

~~Except as otherwise provided in section 3314.014 of the Revised Code, until July 1, 2007, the number of contracts to which this division applies in effect at any time under this chapter shall be not more than thirty plus the number of such contracts with schools that were open for operation as of May 1, 2005.~~

~~(6) Until the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools January 1, 2013, no internet- or computer-based community school shall operate unless the school was open for instruction as of May 1, 2005. No entity described in division (C)(1) of section 3314.02 of the Revised Code shall enter into a contract to sponsor an internet- or computer-based community school, including a conversion school, between May 1, 2005, and the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools January 1, 2013, except as follows:~~

~~(a) (1) The entity described in division (C)(1) of that section may renew a contract that the entity entered into with an internet- or computer-based community school prior to May 1, 2005, if the school was open for operation as of that date.~~

~~(b) (2) The entity described in divisions (C)(1)(a) to (e) of that section may assume sponsorship of an existing internet- or computer-based~~

community school that was formerly sponsored by another entity and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.

~~(e) Any entity described in division (C)(1)(f) of that section may assume sponsorship of an existing internet- or computer-based community school in accordance with division (A)(7) of this section and may enter into a contract with that community school in accordance with section 3314.03 of the Revised Code.~~

If a sponsor entered into a contract with an internet- or computer-based community school, including a conversion school, but the school was not open for operation as of May 1, 2005, the contract shall be void and the entity shall not enter into another contract with the school until ~~the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools~~ January 1, 2013.

~~(7) Until July 1, 2005, any entity described in division (C)(1)(f) of section 3314.02 of the Revised Code may sponsor only a community school that formerly was sponsored by the state board of education under division (C)(1)(d) of that section, as it existed prior to April 8, 2003. After July 1, 2005, any such entity may assume sponsorship of any existing community school, and may sponsor any new community school that is not an internet- or computer-based community school. Beginning on the effective date of any standards enacted by the general assembly governing the operation of internet- or computer-based community schools, any such entity may sponsor a new internet- or computer-based community school.~~

(8)(B) Beginning January 1, 2013, up to five new internet- or computer-based community schools may open each year. If the governing authorities of more than five new schools notify the department of education under division (D) of section 3314.02 of the Revised Code, by a deadline established by the department, that they have signed a contract with a sponsor to open in the following school year, the department shall hold a lottery within thirty days after the deadline to choose the five schools that may open in that school year. The contract signed by the governing authority of any school not selected in the lottery shall be void, but the school may enter into a contract with a sponsor to open in a subsequent school year, subject to this division.

(C) Nothing in ~~division~~ divisions (A) or (B) of this section prohibits a an internet- or computer-based community school from increasing the number of grade levels it offers.

~~(B) Within twenty-four hours of a request by any person, the~~

~~superintendent of public instruction shall indicate the number of preliminary agreements for start-up schools currently outstanding and the number of contracts for these schools in effect at the time of the request.~~

~~(C) It is the intent of the general assembly to consider whether to provide limitations on the number of start-up community schools after July 1, 2001, following its examination of the results of the studies by the legislative office of education oversight required under Section 50.39 of Am. Sub. H.B. No. 215 of the 122nd general assembly and Section 50.52.2 of Am. Sub. H.B. No. 215 of the 122nd general assembly, as amended by Am. Sub. H.B. No. 770 of the 122nd general assembly (D) Not later than July 1, 2012, the director of the governor's office of 21st century education and the superintendent of public instruction shall develop standards for the operation of internet- or computer-based community schools. The director shall submit those standards to the speaker of the house of representatives and the president of the senate for consideration of enactment by the general assembly.~~

Sec. 3314.015. (A) The department of education shall be responsible for the oversight of any and all sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools;

(3) Monitor the effectiveness of any and all sponsors in their oversight of the schools with which they have contracted;

(4) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter and on the performance of community school sponsors;

(5) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools.

(B)(1) Except as provided in sections 3314.021 and 3314.027 of the

Revised Code, no entity listed in division (C)(1) of section 3314.02 of the Revised Code shall enter into a preliminary agreement under division (C)(2) of section 3314.02 of the Revised Code until it has received approval from the department of education to sponsor community schools under this chapter and has entered into a written agreement with the department regarding the manner in which the entity will conduct such sponsorship. The department shall adopt in accordance with Chapter 119. of the Revised Code rules containing criteria, procedures, and deadlines for processing applications for such approval, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors. The rules shall require an entity to submit evidence of the entity's ability and willingness to comply with the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall require entities approved as sponsors on and after June 30, 2005, to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or after June 30, 2005, to sponsor community schools in this state sponsors or operates schools in another state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in need of continuous improvement under section 3302.03 of the Revised Code, as determined by the department.

~~An~~ Subject to section 3314.016 of the Revised Code, an entity that sponsors community schools may enter into preliminary agreements and sponsor up to one hundred schools ~~as follows~~, provided each school and the contract for sponsorship meets the requirements of this chapter:

~~(a) An entity that sponsored fifty or fewer schools that were open for operation as of May 1, 2005, may sponsor not more than fifty schools.~~

~~(b) An entity that sponsored more than fifty but not more than seventy five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.~~

~~(c) Until June 30, 2006, an entity that sponsored more than seventy five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy five schools.~~

~~Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.~~

~~The limit imposed on an entity to which division (B)(1) of this section~~

~~applies shall be decreased by one for each school sponsored by the entity that permanently closes.~~

~~If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code.~~

(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of that division. Such determination of the department is final.

(3) The department of education shall determine, pursuant to criteria adopted by rule of the department, if any tax-exempt entity under section 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such determination of the department is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship under division (C) of this section, may be appealed by the entity

in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules.

Sec. 3314.016. This section applies to any entity that sponsors a community school, regardless of whether section 3314.021 or 3314.027 of the Revised Code exempts the entity from the requirement to be approved for sponsorship under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code.

(A) An entity that sponsors a community school shall be permitted to enter into contracts under section 3314.03 of the Revised Code to sponsor additional community schools only if the entity meets both of the following criteria:

(1) The entity is in compliance with all provisions of this chapter requiring sponsors of community schools to report data or information to the department of education.

(2) The entity is not ranked in the lowest twenty per cent of community school sponsors on the ranking prescribed by division (B) of this section.

(B) For purposes of this section, the department shall develop a composite performance index score, as defined in section 3302.01 of the Revised Code, that measures the academic performance of students enrolled in community schools sponsored by the same entity. In calculating the composite performance index score, the department shall exclude all community schools described in division (A)(3) of section 3314.35 of the Revised Code, but the department shall cease to exclude those schools beginning January 1, 2013, if the general assembly does not enact by that date separate performance standards for community schools that operate dropout prevention and recovery programs and for community schools that serve students with disabilities. The department annually shall rank all entities that sponsor community schools from highest to lowest according to the entities' composite performance index scores.

(C) If the governing authority of a community school enters into a contract with a sponsor prior to the date on which the sponsor is prohibited from sponsoring additional schools under division (A) of this section and the

school has not opened for operation as of that date, that contract shall be void and the school shall not open until the governing authority secures a new sponsor by entering into a contract with the new sponsor under section 3314.03 of the Revised Code.

Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;

(c) A big eight school district;

(d) A school district ranked in the lowest five per cent of school districts according to performance index score under section 3302.21 of the Revised Code.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school or educational service center building, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom

instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities.

(8) "Operator" means either of the following:

(a) An individual or organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority;

(b) A nonprofit organization that provides programmatic oversight and support to a community school under a contract with the school's governing authority and that retains the right to terminate its affiliation with the school if the school fails to meet the organization's quality standards.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school or a building operated by an educational service center to a community school. The proposal shall be made to the board of education of the city, local, exempted village, or joint vocational school district in which the public school is proposed to be converted or, in the case of the conversion of a building operated by an educational service center, to the governing board of the service center. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school or service center building, indicating the intention of the board to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in

which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center, as long as the proposed school will be located in a county within the territory of the service center or in a county contiguous to such county;

(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars and a demonstrated record of financial responsibility.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code and the entity has a demonstrated record of successful implementation of educational programs.

(iv) The entity is not a community school.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of

academic watch under section 3302.03 of the Revised Code or ranked in the lowest five per cent according to performance index score under section 3302.21 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch or ranked in the lowest five per cent according to performance index score, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school or educational service center building to a community school or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall notify the department of education when the contract has been signed. Subject to sections 3314.013, ~~3314.014~~, and 3314.016, ~~and 3314.017~~ of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E)(1) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals.

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(2) No person shall serve on the governing authorities of more than two start-up community schools at the same time.

(3) No present or former member, or immediate relative of a present or former member, of the governing authority of any community school established under this chapter shall be an owner, employee, or consultant of any ~~nonprofit sponsor~~ or ~~for-profit~~ operator of a community school, unless at least one year has elapsed since the conclusion of the person's membership.

(4) The governing authority of a start-up community school may

provide by resolution for the compensation of its members. However, no individual who serves on the governing authority of a start-up community school shall be compensated more than four hundred twenty-five dollars per meeting of that governing authority and no such individual shall be compensated more than a total amount of five thousand dollars per year for all governing authorities upon which the individual serves.

(F)(1) A new start-up school that is established prior to August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after that date and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after that date, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district.

(3) Any educational service center that, on June 30, 2007, sponsors a community school that is not located in a county within the territory of the service center or in a county contiguous to such county may continue to sponsor that community school on and after June 30, 2007, and may renew its contract with the school. However, the educational service center shall not enter into a contract with any additional community school unless the school is located in a county within the territory of the service center or in a county contiguous to such county.

Sec. 3314.021. (A) This section applies to any entity that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code and that satisfies the conditions specified in divisions (C)(1)(f)(ii) and (iii) of section 3314.02 of the Revised Code but does not satisfy the condition specified in division (C)(1)(f)(i) of that section.

(B) Notwithstanding division (C)(1)(f)(i) of section 3314.02 of the Revised Code, an entity described in division (A) of this section may do both of the following without obtaining the department of education's initial approval of its sponsorship under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code:

(1) Succeed the board of trustees of a state university located in the pilot

project area or that board's designee as the sponsor of a community school established under this chapter;

(2) Continue to sponsor that school in conformance with the terms of the contract between the board of trustees or its designee and the governing authority of the community school and renew that contract as provided in division (E) of section 3314.03 of the Revised Code.

(C) The entity that succeeds the board of trustees or the board's designee as sponsor of a community school under division (B) of this section also may enter into contracts to sponsor other community schools located in any challenged school district, without obtaining the department's initial approval of its sponsorship of those schools under divisions (A)(2) and (B)(1) of section 3314.015 of the Revised Code, ~~and not subject to the restriction of division (A)(7) of section 3314.013 of the Revised Code~~, as long as the contracts conform with and the entity complies with all other requirements of this chapter.

(D) Regardless of the entity's authority to sponsor community schools without the initial approval of the department, the entity is under the continuing oversight of the department in accordance with rules adopted under section 3314.015 of the Revised Code.

Sec. 3314.023. In order to provide monitoring and technical assistance, ~~the sponsor of a community school shall be located or have representatives located within fifty miles of the location of the community school, or in the case of an internet or computer based community school, within fifty miles of the school's base of operation. A~~ a representative of the sponsor of a community school shall meet with the governing authority or treasurer of the school and shall review the financial and enrollment records of the school at least once every two months month.

Sec. 3314.029. This section establishes the Ohio school sponsorship program. The department of education shall establish an office of Ohio school sponsorship to perform the department's duties prescribed by this section.

(A)(1) Notwithstanding anything to the contrary in this chapter, but subject to section 3314.20 of the Revised Code, any person, group of individuals, or entity may apply to the department for direct authorization to establish a community school and, upon approval of the application, may establish the school. Notwithstanding anything to the contrary in this chapter, the governing authority of an existing community school, upon the expiration or termination of its contract with the school's sponsor entered into under section 3314.03 of the Revised Code, may apply to the department for direct authorization to continue operating the school and,

upon approval of the application, may continue to operate the school.

Each application submitted to the department shall include the following:

(a) Evidence that the applicant will be able to comply with division (C) of this section;

(b) A statement indicating that the applicant agrees to comply with all applicable provisions of this chapter, including the requirement to be established as a nonprofit corporation or public benefit corporation in accordance with division (A)(1) of section 3314.03 of the Revised Code;

(c) A statement attesting that no unresolved finding of recovery has been issued by the auditor of state against any person, group of individuals, or entity that is a party to the application and that no person who is party to the application has been a member of the governing authority of any community school that has permanently closed and against which an unresolved finding of recovery has been issued by the auditor of state. In the case of an application submitted by the governing authority of an existing community school, a person who is party to the application shall include each individual member of that governing authority.

(d) A statement that the school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(e) A statement of whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school. If it is a converted public school or service center building, the statement shall include a specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees, provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees.

(f) A statement that the school's teachers will be licensed in the manner prescribed by division (A)(10) of section 3314.03 of the Revised Code;

(g) A statement that the school will comply with all of the provisions of law enumerated in divisions (A)(11)(d) and (e) of section 3314.03 of the Revised Code and of division (A)(11)(h) of that section, if applicable;

(h) A statement that the school's graduation and curriculum requirements will comply with division (A)(11)(f) of section 3314.03 of the Revised Code;

(i) A description of each of the following:

(i) The school's mission and educational program, the characteristics of the students the school is expected to attract, the ages and grade levels of students, and the focus of the curriculum;

(ii) The school's governing authority, which shall be in compliance with division (E) of section 3314.02 of the Revised Code;

(iii) The school's admission and dismissal policies, which shall be in compliance with divisions (A)(5) and (6) of section 3314.03 of the Revised Code;

(iv) The school's business plan, including a five-year financial forecast;

(v) In the case of an application to establish a community school, the applicant's resources and capacity to establish and operate the school;

(vi) The school's academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(vii) The facilities to be used by the school and their locations;

(viii) A description of the learning opportunities that will be offered to students including both classroom-based and nonclassroom-based learning opportunities that are in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code.

(2) Subject to division (A)(3) of this section, the department shall approve each application, unless, within thirty days after receipt of the application, the department determines that the application does not satisfy the requirements of division (A)(1) of this section and provides the applicant a written explanation of the reasons for the determination. In that case, the department shall grant the applicant thirty days to correct the insufficiencies in the application. If the department determines that the insufficiencies have been corrected, it shall approve the application. If the department determines that the insufficiencies have not been corrected, it shall deny the application and provide the applicant with a written explanation of the reasons for the denial. The denial of an application may be appealed in accordance with section 119.12 of the Revised Code.

(3) For each of five school years, beginning with the school year that begins in the calendar year in which this section takes effect, the department may approve up to twenty applications for community schools to be established or to continue operation under division (A) of this section; however, of the twenty applications that may be approved each school year, only up to five may be for the establishment of new schools.

(B) The department and the governing authority of each community school authorized under this section shall enter into a contract under section

3314.03 of the Revised Code. Notwithstanding division (A)(13) of that section, the contract with an existing community school may begin at any time during the academic year. The length of the initial contract of any community school under this section may be for any term up to five years. The contract may be renewed in accordance with division (E) of that section. The contract may provide for the school's governing authority to pay a fee for oversight and monitoring of the school that does not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(C) The department may require a community school authorized under this section to post and file with the superintendent of public instruction a bond payable to the state or to file with the state superintendent a guarantee, which shall be used to pay the state any moneys owed by the community school in the event the school closes.

(D) Except as otherwise provided in this section, a community school authorized under this section shall comply with all applicable provisions of this chapter. The department may take any action that a sponsor may take under this chapter to enforce the school's compliance with this division and the terms of the contract entered into under division (B) of this section.

(E) Not later than December 31, 2012, and annually thereafter, the department shall issue a report on the program, including information about the number of community schools participating in the program and their compliance with the provisions of this chapter. In its fifth report, the department shall include a complete evaluation of the program and recommendations regarding the program's continuation. Each report shall be provided to the general assembly, in accordance with section 101.68 of the Revised Code, and to the governor.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003.

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement

that will be used to determine progress toward those goals, which shall include the statewide achievement assessments;

(4) Performance standards by which the success of the school will be evaluated by the sponsor;

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state. Audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including the following:

(a) A requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(b) A requirement that each classroom teacher initially hired by the school on or after July 1, 2013, and employed to provide instruction in physical education hold a valid license issued pursuant to section 3319.22 of the Revised Code for teaching physical education.

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year.

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school.

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution.

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712,

3301.0715, 3313.472, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.814, 3313.816, ~~3314.817~~ 3313.817, 3313.86, 3313.96, 3319.073, 3319.321, 3319.39, 3319.391, 3319.41, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code.

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code.

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that for students who enter ninth grade for the first time before July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education. Beginning with students who enter ninth grade for the first time on or after July 1, 2010, the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum of a high school prior to receiving a high school diploma shall be met by completing the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code, unless the person qualifies under division (D) or (F) of that section. Each school shall comply with the plan for awarding high school credit based on demonstration of subject area competency, adopted by the state board of education under division (J) of section 3313.603 of the Revised Code.

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with ~~sections 3313.674 and~~ section 3313.801 of the Revised Code as if it were a school district.

(i) If the school is the recipient of moneys from a grant awarded under

the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the school will pay teachers based upon performance in accordance with section 3317.141 and will comply with section 3319.111 of the Revised Code as if it were a school district.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or educational service center building or is to be a new start-up school, and if it is a converted public school or service center building, specification of any duties or responsibilities of an employer that the board of education or service center governing board that operated the school or building before conversion is delegating to the governing authority of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code

and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section 3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of section 3302.04 of the Revised Code.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02

of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school or educational service center building, alternative arrangements for current public school students who choose not to attend the converted school and for teachers who choose not to teach in the school or building after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or

terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code. ~~Any contract that becomes void under this division shall not count toward any statewide limit on the number of such contracts prescribed by section 3314.013 of the Revised Code.~~

Sec. 3314.05. (A) The contract between the community school and the sponsor shall specify the facilities to be used for the community school and the method of acquisition. Except as provided in ~~division~~ divisions (B)(3) and (4) of this section, no community school shall be established in more than one school district under the same contract.

(B) Division (B) of this section shall not apply to internet- or computer-based community schools.

(1) A community school may be located in multiple facilities under the same contract only if the limitations on availability of space prohibit serving all the grade levels specified in the contract in a single facility or division (B)(2) ~~or~~ (3), or (4) of this section applies to the school. The school shall not offer the same grade level classrooms in more than one facility.

(2) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as all of the following apply:

(a) The governing authority of the community school filed a copy of its contract with the school's sponsor under section 3314.03 of the Revised Code with the superintendent of public instruction on or before May 15, 2008.

(b) The school was not open for operation prior to July 1, 2008.

(c) The governing authority has entered into and maintains a contract with an operator of the type described in division (A)~~(2)~~(8)(b) of section ~~3314.014~~ 3314.02 of the Revised Code.

(d) The contract with that operator qualified the school to be established pursuant to division (A) of former section 3314.016 of the Revised Code.

(e) The school's rating under section 3302.03 of the Revised Code does not fall below "in need of continuous improvement" for two or more consecutive years.

(3) A new start-up community school may be established in two school districts under the same contract if all of the following apply:

(a) At least one of the school districts in which the school is established is a challenged school district;

(b) The school operates not more than one facility in each school district and, in accordance with division (B)(1) of this section, the school does not offer the same grade level classrooms in both facilities; and

(c) Transportation between the two facilities does not require more than thirty minutes of direct travel time as measured by school bus.

In the case of a community school to which division (B)(3) of this section applies, if only one of the school districts in which the school is established is a challenged school district, that district shall be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter. If both of the school districts in which the school is established are challenged school districts, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of those divisions and all other purposes of this chapter and shall notify the department of education of that designation.

(4) A community school may be located in multiple facilities under the same contract and, notwithstanding division (B)(1) of this section, may assign students in the same grade level to multiple facilities, as long as both of the following apply:

(a) The facilities are all located in the same county.

(b) The governing authority has entered into and maintains a contract

with an operator.

In the case of a community school to which division (B)(4) of this section applies and that maintains facilities in more than one school district, the school's governing authority shall designate one of those districts to be considered the school's primary location and the district in which the school is located for the purposes of division (A)(19) of section 3314.03 and divisions (C) and (H) of section 3314.06 of the Revised Code and for all other purposes of this chapter and shall notify the department of that designation.

(5) Any facility used for a community school shall meet all health and safety standards established by law for school buildings.

(C) In the case where a community school is proposed to be located in a facility owned by a school district or educational service center, the facility may not be used for such community school unless the district or service center board owning the facility enters into an agreement for the community school to utilize the facility. Use of the facility may be under any terms and conditions agreed to by the district or service center board and the school.

(D) Two or more separate community schools may be located in the same facility.

(E) In the case of a community school that is located in multiple facilities, beginning July 1, 2012, the department shall assign a unique identification number to the school and to each facility maintained by the school. Each number shall be used for identification purposes only. Nothing in this division shall be construed to require the department to calculate the amount of funds paid under this chapter, or to compute any data required for the report cards issued under section 3314.012 of the Revised Code, for each facility separately. The department shall make all such calculations or computations for the school as a whole.

Sec. 3314.051. (A) When the governing authority of a community school that acquired real property from a school district pursuant to former division (G)(2) of section 3313.41 of the Revised Code decides to dispose of that property, it first shall offer that property for sale to the school district board of education from which it acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the community school may dispose of the property in another lawful manner.

(B) When a community school that acquired real property from a school district pursuant to former division (G)(2) of section 3313.41 of the Revised Code permanently closes, in distributing the school's assets under section 3314.074 of the Revised Code, that property first shall be offered for sale to

the school district board of education from which the community school acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the property may be disposed in another lawful manner.

Sec. 3314.07. (A) The expiration of the contract for a community school between a sponsor and a school shall be the date provided in the contract. A successor contract may be entered into pursuant to division (E) of section 3314.03 of the Revised Code unless the contract is terminated or not renewed pursuant to this section.

(B)(1) A sponsor may choose not to renew a contract at its expiration or may choose to terminate a contract prior to its expiration for any of the following reasons:

(a) Failure to meet student performance requirements stated in the contract;

(b) Failure to meet generally accepted standards of fiscal management;

(c) Violation of any provision of the contract or applicable state or federal law;

(d) Other good cause.

(2) A sponsor may choose to terminate a contract prior to its expiration if the sponsor has suspended the operation of the contract under section 3314.072 of the Revised Code.

(3) ~~At least ninety days prior to the termination or nonrenewal of a~~ Not later than the first day of February in the year in which the sponsor intends to terminate or take actions not to renew the community school's contract, the sponsor shall notify the school of the proposed action in writing. The notice shall include the reasons for the proposed action in detail, the effective date of the termination or nonrenewal, and a statement that the school may, within fourteen days of receiving the notice, request an informal hearing before the sponsor. Such request must be in writing. The informal hearing shall be held within ~~seventy~~ fourteen days of the receipt of a request for the hearing. ~~Promptly following~~ Not later than fourteen days after the informal hearing, the sponsor shall issue a written decision either affirming or rescinding the decision to terminate or not renew the contract.

(4) A decision by the sponsor to terminate a contract may be appealed to the state board of education. The notice of appeal shall be filed with the state board not later than fourteen days following receipt of the sponsor's written decision to terminate the contract. Within sixty days of receipt of the notice of appeal, the state board shall conduct a hearing and issue a written decision on the appeal. The written decision of the state board shall include

the reasons for affirming or rescinding the decision of the sponsor. The decision by the state board pertaining to an appeal under this division is final. If the sponsor is the state board, its decision to terminate a contract under division (B)(3) of this section shall be final.

(5) The termination of a contract under this section shall be effective upon the occurrence of the later of the following events:

(a) ~~Ninety days following the~~ The date the sponsor notifies the school of its decision to terminate the contract as prescribed in division (B)(3) of this section;

(b) If an informal hearing is requested under division (B)(3) of this section and as a result of that hearing the sponsor affirms its decision to terminate the contract, the effective date of the termination specified in the notice issued under division (B)(3) of this section, or if that decision is appealed to the state board under division (B)(4) of this section and the state board affirms that decision, the date established in the resolution of the state board affirming the sponsor's decision.

(6) Any community school whose contract is terminated under division (B) of this section shall close permanently at the end of the current school year or on a date specified in the notification of termination under (B)(3) of this section. Any community school whose contract is terminated under this division shall not enter into a contract with any other sponsor.

(C) A child attending a community school whose contract has been terminated, nonrenewed, or suspended or that closes for any reason shall be admitted to the schools of the district in which the child is entitled to attend under section 3313.64 or 3313.65 of the Revised Code. Any deadlines established for the purpose of admitting students under section 3313.97 or 3313.98 of the Revised Code shall be waived for students to whom this division pertains.

(D) If a community school does not intend to renew a contract with its sponsor, the community school shall notify its sponsor in writing of that fact at least one hundred eighty days prior to the expiration of the contract. Such a community school may enter into a contract with a new sponsor in accordance with section 3314.03 of the Revised Code upon the expiration of the previous contract.

(E) A sponsor of a community school and the officers, directors, or employees of such a sponsor are immune from civil liability for any action authorized under this chapter or the contract entered into with the school under section 3314.03 of the Revised Code that is taken to fulfill the sponsor's responsibility to oversee and monitor the school. The sponsor and its officers, directors, or employees are not liable in damages in a tort or

other civil action for harm allegedly arising from either of the following:

(1) A failure of the community school or any of its officers, directors, or employees to perform any statutory or common law duty or responsibility or any other legal obligation;

(2) An action or omission of the community school or any of its officers, directors, or employees that results in harm.

(F) As used in this section:

(1) "Harm" means injury, death, or loss to person or property.

(2) "Tort action" means a civil action for damages for injury, death, or loss to person or property other than a civil action for damages for a breach of contract or another agreement between persons.

Sec. 3314.08. The deductions under division (C) and the payments under division (D) of this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "Base formula amount" means the amount specified as such in a community school's financial plan for a school year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(2) "IEP" has the same meaning as in section 3323.01 of the Revised Code.

(3) "Applicable special education weight" means the multiple specified in section 3317.013 of the Revised Code for a disability described in that section.

(4) "Applicable vocational education weight" means:

(a) For a student enrolled in vocational education programs or classes described in division (A) of section 3317.014 of the Revised Code, the multiple specified in that division;

(b) For a student enrolled in vocational education programs or classes described in division (B) of section 3317.014 of the Revised Code, the multiple specified in that division.

(5) "Entitled to attend school" means entitled to attend school in a district under section 3313.64 or 3313.65 of the Revised Code.

(6) A community school student is "included in the poverty student count" of a school district if the student is entitled to attend school in the district and the student's family receives assistance under the Ohio works first program.

(7) "Poverty-based assistance reduction factor" means the percentage figure, if any, for reducing the per pupil amount of poverty-based assistance a community school is entitled to receive pursuant to divisions (D)(5) to (9) of this section in any year, as specified in the school's financial plan for the

year pursuant to division (A)(15) of section 3314.03 of the Revised Code.

(8) "All-day kindergarten" has the same meaning as in section ~~3317.029~~ 3321.05 of the Revised Code.

(9) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

(B) The state board of education shall adopt rules requiring both of the following:

(1) The board of education of each city, exempted village, and local school district to annually report the number of students entitled to attend school in the district who are enrolled in grades one through twelve in a community school established under this chapter, the number of students entitled to attend school in the district who are enrolled in kindergarten in a community school, the number of those kindergartners who are enrolled in all-day kindergarten in their community school, and for each child, the community school in which the child is enrolled.

(2) The governing authority of each community school established under this chapter to annually report all of the following:

(a) The number of students enrolled in grades one through twelve and the number of students enrolled in kindergarten in the school who are not receiving special education and related services pursuant to an IEP;

(b) The number of enrolled students in grades one through twelve and the number of enrolled students in kindergarten, who are receiving special education and related services pursuant to an IEP;

(c) The number of students reported under division (B)(2)(b) of this section receiving special education and related services pursuant to an IEP for a disability described in each of divisions (A) to (F) of section 3317.013 of the Revised Code;

(d) The full-time equivalent number of students reported under divisions (B)(2)(a) and (b) of this section who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code that are provided by the community school;

(e) Twenty per cent of the number of students reported under divisions (B)(2)(a) and (b) of this section who are not reported under division (B)(2)(d) of this section but who are enrolled in vocational education programs or classes described in each of divisions (A) and (B) of section 3317.014 of the Revised Code at a joint vocational school district under a contract between the community school and the joint vocational school district and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational school district;

(f) The number of enrolled preschool children with disabilities receiving special education services in a state-funded unit;

(g) The community school's base formula amount;

(h) For each student, the city, exempted village, or local school district in which the student is entitled to attend school;

(i) Any poverty-based assistance reduction factor that applies to a school year.

(C) From the state education aid calculated for a city, exempted village, or local school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code, the department of education shall annually subtract the sum of the amounts described in divisions (C)(1) to (9) of this section. However, when deducting payments on behalf of students enrolled in internet- or computer-based community schools, the department shall deduct only those amounts described in divisions (C)(1) and (2) of this section. Furthermore, the aggregate amount deducted under this division shall not exceed the sum of the district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code.

(1) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students reported under divisions (B)(2)(a), (b), and (e) of this section who are enrolled in grades one through twelve, and one-half the number of students reported under those divisions who are enrolled in kindergarten, in that community school is multiplied by the sum of the base formula amount of that community school 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.

(2) The sum of the amounts calculated under divisions (C)(2)(a) and (b) of this section:

(a) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in a community school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the product of the applicable special education weight times the community school's base formula amount;

(b) For each of the district's students reported under division (B)(2)(c) of this section as enrolled in kindergarten in a community school and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated as prescribed in division (C)(2)(a) of this section.

(3) For each of the district's students reported under division (B)(2)(d) of this section for whom payment is made under division (D)(4) of this section, the amount of that payment;

(4) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the number of the district's students enrolled in that community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance the school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school. The per pupil amount of that aid for the district shall be calculated by the department.

(5) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code is the quotient of the amount the district received under that division divided by the district's kindergarten through third grade ADM, as defined in that section.

(6) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the number of the district's students enrolled in the community school who are identified as limited-English proficient.

(7) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per

pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code is the district's amount per teacher calculated under division (G)(1) or (2) of that section divided by 17.

(8) An amount equal to the sum of the amounts obtained when, for each community school where the district's students are enrolled, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of that community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code is the amount calculated under each division divided by the district's formula ADM, as defined in section 3317.02 of the Revised Code.

(9) An amount equal to the per pupil state parity aid funding calculated for the school district under either division (C) or (D) of section 3317.0217 of the Revised Code multiplied by the sum of the number of students in grades one through twelve, and one-half of the number of students in kindergarten, who are entitled to attend school in the district and are enrolled in a community school as reported under division (B)(1) of this section.

(D) The department shall annually pay to a community school established under this chapter the sum of the amounts described in divisions (D)(1) to (10) of this section. However, the department shall calculate and pay to each internet- or computer-based community school only the amounts described in divisions (D)(1) to (3) of this section. Furthermore, the sum of the payments to all community schools under divisions (D)(1), (2), and (4) to (10) of this section for the students entitled to attend school in any particular school district shall not exceed the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code. If the sum of the payments calculated under those divisions

for the students entitled to attend school in a particular school district exceeds the sum of that district's state education aid and its payment under sections 321.24 and 323.156 of the Revised Code, the department shall calculate and apply a proration factor to the payments to all community schools under those divisions for the students entitled to attend school in that district.

(1) ~~Subject to section 3314.085 of the Revised Code, an~~ An amount equal to the sum of the amounts obtained when the number of students enrolled in grades one through twelve, plus one-half of the kindergarten students in the school, reported under divisions (B)(2)(a), (b), and (e) of this section who are not receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code is multiplied by the sum of the community school's base formula amount 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.

(2) ~~Prior to fiscal year 2007, the greater of the amount calculated under division (D)(2)(a) or (b) of this section, and in fiscal year 2007 and thereafter, the amount calculated under division (D)(2)(b) of this section:~~

(a) ~~The aggregate amount that the department paid to the community school in fiscal year 1999 for students receiving special education and related services pursuant to IEPs, excluding federal funds and state disadvantaged pupil impact aid funds;~~

(b) ~~The sum of the following amounts calculated under divisions (D)(2)(b)(i) and (ii) of this section:~~

(i)(a) ~~For each student reported under division (B)(2)(c) of this section as enrolled in the school in grades one through twelve and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, the following amount:~~

(the school's base formula amount 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 applicable special education weight X the
community school's base formula amount);

(ii)(b) ~~For each student reported under division (B)(2)(c) of this section as enrolled in kindergarten and receiving special education and related services pursuant to an IEP for a disability described in section 3317.013 of the Revised Code, one-half of the amount calculated under the formula prescribed in division (D)(2)(b)(i)(a) of this section.~~

(3) An amount received from federal funds to provide special education and related services to students in the community school, as determined by

the superintendent of public instruction.

(4) For each student reported under division (B)(2)(d) of this section as enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the community school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, an amount equal to the applicable vocational education weight times the community school's base formula amount times the percentage of time the student spends in the vocational education programs or classes.

(5) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the number of that district's students enrolled in the community school who are included in the district's poverty student count is multiplied by the per pupil amount of poverty-based assistance that school district receives that year pursuant to division (C) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school. The per pupil amount of aid shall be determined as described in division (C)(4) of this section.

(6) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of aid received under division (E) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students reported under division (B)(2)(a) of this section who are enrolled in grades one to three in that community school and who are not receiving special education and related services pursuant to an IEP;

(b) One-half of the district's students who are enrolled in all-day or any other kindergarten class in that community school and who are not receiving special education and related services pursuant to an IEP;

(c) One-half of the district's students who are enrolled in all-day kindergarten in that community school and who are not receiving special education and related services pursuant to an IEP.

The district's per pupil amount of aid under division (E) of section 3317.029 of the Revised Code shall be determined as described in division (C)(5) of this section.

(7) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend

school, the number of that district's students enrolled in the community school who are identified as limited-English proficient is multiplied by the district's per pupil amount received under division (F) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school.

(8) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under division (G) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under division (G) of section 3317.029 of the Revised Code shall be determined as described in division (C)(7) of this section.

(9) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount received under divisions (H) and (I) of section 3317.029 of the Revised Code, as adjusted by any poverty-based assistance reduction factor of the community school, is multiplied by the sum of the following:

(a) The number of the district's students enrolled in grades one through twelve in that community school;

(b) One-half of the number of the district's students enrolled in kindergarten in that community school.

The district's per pupil amount under divisions (H) and (I) of section 3317.029 of the Revised Code shall be determined as described in division (C)(8) of this section.

(10) An amount equal to the sum of the amounts obtained when, for each school district where the community school's students are entitled to attend school, the district's per pupil amount of state parity aid funding calculated under either division (C) or (D) of section 3317.0217 of the Revised Code is multiplied by the sum of the number of that district's students enrolled in grades one through twelve, and one-half of the number of that district's students enrolled in kindergarten, in the community school as reported under ~~division~~ divisions (B)(2)(a) and (b) of this section.

(E)(1) If a community school's costs for a fiscal year for a student

receiving special education and related services pursuant to an IEP for a disability described in divisions (B) to (F) of section 3317.013 of the Revised Code exceed the threshold catastrophic cost for serving the student as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the school may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the community school an amount equal to the school's costs for the student in excess of the threshold catastrophic costs.

(2) The community school shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) A community school may apply to the department of education for preschool children with disabilities ~~or gifted~~ unit funding the school would receive if it were a school district. Upon request of its governing authority, a community school that received such unit funding as a school district-operated school before it became a community school shall retain any units awarded to it as a school district-operated school provided the school continues to meet eligibility standards for the unit.

A community school shall be considered a school district and its governing authority shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district may receive under federal or state law or any appropriations act of the general assembly. The governing authority of a community school may apply to any private entity for additional funds.

(G) A board of education sponsoring a community school may utilize local funds to make enhancement grants to the school or may agree, either as part of the contract or separately, to provide any specific services to the community school at no cost to the school.

(H) A community school may not levy taxes or issue bonds secured by tax revenues.

(I) No community school shall charge tuition for the enrollment of any student.

(J)(1)(a) A community school may borrow money to pay any necessary and actual expenses of the school in anticipation of the receipt of any portion of the payments to be received by the school pursuant to division

(D) of this section. The school may issue notes to evidence such borrowing. The proceeds of the notes shall be used only for the purposes for which the anticipated receipts may be lawfully expended by the school.

(b) A school may also borrow money for a term not to exceed fifteen years for the purpose of acquiring facilities.

(2) Except for any amount guaranteed under section 3318.50 of the Revised Code, the state is not liable for debt incurred by the governing authority of a community school.

(K) For purposes of determining the number of students for which divisions (D)(5) and (6) of this section applies in any school year, a community school may submit to the department of job and family services, no later than the first day of March, a list of the students enrolled in the school. For each student on the list, the community school shall indicate the student's name, address, and date of birth and the school district where the student is entitled to attend school. Upon receipt of a list under this division, the department of job and family services shall determine, for each school district where one or more students on the list is entitled to attend school, the number of students residing in that school district who were included in the department's report under section 3317.10 of the Revised Code. The department shall make this determination on the basis of information readily available to it. Upon making this determination and no later than ninety days after submission of the list by the community school, the department shall report to the state department of education the number of students on the list who reside in each school district who were included in the department's report under section 3317.10 of the Revised Code. In complying with this division, the department of job and family services shall not report to the state department of education any personally identifiable information on any student.

(L) The department of education shall adjust the amounts subtracted and paid under divisions (C) and (D) of this section to reflect any enrollment of students in community schools for less than the equivalent of a full school year. The state board of education within ninety days after April 8, 2003, shall adopt in accordance with Chapter 119. of the Revised Code rules governing the payments to community schools under this section and section 3314.13 of the Revised Code including initial payments in a school year and adjustments and reductions made in subsequent periodic payments to community schools and corresponding deductions from school district accounts as provided under divisions (C) and (D) of this section and section 3314.13 of the Revised Code. For purposes of this section and section 3314.13 of the Revised Code:

(1) A student shall be considered enrolled in the community school for any portion of the school year the student is participating at a college under Chapter 3365. of the Revised Code.

(2) A student shall be considered to be enrolled in a community school ~~during a school year~~ for the period of time beginning on the later of the date on which the school both has received documentation of the student's enrollment from a parent and the student has commenced participation in learning opportunities as defined in the contract with the sponsor, or thirty days prior to the date on which the student is entered into the education management information system established under section 3301.0714 of the Revised Code. For purposes of applying this division and divisions (L)(3) and (4) of this section to a community school student, "learning opportunities" shall be defined in the contract, which shall describe both classroom-based and non-classroom-based learning opportunities and shall be in compliance with criteria and documentation requirements for student participation which shall be established by the department. Any student's instruction time in non-classroom-based learning opportunities shall be certified by an employee of the community school. A student's enrollment shall be considered to cease on the date on which any of the following occur:

(a) The community school receives documentation from a parent terminating enrollment of the student.

(b) The community school is provided documentation of a student's enrollment in another public or private school.

(c) The community school ceases to offer learning opportunities to the student pursuant to the terms of the contract with the sponsor or the operation of any provision of this chapter.

Except as otherwise specified in this paragraph, beginning in the 2011-2012 school year, any student who completed the prior school year in an internet- or computer-based community school shall be considered to be enrolled in the same school in the subsequent school year until the student's enrollment has ceased as specified in division (L)(2) of this section. The department shall continue subtracting and paying amounts for the student under divisions (C) and (D) of this section without interruption at the start of the subsequent school year. However, if the student without a legitimate excuse fails to participate in the first one hundred five consecutive hours of learning opportunities offered to the student in that subsequent school year, the student shall be considered not to have re-enrolled in the school for that school year and the department shall recalculate the payments to the school for that school year to account for the fact that the student is not enrolled.

(3) The department shall determine each community school student's percentage of full-time equivalency based on the percentage of learning opportunities offered by the community school to that student, reported either as number of hours or number of days, is of the total learning opportunities offered by the community school to a student who attends for the school's entire school year. However, no internet- or computer-based community school shall be credited for any time a student spends participating in learning opportunities beyond ten hours within any period of twenty-four consecutive hours. Whether it reports hours or days of learning opportunities, each community school shall offer not less than nine hundred twenty hours of learning opportunities during the school year.

(4) With respect to the calculation of full-time equivalency under division (L)(3) of this section, the department shall waive the number of hours or days of learning opportunities not offered to a student because the community school was closed during the school year due to disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, so long as the school was actually open for instruction with students in attendance during that school year for not less than the minimum number of hours required by this chapter. The department shall treat the school as if it were open for instruction with students in attendance during the hours or days waived under this division.

(M) The department of education shall reduce the amounts paid under division (D) of this section to reflect payments made to colleges under division (B) of section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 of the Revised Code.

(N)(1) No student shall be considered enrolled in any internet- or computer-based community school or, if applicable to the student, in any community school that is required to provide the student with a computer pursuant to division (C) of section 3314.22 of the Revised Code, unless both of the following conditions are satisfied:

(a) The student possesses or has been provided with all required hardware and software materials and all such materials are operational so that the student is capable of fully participating in the learning opportunities specified in the contract between the school and the school's sponsor as required by division (A)(23) of section 3314.03 of the Revised Code;

(b) The school is in compliance with division (A) of section 3314.22 of the Revised Code, relative to such student.

(2) In accordance with policies adopted jointly by the superintendent of public instruction and the auditor of state, the department shall reduce the amounts otherwise payable under division (D) of this section to any community school that includes in its program the provision of computer hardware and software materials to any student, if such hardware and software materials have not been delivered, installed, and activated for each such student in a timely manner or other educational materials or services have not been provided according to the contract between the individual community school and its sponsor.

The superintendent of public instruction and the auditor of state shall jointly establish a method for auditing any community school to which this division pertains to ensure compliance with this section.

The superintendent, auditor of state, and the governor shall jointly make recommendations to the general assembly for legislative changes that may be required to assure fiscal and academic accountability for such schools.

(O)(1) If the department determines that a review of a community school's enrollment is necessary, such review shall be completed and written notice of the findings shall be provided to the governing authority of the community school and its sponsor within ninety days of the end of the community school's fiscal year, unless extended for a period not to exceed thirty additional days for one of the following reasons:

(a) The department and the community school mutually agree to the extension.

(b) Delays in data submission caused by either a community school or its sponsor.

(2) If the review results in a finding that additional funding is owed to the school, such payment shall be made within thirty days of the written notice. If the review results in a finding that the community school owes moneys to the state, the following procedure shall apply:

(a) Within ten business days of the receipt of the notice of findings, the community school may appeal the department's determination to the state board of education or its designee.

(b) The board or its designee shall conduct an informal hearing on the matter within thirty days of receipt of such an appeal and shall issue a decision within fifteen days of the conclusion of the hearing.

(c) If the board has enlisted a designee to conduct the hearing, the designee shall certify its decision to the board. The board may accept the decision of the designee or may reject the decision of the designee and issue its own decision on the matter.

(d) Any decision made by the board under this division is final.

(3) If it is decided that the community school owes moneys to the state, the department shall deduct such amount from the school's future payments in accordance with guidelines issued by the superintendent of public instruction.

(P) The department shall not subtract from a school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for any of the following:

(1) Any student who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any student who is not a resident of the state;

(3) Any student who was enrolled in the community school during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section, unless the superintendent of public instruction grants the student a waiver from the requirement to take the assessment and a parent is not paying tuition for the student pursuant to section 3314.26 of the Revised Code. The superintendent may grant a waiver only for good cause in accordance with rules adopted by the state board of education.

(4) Any student who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for enrollment in a community school not later than four years after termination of war or their honorable discharge. If, however, any such veteran elects to enroll in special courses organized for veterans for whom tuition is paid under federal law, or otherwise, the department shall not subtract from a school district's state aid account under division (C) of this section and shall not pay to a community school under division (D) of this section any amount for that veteran.

Sec. 3314.087. (A) As used in this section:

(1) "Career-technical program" means vocational programs or classes described in division (A) or (B) of section 3317.014 of the Revised Code in which a student is enrolled.

(2) "Formula ADM," "category one or two vocational education ADM," and "FTE basis" have the same meanings as in section 3317.02 of the Revised Code.

(3) "Resident school district" means the city, exempted village, or local

school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(B) Notwithstanding anything to the contrary in this chapter or Chapter ~~3306.~~ or 3317. of the Revised Code, a student enrolled in a community school may simultaneously enroll in the career-technical program operated by the student's resident school district. On an FTE basis, the student's resident school district shall count the student in the category one or two vocational education ADM for the proportion of the time the student is enrolled in the district's career-technical program and, accordingly, the department of education shall calculate funds under ~~Chapters 3306. and~~ Chapter 3317. for the district attributable to the student for the proportion of time the student attends the career-technical program. The community school shall count the student in its enrollment report under section 3314.08 of the Revised Code and shall report to the department the proportion of time that the student attends classes at the community school. The department shall pay the community school and deduct from the student's resident school district the amount computed for the student under section 3314.08 of the Revised Code in proportion to the fraction of the time on an FTE basis that the student attends classes at the community school. "Full-time equivalency" for a community school student, as defined in division (L) of section 3314.08 of the Revised Code, does not apply to the student.

Sec. 3314.088. ~~(A)~~ For purposes of applying sections 3314.08 and 3314.13 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 2013:

~~(1)(A)~~ (A) The base formula amount for community schools for each of fiscal year ~~2010~~ 2012 is ~~\$5,718~~ and for fiscal year ~~2011~~ 2013 is ~~\$5,703~~. These respective amounts ~~years 2012 and 2013 is~~ \$5,653. That amount shall be applied wherein sections 3314.08 and 3314.13 of the Revised Code the base formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

~~(2)(B)~~ (B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a community school under that section for fiscal years 2012 and 2013, the department of education shall substitute \$5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

~~(3)(C)~~ (C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability

categories prescribed by section 3317.013 of the Revised Code as that section existed for fiscal year 2009, and then by multiplying the applicable weight respective multiple specified for that same fiscal year in that same version of that section 3317.013 of the Revised Code for fiscal year 2009, times \$5,732.

~~(4)~~(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times \$5,732.

~~(5)~~(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

~~(6)~~(F) A community school may receive all-day kindergarten payments under section 3314.13 of the Revised Code only for all-day kindergarten students who are entitled to attend school in school districts that, for fiscal year 2009, met the eligibility requirements of division (D) of section 3317.029 of the Revised Code. For students entitled to attend school in such school districts that actually received payment for all-day kindergarten for fiscal year 2009, the payments to community schools under section 3314.13 of the Revised Code shall be deducted from the school district's state education aid. For students entitled to attend school in such school districts that did not receive payment for all-day kindergarten for fiscal year 2009, the payments to community schools under section 3314.13 of the Revised Code shall be paid out of the funds appropriated under appropriation item 200550, foundation funding, ~~as appropriated in section 265.10 of Am. Sub. H.B. 1 of the 128th General Assembly.~~ As used in this division, "entitled to attend school" has the same meaning as in section 3314.08 of the Revised Code.

~~(B) For purposes of applying section 3314.085 of the Revised Code to fiscal years 2010 and 2011, the minimum per pupil expenditure required for pupil instruction under that section is \$2,931, which equals the minimum amount required by that section for fiscal year 2009.~~

Sec. 3314.091. (A) A school district is not required to provide transportation for any native student enrolled in a community school if the district board of education has entered into an agreement with the community school's governing authority that designates the community school as responsible for providing or arranging for the transportation of the district's native students to and from the community school. For any such agreement to be effective, it must be certified by the superintendent of public instruction as having met all of the following requirements:

(1) It is submitted to the department of education by a deadline which shall be established by the department.

(2) In accordance with divisions (C)(1) and (2) of this section, it specifies qualifications, such as residing a minimum distance from the school, for students to have their transportation provided or arranged.

(3) The transportation provided by the community school is subject to all provisions of the Revised Code and all rules adopted under the Revised Code pertaining to pupil transportation.

(4) The sponsor of the community school also has signed the agreement.

(B)(1) For the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school, if the community school during the previous school year transported the students enrolled in the school or arranged for the students' transportation, even if that arrangement consisted of having parents transport their children to and from the school, but did not enter into an agreement to transport or arrange for transportation for those students under division (A) of this section, and if the governing authority of the community school by July 15, 2007, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school.

(2) For any school year subsequent to the school year that begins on July 1, 2007, a school district is not required to provide transportation for any native student enrolled in a community school if the governing authority of the community school, by the thirty-first day of January of the previous school year, submits written notification to the district board of education stating that the governing authority is accepting responsibility for providing or arranging for the transportation of the district's native students to and from the community school. If the governing authority of the community school has previously accepted responsibility for providing or arranging for the transportation of a district's native students to and from the community school, under division (B)(1) or (2) of this section, and has since relinquished that responsibility under division (B)(3) of this section, the governing authority shall not accept that responsibility again unless the district board consents to the governing authority's acceptance of that responsibility.

(3) A governing authority's acceptance of responsibility under division (B)(1) or (2) of this section shall cover an entire school year, and shall remain in effect for subsequent school years unless the governing authority submits written notification to the district board that the governing authority

is relinquishing the responsibility. However, a governing authority shall not relinquish responsibility for transportation before the end of a school year, and shall submit the notice relinquishing responsibility by the thirty-first day of January, in order to allow the school district reasonable time to prepare transportation for its native students enrolled in the school.

(C)(1) A community school governing authority that enters into an agreement under division (A) of this section, or that accepts responsibility under division (B) of this section, shall provide or arrange transportation free of any charge for each of its enrolled students who is required to be transported under section 3327.01 of the Revised Code or who would otherwise be transported by the school district under the district's transportation policy. The governing authority shall report to the department of education the number of students transported or for whom transportation is arranged under this section in accordance with rules adopted by the state board of education.

(2) The governing authority may provide or arrange transportation for any other enrolled student who is not eligible for transportation in accordance with division (C)(1) of this section and may charge a fee for such service up to the actual cost of the service.

(3) Notwithstanding anything to the contrary in division (C)(1) or (2) of this section, a community school governing authority shall provide or arrange transportation free of any charge for any disabled student enrolled in the school for whom the student's individualized education program developed under Chapter 3323. of the Revised Code specifies transportation.

(D)(1) If a school district board and a community school governing authority elect to enter into an agreement under division (A) of this section, the department of education shall make payments to the community school according to the terms of the agreement for each student actually transported under division (C)(1) of this section.

If a community school governing authority accepts transportation responsibility under division (B) of this section, the department shall make payments to the community school for each student actually transported or for whom transportation is arranged by the community school under division (C)(1) of this section, calculated as follows:

(a) For any fiscal year which the general assembly has specified that transportation payments to school districts be based on an across-the-board percentage of the district's payment for the previous school year, the per pupil payment to the community school shall be the following quotient:

(i) The total amount calculated for the school district in which the child is entitled to attend school for student transportation other than

transportation of children with disabilities; divided by

(ii) The number of students included in the district's transportation ADM for the current fiscal year, as reported under division (B)(13) of section 3317.03 of the Revised Code, plus the number of students enrolled in the community school not counted in the district's transportation ADM who are transported under division (B)(1) or (2) of this section.

(b) For any fiscal year which the general assembly has specified that the transportation payments to school districts be calculated in accordance with section ~~3306.12~~ 3317.0212 of the Revised Code and any rules of the state board of education implementing that section, the payment to the community school shall be the amount so calculated that otherwise would be paid to the school district in which the student is entitled to attend school by the method of transportation the district would have used. The community school, however, is not required to use the same method to transport that student.

(c) Divisions (D)(1)(a) and (b) of this section do not apply to fiscal years 2012 and 2013. Rather, for each of those fiscal years, the per pupil payment to a community school for transporting a student shall be the total amount paid under former section 3306.12 of the Revised Code for fiscal year 2011 to the school district in which the child is entitled to attend school divided by that district's "qualifying ridership," as defined in that section for fiscal year 2011.

As used in this division "entitled to attend school" means entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(2) The department shall deduct the payment under division (D)(1) of this section from the state education aid, as defined in section 3314.08 of the Revised Code, and, if necessary, the payment under sections 321.14 and 323.156 of the Revised Code, that is otherwise paid to the school district in which the student enrolled in the community school is entitled to attend school. The department shall include the number of the district's native students for whom payment is made to a community school under division (D)(1) of this section in the calculation of the district's transportation payment under section ~~3306.12~~ 3317.0212 of the Revised Code and the operating appropriations act.

(3) A community school shall be paid under division (D)(1) of this section only for students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, and whose transportation to and from school is actually provided, who actually utilized transportation arranged, or for whom a payment in lieu of transportation is made by the community school's governing authority. To qualify for the

payments, the community school shall report to the department, in the form and manner required by the department, data on the number of students transported or whose transportation is arranged, the number of miles traveled, cost to transport, and any other information requested by the department.

(4) A community school shall use payments received under this section solely to pay the costs of providing or arranging for the transportation of students who are eligible as specified in section 3327.01 of the Revised Code and division (C)(1) of this section, which may include payments to a parent, guardian, or other person in charge of a child in lieu of transportation.

(E) Except when arranged through payment to a parent, guardian, or person in charge of a child, transportation provided or arranged for by a community school pursuant to an agreement under this section is subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to the construction, design, equipment, and operation of school buses and other vehicles transporting students to and from school. The drivers and mechanics of the vehicles are subject to all provisions of the Revised Code, and all rules adopted under the Revised Code, pertaining to drivers and mechanics of such vehicles. The community school also shall comply with sections 3313.201, 3327.09, and 3327.10 of the Revised Code, division (B) of section 3327.16 of the Revised Code and, subject to division (C)(1) of this section, sections 3327.01 and 3327.02 of the Revised Code, as if it were a school district.

Sec. 3314.10. (A)(1) The governing authority of any community school established under this chapter may employ teachers and nonteaching employees necessary to carry out its mission and fulfill its contract.

(2) Except as provided under division (A)(3) of this section, employees hired under this section may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section shall be considered an appropriate unit. As applicable, employment under this section is subject to either Chapter 3307. or 3309. of the Revised Code.

(3) If a school is created by converting all or part of an existing public school rather than by establishment of a new start-up school, at the time of conversion, the employees of the community school shall remain part of any collective bargaining unit in which they were included immediately prior to the conversion and shall remain subject to any collective bargaining agreement for that unit in effect on the first day of July of the year in which

the community school initially begins operation and shall be subject to any subsequent collective bargaining agreement for that unit, unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees. Any new employees of the community school shall also be included in the unit to which they would have been assigned had not the conversion taken place and shall be subject to the collective bargaining agreement for that unit unless a petition is certified as sufficient under division (A)(6) of this section with regard to those employees.

Notwithstanding division (B) of section 4117.01 of the Revised Code, the board of education of a school district and not the governing authority of a community school shall be regarded, for purposes of Chapter 4117. of the Revised Code, as the "public employer" of the employees of a conversion community school subject to a collective bargaining agreement pursuant to division (A)(3) of this section unless a petition is certified under division (A)(6) of this section with regard to those employees. Only on and after the effective date of a petition certified as sufficient under division (A)(6) of this section shall division (A)(2) of this section apply to those employees of that community school and only on and after the effective date of that petition shall Chapter 4117. of the Revised Code apply to the governing authority of that community school with regard to those employees.

(4) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division and shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, if a majority of the employees of that community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement and be designated by the state employment relations board as a new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(b) That the employee organization certified as the exclusive representative of the employees of the bargaining unit from which the employees are to be removed be certified as the exclusive representative of the new and separate bargaining unit for purposes of Chapter 4117. of the Revised Code;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(5) Notwithstanding sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school who are subject to a collective bargaining agreement pursuant to division (A)(3) of this section shall cease to be subject to that agreement and all subsequent agreements pursuant to that division, shall cease to be part of the collective bargaining unit that is subject to that and all subsequent agreements, and shall cease to be represented by any exclusive representative of that collective bargaining unit, if a majority of the employees of the community school who are subject to that collective bargaining agreement sign and submit to the state employment relations board a petition requesting all of the following:

(a) That all the employees of the community school who are subject to that agreement be removed from the bargaining unit that is subject to that agreement;

(b) That any employee organization certified as the exclusive representative of the employees of that bargaining unit be decertified as the exclusive representative of the employees of the community school who are subject to that agreement;

(c) That the governing authority of the community school be regarded as the "public employer" of these employees for purposes of Chapter 4117. of the Revised Code.

(6) Upon receipt of a petition under division (A)(4) or (5) of this section, the state employment relations board shall check the sufficiency of the signatures on the petition. If the signatures are found sufficient, the board shall certify the sufficiency of the petition and so notify the parties involved, including the board of education, the governing authority of the community school, and any exclusive representative of the bargaining unit. The changes requested in a certified petition shall take effect on the first day of the month immediately following the date on which the sufficiency of the petition is certified under division (A)(6) of this section.

(B)(1) The board of education of each city, local, and exempted village school district sponsoring a community school and the governing board of each educational service center in which a community school is located shall adopt a policy that provides a leave of absence of at least three years to each teacher or nonteaching employee of the district or service center who is employed by a conversion or new start-up community school sponsored by

the district or located in the district or center for the period during which the teacher or employee is continuously employed by the community school. The policy shall also provide that any teacher or nonteaching employee may return to employment by the district or service center if the teacher or employee leaves or is discharged from employment with the community school for any reason, unless, in the case of a teacher, the board of the district or service center determines that the teacher was discharged for a reason for which the board would have sought to discharge the teacher under section 3319.16 of the Revised Code, in which case the board may proceed to discharge the teacher utilizing the procedures of that section. Upon termination of such a leave of absence, any seniority that is applicable to the person shall be calculated to include all of the following: all employment by the district or service center prior to the leave of absence; all employment by the community school during the leave of absence; and all employment by the district or service center after the leave of absence. The policy shall also provide that if any teacher holding valid certification returns to employment by the district or service center upon termination of such a leave of absence, the teacher shall be restored to the previous position and salary or to a position and salary similar thereto. If, as a result of teachers returning to employment upon termination of such leaves of absence, a school district or educational service center reduces the number of teachers it employs, it shall make such reductions in accordance with section ~~3319.17~~ or, if applicable, 3319.171 of the Revised Code.

Unless a collective bargaining agreement providing otherwise is in effect for an employee of a conversion community school pursuant to division (A)(3) of this section, an employee on a leave of absence pursuant to this division shall remain eligible for any benefits that are in addition to benefits under Chapter 3307. or 3309. of the Revised Code provided by the district or service center to its employees provided the employee pays the entire cost associated with such benefits, except that personal leave and vacation leave cannot be accrued for use as an employee of a school district or service center while in the employ of a community school unless the district or service center board adopts a policy expressly permitting this accrual.

(2) While on a leave of absence pursuant to division (B)(1) of this section, a conversion community school shall permit a teacher to use sick leave accrued while in the employ of the school district from which the leave of absence was taken and prior to commencing such leave. If a teacher who is on such a leave of absence uses sick leave so accrued, the cost of any salary paid by the community school to the teacher for that time shall be

reported to the department of education. The cost of employing a substitute teacher for that time shall be paid by the community school. The department of education shall add amounts to the payments made to a community school under this chapter as necessary to cover the cost of salary reported by a community school as paid to a teacher using sick leave so accrued pursuant to this section. The department shall subtract the amounts of any payments made to community schools under this division from payments made to such sponsoring school district under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code.

A school district providing a leave of absence and employee benefits to a person pursuant to this division is not liable for any action of that person while the person is on such leave and employed by a community school.

Sec. 3314.102. As used in this section, "municipal school district" and "mayor" have the same meanings as in section 3311.71 of the Revised Code.

Notwithstanding section 3314.10 and sections 4117.03 to 4117.18 of the Revised Code and Section 4 of Amended Substitute Senate Bill No. 133 of the 115th general assembly, the employees of a conversion community school that is sponsored by the board of education of a municipal school district shall cease to be subject to any future collective bargaining agreement, if the mayor submits to the board of education sponsoring the school and to the state employment relations board a statement requesting that all employees of the community school be removed from a collective bargaining unit. The employees of the community school who are covered by a collective bargaining agreement in effect on the date the mayor submits the statement shall remain subject to that collective bargaining agreement until the collective bargaining agreement expires on its terms. Upon expiration of that collective bargaining agreement, the employees of that school are not subject to Chapter 4117. of the Revised Code and may not organize or collectively bargain pursuant to that chapter.

Sec. 3314.13. Payments and deductions under this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3314.088 of the Revised Code.

(A) As used in this section:

(1) "All-day kindergarten" has the same meaning as in section 3317.029 of the Revised Code.

(2) "Formula amount" has the same meaning as in section 3317.02 of the Revised Code.

(B) Except as provided in division (C) of this section, the department of education annually shall pay each community school established under this chapter one-half of the formula amount for each student to whom both of the

following apply:

(1) The student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code in a school district that is eligible to receive a payment under division (D) of section 3317.029 of the Revised Code if it provides all-day kindergarten;

(2) The student is reported by the community school as enrolled in all-day kindergarten at the community school.

(C) The department shall make no payments under this section to any internet- or computer-based community school.

(D) If a student for whom payment is made under division (B) of this section is entitled to attend school in a district that receives any payment for all-day kindergarten under division (D) of section 3317.029 of the Revised Code, the department shall deduct the payment to the community school under this section from the amount paid that school district under that division. If that school district does not receive payment for all-day kindergarten under that division because it does not provide all-day kindergarten, the department shall pay the community school from state funds appropriated generally for poverty-based assistance to school districts.

(E) The department shall adjust the amounts deducted from school districts and paid to community schools under this section to reflect any enrollments of students in all-day kindergarten in community schools for less than the equivalent of a full school year.

Sec. 3314.19. The sponsor of each community school annually shall provide the following assurances in writing to the department of education not later than ten business days prior to the opening of the school:

(A) That a current copy of the contract between the sponsor and the governing authority of the school entered into under section 3314.03 of the Revised Code has been filed with the ~~state office of community schools established under section 3314.11 of the Revised Code~~ department and that any subsequent modifications to that contract will be filed with the ~~office~~ department;

(B) That the school has submitted to the sponsor a plan for providing special education and related services to students with disabilities and has demonstrated the capacity to provide those services in accordance with Chapter 3323. of the Revised Code and federal law;

(C) That the school has a plan and procedures for administering the achievement and diagnostic assessments prescribed by sections 3301.0710, 3301.0712, and 3301.0715 of the Revised Code;

(D) That school personnel have the necessary training, knowledge, and resources to properly use and submit information to all databases maintained

by the department for the collection of education data, including the education management information system established under section 3301.0714 of the Revised Code in accordance with methods and timelines established under section 3314.17 of the Revised Code;

(E) That all required information about the school has been submitted to the Ohio education directory system or any successor system;

(F) That the school will enroll at least the minimum number of students required by division (A)(11)(a) of section 3314.03 of the Revised Code in the school year for which the assurances are provided;

(G) That all classroom teachers are licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except for noncertificated persons engaged to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(H) That the school's fiscal officer is in compliance with section 3314.011 of the Revised Code;

(I) That the school has complied with sections 3319.39 and 3319.391 of the Revised Code with respect to all employees and that the school has conducted a criminal records check of each of its governing authority members;

(J) That the school holds all of the following:

(1) Proof of property ownership or a lease for the facilities used by the school;

(2) A certificate of occupancy;

(3) Liability insurance for the school, as required by division (A)(11)(b) of section 3314.03 of the Revised Code, that the sponsor considers sufficient to indemnify the school's facilities, staff, and governing authority against risk;

(4) A satisfactory health and safety inspection;

(5) A satisfactory fire inspection;

(6) A valid food permit, if applicable.

(K) That the sponsor has conducted a pre-opening site visit to the school for the school year for which the assurances are provided;

(L) That the school has designated a date it will open for the school year for which the assurances are provided that is in compliance with division (A)(25) of section 3314.03 of the Revised Code;

(M) That the school has met all of the sponsor's requirements for opening and any other requirements of the sponsor.

Sec. 3314.22. (A)(1) Each child enrolled in an internet- or computer-based community school is entitled to a computer supplied by the school; however, the parent of any child enrolled in the school may waive

this entitlement in the manner specified in division (A)(3) of this section. In no case shall an internet- or computer-based community school provide a stipend or other substitute to an enrolled child or the child's parent in lieu of supplying a computer to the child. The prohibition contained in the preceding sentence is intended to clarify the meaning of this division as it existed prior to September 29, 2005, and is not intended to change that meaning in any way.

(2) Notwithstanding division (A)(1) of this section, if more than one child living in a single residence is enrolled in an internet- or computer-based community school, at the option of the parent of those children, the school may supply less than one computer per child, as long as at least one computer is supplied to the residence. An internet- or computer-based community school may supply no computer at all only if the parent has waived the entitlement prescribed in division (A)(1) of this section in the manner specified in division (A)(3) of this section. The parent may amend the decision to accept less than one computer per child anytime during the school year, and, in such case, within thirty days after the parent notifies the school of such amendment, the school shall provide any additional computers requested by the parent up to the number necessary to comply with division (A)(1) of this section.

(3) The parent of any child enrolled in an internet- or computer-based community school may waive the entitlement to one computer per child, and have no computer at all supplied by the school, if the school and parent set forth that waiver in writing with both parties attesting that there is a computer available to the child in the child's residence with sufficient hardware, software, programming, and connectivity so that the child may fully participate in all of the learning opportunities offered to the child by the school. The parent may amend the decision to waive the entitlement at any time during the school year and, in such case, within thirty days after the parent notifies the school of that decision, the school shall provide any additional computers requested by the parent up to the number necessary to comply with division (A)(1) of this section, regardless of whether there is any change in the conditions attested to in the waiver.

(4) A copy of a waiver executed under division (A)(3) of this section shall be retained by the internet- or computer-based community school and the parent who attested to the conditions prescribed in that division. The school shall submit a copy of the waiver to the ~~office of community schools, established under section 3314.11 of the Revised Code,~~ department of education immediately upon execution of the waiver.

(5) The school shall notify the ~~office of community schools~~ department

of education, in the manner specified by the ~~office~~ department, of any parent's decision under division (A)(2) of this section to accept less than one computer per child or the parent's amendment to that decision, and of any parent's decision to amend the waiver executed under division (A)(3) of this section.

(B) Each internet- or computer-based community school shall provide to each parent who is considering enrolling the parent's child in the school and to the parent of each child already enrolled in the school a written notice of the provisions prescribed in division (A) of this section.

(C) If a community school that is not an internet- or computer-based community school provides any of its enrolled students with nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method and requires such students to participate in any of those learning opportunities from their residences, the school shall be subject to this section and division (C)(1) of section 3314.21 of the Revised Code relative to each such student in the same manner as an internet- or computer-based community school, unless both of the following conditions apply to the student:

(1) The nonclassroom-based learning opportunities in which the student is required to participate from the student's residence are supplemental in nature or do not constitute a significant portion of the total classroom-based and nonclassroom-based learning opportunities provided to the student by the school;

(2) The student's residence is equipped with a computer available for the student's use.

Sec. 3314.23. (A) Subject to division (B) of this section, each internet- or computer-based community school shall do the applicable one of the following:

(1) If the general assembly has enacted standards for the operation of internet- or computer-based community schools by January 1, 2013, comply with the standards so enacted;

(2) If the general assembly has not enacted such standards by that date, comply with the standards developed by the international association for K-12 online learning.

(B) Each internet- or computer-based community school that initially opens for operation on or after January 1, 2013, shall comply with the standards required by division (A) of this section at the time it opens. Each internet- or computer-based community school that initially opened for operation prior to January 1, 2013, shall comply with the standards required by division (A) of this section not later than July 1, 2013.

~~Sec. 3314.35. (A)(1) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2008, but before July 1, 2009:~~

~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.~~

~~(b) The school satisfies all of the following conditions:~~

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~

~~(iii) For two of those school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~

~~(c) The school satisfies all of the following conditions:~~

~~(i) The school offers any of grade levels ten to twelve.~~

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.~~

~~(iii) For two of those school years, the school showed less than two standard years of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.~~

~~(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2009, but before July 1, 2011:~~

~~(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.~~

~~(b) The school satisfies all of the following conditions:~~

~~(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.~~

~~(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.~~

~~(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance~~

with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three of the four most recent school years.

(2) Except as provided in division (A)(3) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2011:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(iii) In at least two of the three most recent school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school offers any of grade levels ten to twelve and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for two of the three most recent school years.

(3) This section does not apply to either of the following:

(a) Any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver under section 3314.36 of the Revised Code;

(b) Any community school in which a majority of the enrolled students are children with disabilities receiving special education and related services in accordance with Chapter 3323. of the Revised Code.

(B) Any community school to which this section applies shall permanently close at the conclusion of the school year in which the school first becomes subject to this section. The sponsor and governing authority of the school shall comply with all procedures for closing a community school adopted by the department under division (E) of section 3314.015 of the Revised Code. The governing authority of the school shall not enter into a contract with any other sponsor under section 3314.03 of the Revised Code after the school closes.

~~(C) Not later than July 1, 2008, the department shall determine the feasibility of using the value added progress dimension, as defined in section 3302.01 of the Revised Code, as a factor in evaluating the academic performance of community schools described in division (A)(1)(c)(i) of this section. Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, if the department determines that using the value added progress dimension to evaluate community schools described in division (A)(1)(c)(i) of this section is not feasible, a community school described in that division shall be required to permanently close under this section only if it has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.~~

~~(D) In accordance with division (B) of section 3314.012 of the Revised Code, the department shall not consider the performance ratings assigned to a community school for its first two years of operation when determining whether the school meets the criteria prescribed by division (A)(1) or (2) of this section. The department shall reevaluate each community school that the department directed to close at the conclusion of the 2009-2010 school year to determine if the school still meets the criteria prescribed by division (A)(2) of this section when the school's performance ratings for its first two years of operation are not considered and, if the school no longer meets those criteria, the department shall not require the school to close at the conclusion of that school year.~~

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does not apply to any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver by the department of education. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the assessments prescribed under division (B)(1) of section 3301.0710 of the Revised Code or, to the extent prescribed by rule of the state board of education under division ~~(E)~~(D)(6) of section

3301.0712 of the Revised Code, division (B)(2) of that section.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (A)(4) of this section during the remainder of the student's high school experience.

(6) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board of education under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(B) Notwithstanding division (A) of this section, the department shall not grant a waiver to any community school that did not qualify for a waiver under this section when it initially began operations, unless the state board of education approves the waiver.

Sec. 3315.01. (A) Except as provided in division (B) of this section and notwithstanding sections 3315.12 and 3315.14 of the Revised Code, the board of education of any school district may adopt a resolution requiring the treasurer of the district to credit the earnings made on the investment of the principal of the moneys specified in the resolution to the fund from which the earnings arose or any other fund of the district as the board specifies in its resolution.

(B) This section does not apply to the earnings made on the investment of the bond retirement fund, the sinking fund, a project construction fund established pursuant to sections 3318.01 to 3318.20 of the Revised Code, or the payments received by school districts pursuant to division ~~(H)~~(E) of section 3317.024 of the Revised Code.

Sec. 3316.041. (A) Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, and subject to the approval of the superintendent of public instruction, a school district that is in a state of fiscal watch declared under section 3316.03 of the Revised Code may restructure or refinance loans obtained or in the process of being obtained under section 3313.483 of the Revised Code if all of the following requirements are met:

(1) The operating deficit certified for the school district for the current or preceding fiscal year under section 3313.483 of the Revised Code exceeds fifteen per cent of the district's general revenue fund for the fiscal

year preceding the year for which the certification of the operating deficit is made.

(2) The school district voters have, during the period of the fiscal watch, approved the levy of a tax under section 718.09, 718.10, 5705.194, 5705.21, ~~or 5748.02, or 5748.09~~ of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue.

(3) The board of education of the school district has adopted or amended the financial plan required by section 3316.04 of the Revised Code to reflect the restructured or refinanced loans, and sets forth the means by which the district will bring projected operating revenues and expenditures, and projected debt service obligations, into balance for the life of any such loan.

(B) Subject to the approval of the superintendent of public instruction, the school district may issue securities to evidence the restructuring or refinancing authorized by this section. Such securities may extend the original period for repayment not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms or agreements under which the loans were originally contracted, provided the loans received under sections 3313.483 of the Revised Code are repaid from funds the district would otherwise receive under Chapter ~~3306.~~ 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. Securities issued for the purpose of restructuring or refinancing under this section shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal to restructure or refinance.

(C) Unless the district is declared to be in a state of fiscal emergency under division (D) of section 3316.04 of the Revised Code, a school district shall remain in a state of fiscal watch for the duration of the repayment period of any loan restructured or refinanced under this section.

Sec. 3316.06. (A) Within one hundred twenty days after the first meeting of a school district financial planning and supervision commission, the commission shall adopt a financial recovery plan regarding the school district for which the commission was created. During the formulation of the plan, the commission shall seek appropriate input from the school district board and from the community. This plan shall contain the following:

(1) Actions to be taken to:

(a) Eliminate all fiscal emergency conditions declared to exist pursuant to division (B) of section 3316.03 of the Revised Code;

(b) Satisfy any judgments, past-due accounts payable, and all past-due and payable payroll and fringe benefits;

(c) Eliminate the deficits in all deficit funds, except that any prior year deficits in the capital and maintenance fund established pursuant to section 3315.18 of the Revised Code shall be forgiven;

(d) Restore to special funds any moneys from such funds that were used for purposes not within the purposes of such funds, or borrowed from such funds by the purchase of debt obligations of the school district with the moneys of such funds, or missing from the special funds and not accounted for, if any;

(e) Balance the budget, avoid future deficits in any funds, and maintain on a current basis payments of payroll, fringe benefits, and all accounts;

(f) Avoid any fiscal emergency condition in the future;

(g) Restore the ability of the school district to market long-term general obligation bonds under provisions of law applicable to school districts generally.

(2) The management structure that will enable the school district to take the actions enumerated in division (A)(1) of this section. The plan shall specify the level of fiscal and management control that the commission will exercise within the school district during the period of fiscal emergency, and shall enumerate respectively, the powers and duties of the commission and the powers and duties of the school board during that period. The commission may elect to assume any of the powers and duties of the school board it considers necessary, including all powers related to personnel, curriculum, and legal issues in order to successfully implement the actions described in division (A)(1) of this section.

(3) The target dates for the commencement, progress upon, and completion of the actions enumerated in division (A)(1) of this section and a reasonable period of time expected to be required to implement the plan. The commission shall prepare a reasonable time schedule for progress toward and achievement of the requirements for the plan, and the plan shall be consistent with that time schedule.

(4) The amount and purpose of any issue of debt obligations that will be issued, together with assurances that any such debt obligations that will be issued will not exceed debt limits supported by appropriate certifications by the fiscal officer of the school district and the county auditor. Debt obligations issued pursuant to section 133.301 of the Revised Code shall include assurances that such debt shall be in an amount not to exceed the amount certified under division (B) of such section. If the commission considers it necessary in order to maintain or improve educational

opportunities of pupils in the school district, the plan may include a proposal to restructure or refinance outstanding debt obligations incurred by the board under section 3313.483 of the Revised Code contingent upon the approval, during the period of the fiscal emergency, by district voters of a tax levied under section 718.09, 718.10, 5705.194, 5705.21, 5748.02, ~~or 5748.08, or 5748.09~~ of the Revised Code that is not a renewal or replacement levy, or a levy under section 5705.199 of the Revised Code, and that will provide new operating revenue. Notwithstanding any provision of Chapter 133. or sections 3313.483 to 3313.4811 of the Revised Code, following the required approval of the district voters and with the approval of the commission, the school district may issue securities to evidence the restructuring or refinancing. Those securities may extend the original period for repayment, not to exceed ten years, and may alter the frequency and amount of repayments, interest or other financing charges, and other terms of agreements under which the debt originally was contracted, at the discretion of the commission, provided that any loans received pursuant to section 3313.483 of the Revised Code shall be paid from funds the district would otherwise receive under Chapter ~~3306.~~ 3317. of the Revised Code, as required under division (E)(3) of section 3313.483 of the Revised Code. The securities issued for the purpose of restructuring or refinancing the debt shall be repaid in equal payments and at equal intervals over the term of the debt and are not eligible to be included in any subsequent proposal for the purpose of restructuring or refinancing debt under this section.

(B) Any financial recovery plan may be amended subsequent to its adoption. Each financial recovery plan shall be updated annually.

(C) Each school district financial planning and supervision commission shall submit the financial recovery plan it adopts or updates under this section to the state superintendent of public instruction for approval immediately following its adoption or updating. The state superintendent shall evaluate the plan and either approve or disapprove it within thirty calendar days from the date of its submission. If the plan is disapproved, the state superintendent shall recommend modifications that will render it acceptable. No financial planning and supervision commission shall implement a financial recovery plan that is adopted or updated on or after April 10, 2001, unless the state superintendent has approved it.

Sec. 3316.08. During a school district's fiscal emergency period, the auditor of state shall determine annually, or at any other time upon request of the financial planning and supervision commission, whether the school district will incur an operating deficit. If the auditor of state determines that a school district will incur an operating deficit, the auditor of state shall

certify that determination to the superintendent of public instruction, the financial planning and supervision commission, and the board of education of the school district. Upon receiving the auditor of state's certification, the commission shall adopt a resolution requesting that the board of education work with the county auditor or tax commissioner to estimate the amount and rate of a tax levy that is needed under section 5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised Code to produce a positive fund balance not later than the fifth year of the five-year forecast submitted under section 5705.391 of the Revised Code.

The board of education shall recommend to the commission whether the board supports or opposes a tax levy under section 5705.194, 5709.199, or 5705.21 or Chapter 5748. of the Revised Code and shall provide supporting documentation to the commission of its recommendation.

After considering the board of education's recommendation and supporting documentation, the commission shall adopt a resolution to either submit a ballot question proposing a tax levy or not to submit such a question.

Except as otherwise provided in this division, the tax shall be levied in the manner prescribed for a tax levied under section 5705.194, 5709.199, or 5705.21 or under Chapter 5748. of the Revised Code. If the commission decides that a tax should be levied, the tax shall be levied for the purpose of paying current operating expenses of the school district. The rate of a property tax levied under section 5705.194, 5709.199, ~~or 5705.21, or 5748.09~~ of the Revised Code shall be determined by the county auditor, and the rate of a an income tax levied under section 5748.02 ~~or 5748.08, or 5748.09~~ of the Revised Code shall be determined by the tax commissioner, upon the request of the commission. The commission, in consultation with the board of education, shall determine the election at which the question of the tax shall appear on the ballot, and the commission shall submit a copy of its resolution to the board of elections not later than ninety days prior to the day of that election. The board of elections conducting the election shall certify the results of the election to the board of education and to the financial planning and supervision commission.

Sec. 3316.20. (A)(1) The school district solvency assistance fund is hereby created in the state treasury, to consist of such amounts designated for the purposes of the fund by the general assembly. The fund shall be used to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary or emergency nature that they are unable to pay from existing resources.

(2) There is hereby created within the fund an account known as the

school district shared resource account, which shall consist of money appropriated to it by the general assembly. The money in the account shall be used solely for solvency assistance to school districts that have been declared under division (B) of section 3316.03 of the Revised Code to be in a state of fiscal emergency.

(3) There is hereby created within the fund an account known as the catastrophic expenditures account, which shall consist of money appropriated to the account by the general assembly plus all investment earnings of the fund. Money in the account shall be used solely for the following:

(a) Solvency assistance to school districts that have been declared under division (B) of section 3316.03 of the Revised Code to be in a state of fiscal emergency, in the event that all money in the shared resource account is utilized for solvency assistance;

(b) Grants to school districts under division (C) of this section.

(B) Solvency assistance payments under division (A)(2) or (3)(a) of this section shall be made from the fund by the superintendent of public instruction in accordance with rules adopted by the director of budget and management, after consulting with the superintendent, specifying approval criteria and procedures necessary for administering the fund.

The fund shall be reimbursed for any solvency assistance amounts paid under division (A)(2) or (3)(a) of this section not later than the end of the second fiscal year following the fiscal year in which the solvency assistance payment was made, except that, upon the approval of the director of budget and management and the superintendent of public instruction, the fund may be reimbursed in another fiscal year designated by the director and superintendent that is not later than the end of the tenth fiscal year following the fiscal year in which the solvency assistance payment was made. If not made directly by the school district, such reimbursement shall be made by the director of budget and management from the amounts the school district would otherwise receive pursuant to Chapter ~~3306~~. 3317. of the Revised Code, or from any other funds appropriated for the district by the general assembly. Reimbursements shall be credited to the respective account from which the solvency assistance paid to the district was deducted.

(C) The superintendent of public instruction may make recommendations, and the controlling board may grant money from the catastrophic expenditures account to any school district that suffers an unforeseen catastrophic event that severely depletes the district's financial resources. The superintendent shall make recommendations for the grants in accordance with rules adopted by the director of budget and management,

after consulting with the superintendent. A school district shall not be required to repay any grant awarded to the district under this division, unless the district receives money from this state or a third party, including an agency of the government of the United States, specifically for the purpose of compensating the district for revenue lost or expenses incurred as a result of the unforeseen catastrophic event. If a school district receives a grant from the catastrophic expenditures account on the basis of the same circumstances for which an adjustment or recomputation is authorized under section 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, or 3317.0211 of the Revised Code, the department of education shall reduce the adjustment or recomputation by an amount not to exceed the total amount of the grant, and an amount equal to the reduction shall be transferred, from the funding source from which the adjustment or recomputation would be paid, to the catastrophic expenditures account. Any adjustment or recomputation under such sections that is in excess of the total amount of the grant shall be paid to the school district.

Sec. 3317.01. As used in this section ~~and section 3317.011 of the Revised Code~~, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed periodically to each school district unless otherwise provided for. ~~The state board, in June of each year, shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each~~

~~fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district~~ the state board's year-end distributions pursuant to this chapter.

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 or 3313.481 of the Revised Code, with regard to the minimum number of days or hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentameter plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentameter.

A school district shall not be considered to have failed to comply with this division or section 3313.481 of the Revised Code because schools were

open for instruction but either twelfth grade students were excused from attendance for up to three days or only a portion of the kindergarten students were in attendance for up to three days in order to allow for the gradual orientation to school of such students.

The superintendent of public instruction shall waive the requirements of this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.

A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.

~~(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.~~

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections ~~3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code~~ this chapter, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.013. Except for a preschool child with a disability for whom a scholarship has been awarded under section 3310.41 of the Revised Code, this section does not apply to preschool children with disabilities.

Analysis of special education cost data has resulted in a finding that the average special education additional cost per pupil, including the costs of related services, can be expressed as a multiple of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount. The multiples for the following categories of special education programs, as these programs are defined for purposes of Chapter 3323. of the Revised Code, and adjusted as provided in this section, are as follows:

(A) A multiple of ~~0.2892~~ 0.2906 for students whose primary or only identified disability is a speech and language disability, as this term is defined pursuant to Chapter 3323. of the Revised Code;

(B) A multiple of ~~0.3694~~ 0.7374 for students identified as specific learning disabled or developmentally disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-minor;

(C) A multiple of ~~1.7695~~ 1.7716 for students identified as hearing disabled, ~~vision impaired~~, or severe behavior disabled, as these terms are defined pursuant to Chapter 3323. of the Revised Code;

(D) A multiple of ~~2.3646~~ 2.3643 for students identified as ~~orthopedically disabled~~ vision impaired, as this term is defined pursuant to Chapter 3323. of the Revised Code, or as having an other health impairment-major;

(E) A multiple of ~~3.1129~~ 3.2022 for students identified as orthopedically disabled or as having multiple disabilities, as ~~this term is~~ these terms are defined pursuant to Chapter 3323. of the Revised Code;

(F) A multiple of ~~4.7342~~ 4.7205 for students identified as autistic, having traumatic brain injuries, or as both visually and hearing impaired, as these terms are defined pursuant to Chapter 3323. of the Revised Code.

In fiscal years 2008, 2009, 2010, ~~and~~ 2011, 2012, and 2013, the multiples specified in divisions (A) to (F) of this section shall be adjusted by multiplying them by 0.90.

~~Not later than the thirtieth day of December in 2007, 2008, and 2009, the department of education shall submit to the office of budget and management a report that specifies for each city, local, exempted village, and joint vocational school district the fiscal year allocation of the state and local shares of special education and related services additional weighted funding and federal special education funds passed through to the district.~~

Sec. 3317.014. The ~~average~~ vocational education additional cost per pupil can be expressed as a multiple of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount. The multiples for the following categories of vocational education programs are as follows:

(A) A multiple of 0.57 for students enrolled in vocational education job-training and workforce development programs approved by the department of education in accordance with rules adopted under section 3313.90 of the Revised Code.

(B) A multiple of 0.28 for students enrolled in vocational education classes other than job-training and workforce development programs.

Vocational education associated services costs can be expressed as a multiple of 0.05 of the ~~base cost per pupil calculated under section 3317.012 of the Revised Code~~ formula amount.

~~By the thirtieth day of each December, the department of education shall report to the office of budget and management and the general assembly the amount of weighted funding for vocational education and associated services that was spent by each city, local, exempted village, and joint vocational school district specifically for vocational educational and associated services during the previous fiscal year.~~

Sec. 3317.018. (A) The department of education shall make no calculations or payments under ~~Chapter 3317. of the Revised Code~~ this chapter for any fiscal year except as prescribed in this section. The payments authorized under this section are in addition to payments computed and paid for fiscal years 2012 and 2013 under the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(B) School districts shall report student enrollment data as prescribed by section 3317.03 of the Revised Code, which data the department shall use to make payments under ~~Chapters 3306. and 3317. of the Revised Code.~~ this chapter and the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(C) The tax commissioner shall report data regarding tax valuation and receipts for school districts as prescribed by sections 3317.015, 3317.021, 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, 3317.0211, and 3317.08 and by division ~~(M)(K)~~ of section 3317.02 of the Revised Code, which data the department shall use to make payments under ~~Chapters 3306. and 3317. of the Revised Code.~~ this chapter and the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(D) Unless otherwise specified by another provision of law, ~~in addition to the payments prescribed by Chapter 3306. of the Revised Code,~~ the department shall continue to make payments to or adjustments for school districts in fiscal years after fiscal year 2009 under the following provisions of ~~Chapter 3317. of the Revised Code~~ this chapter:

(1) The catastrophic cost reimbursement under division (C)(3) of section 3317.022 of the Revised Code; however, when computing that payment, the department shall use the disability categories and multiples specified in section 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment. No other payments shall be made under

~~that~~ section 3317.022 of the Revised Code.

(2) All payments or adjustments under section 3317.023 of the Revised Code, ~~except no payments or adjustments shall be made under divisions (B), (C), and (D) of that section.~~

(3) All payments or adjustments under section 3317.024 of the Revised Code, ~~except no payments or adjustments shall be made under divisions (F) and (N) of that section for fiscal years after fiscal year 2009 or under division (L) of that section for fiscal years 2010 and 2011.~~

(4) All payments and adjustments under sections 3317.025, 3317.026, 3317.027, 3317.028, 3317.0210, and 3317.0211 of the Revised Code;

~~(5) Payments under section 3317.04 of the Revised Code;~~

~~(6)~~ Unit payments under sections 3317.05, 3317.051, 3317.052, and 3317.053 of the Revised Code, except that no units for gifted funding are authorized ~~for after fiscal years 2010 and 2011~~ year 2009.

~~(7)~~(6) Payments under sections 3317.06, 3317.063, and 3317.064 of the Revised Code;

~~(8) Payments under section 3317.07 of the Revised Code;~~

~~(9)~~(7) Payments to educational service centers under section 3317.11 of the Revised Code;

~~(10)~~(8) The catastrophic cost reimbursement under division (E) of section 3317.16 of the Revised Code and excess cost reimbursements under division (G) of that section; however, when computing that payment, the department shall use the disability categories and multiples specified in section 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment. No other payments shall be made under ~~that~~ section; 3317.16 of the Revised Code.

~~(11) Payments under section 3317.17 of the Revised Code;~~

~~(12)~~(9) Adjustments under section 3317.18 of the Revised Code;

~~(13)~~(10) Payments to cooperative education school districts under section 3317.19 of the Revised Code;

~~(14)~~(11) Payments to county ~~MR/DD~~ DD boards under section 3317.20 of the Revised Code;

~~(15)~~(12) Payments to state institutions for weighted special education funding under section 3317.201 of the Revised Code.

(E) Sections ~~3317.016 and 3317.017~~ shall not apply to fiscal years after ~~fiscal year 2009~~.

~~(F)~~ This section does not affect the provisions of sections 3317.031, 3317.032, 3317.033, 3317.035, 3317.061, 3317.08, 3317.081, 3317.082, 3317.09, 3317.12, 3317.13, 3317.14, 3317.141, 3317.15, 3317.50, and 3317.51, ~~3317.62, 3317.63, and 3317.64~~ of the Revised Code.

(F) The department shall make no payments for fiscal years 2012 or 2013 under section 3317.0212 of the Revised Code.

Sec. 3317.02. As used in this chapter:

(A) Unless otherwise specified, "school district" means city, local, and exempted village school districts.

(B) "Formula amount" means ~~\$5,732~~ \$5,653 for fiscal year ~~2010~~ 2012 and fiscal year ~~2011~~ 2013.

(C) "FTE basis" means a count of students based on full-time equivalency, in accordance with rules adopted by the department of education pursuant to section 3317.03 of the Revised Code. In adopting its rules under this division, the department shall provide for counting any student in category one, two, three, four, five, or six special education ADM or in category one or two vocational education ADM in the same proportion the student is counted in formula ADM.

(D)(1) "Formula ADM" means, for a city, local, or exempted village school district, ~~"formula ADM" as defined in section 3306.02 of the Revised Code. the average daily membership described in division (A) of section 3317.03 of the Revised Code, as verified by the superintendent of public instruction and adjusted if so ordered under division (K) of that section, and as further adjusted by the department of education, as follows:~~

(a) Count only twenty per cent of the number of joint vocational school district students counted under division (A)(3) of section 3317.03 of the Revised Code;

(b) Add twenty per cent of the number of students who are entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code and are enrolled in another school district under a career-technical educational compact.

(2) "Formula ADM" means, for a joint vocational school district, the final number verified by the superintendent of public instruction, based on the number reported pursuant to division (D) of section 3317.03 of the Revised Code, as adjusted, if so ordered, under division (K) of that section. ~~For purposes of the calculation of payments to or adjustments for a city, exempted village, local, or joint vocational school district under this chapter or under Chapter 3306. of the Revised Code, calculations required under Chapter 3318. of the Revised Code, or adjustments required under Chapter 3365. of the Revised Code, the department of education shall use the district's formula ADM for the previous fiscal year, unless the district's average daily membership reported and verified for the current fiscal year is at least two per cent greater than the formula ADM reported for the previous fiscal year, in which case the department shall use the district's formula~~

~~ADM for the current fiscal year.~~

(E) "Three-year average formula ADM" means the average of formula ADMs for the preceding three fiscal years.

(F)(1) "Category one special education ADM" means the average daily membership of children with disabilities receiving special education services for the disability specified in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(5) or (D)(2)(b) of section 3317.03 of the Revised Code.

(2) "Category two special education ADM" means the average daily membership of children with disabilities receiving special education services for those disabilities specified in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(6) or (D)(2)(c) of section 3317.03 of the Revised Code.

(3) "Category three special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, and reported under division (B)(7) or (D)(2)(d) of section 3317.03 of the Revised Code.

(4) "Category four special education ADM" means the average daily membership of students receiving special education services for those disabilities specified in division (D)~~(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(8) or (D)(2)(e) of section 3317.03 of the Revised Code.

(5) "Category five special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division ~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(9) or (D)(2)(f) of section 3317.03 of the Revised Code.

(6) "Category six special education ADM" means the average daily membership of students receiving special education services for the disabilities specified in division ~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code and reported under division (B)(10) or (D)(2)(g) of section 3317.03 of the Revised Code.

(7) "Category one vocational education ADM" means the average daily membership of students receiving vocational education services described in division (A) of section 3317.014 of the Revised Code and reported under division (B)(11) or (D)(2)(h) of section 3317.03 of the Revised Code.

(8) "Category two vocational education ADM" means the average daily membership of students receiving vocational education services described in division (B) of section 3317.014 of the Revised Code and reported under

division (B)(12) or (D)(2)(i) of section 3317.03 of the Revised Code.

(G) "Preschool child with a disability" means a child with a disability, as defined in section 3323.01 of the Revised Code, who is at least age three but is not of compulsory school age, as defined in section 3321.01 of the Revised Code, and who is not currently enrolled in kindergarten.

(H) "County DD board" means a county board of developmental disabilities.

(I) "Recognized valuation" means the amount calculated for a school district pursuant to section 3317.015 of the Revised Code.

~~(J) "Transportation ADM" means the number of children reported under division (B)(13) of section 3317.03 of the Revised Code.~~

~~(K) "Average efficient transportation use cost per student" means a statistical representation of transportation costs as calculated under division (D)(2) of section 3317.022 of the Revised Code.~~

~~(L)~~ "Taxes charged and payable" means the taxes charged and payable against real and public utility property after making the reduction required by section 319.301 of the Revised Code, plus the taxes levied against tangible personal property.

~~(M)~~(K) "Total taxable value" means the sum of the amounts certified for a city, local, exempted village, or joint vocational school district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code.

~~(N)~~(L) "Tax exempt value" of a school district means the amount certified for a school district under division (A)(4) of section 3317.021 of the Revised Code.

~~(O)~~(M) "Potential value" of a school district means the recognized valuation of a school district plus the tax exempt value of the district.

~~(P)~~(N) "District median income" means the median Ohio adjusted gross income certified for a school district. On or before the first day of July of each year, the tax commissioner shall certify to the department of education and the office of budget and management for each city, exempted village, and local school district the median Ohio adjusted gross income of the residents of the school district determined on the basis of tax returns filed for the second preceding tax year by the residents of the district.

~~(Q)~~(O) "Statewide median income" means the median district median income of all city, exempted village, and local school districts in the state.

~~(R)~~(P) "Income factor" for a city, exempted village, or local school district means the quotient obtained by dividing that district's median income by the statewide median income.

~~(S)~~(Q) "Medically fragile child" means a child to whom all of the following apply:

(1) The child requires the services of a doctor of medicine or osteopathic medicine at least once a week due to the instability of the child's medical condition.

(2) The child requires the services of a registered nurse on a daily basis.

(3) The child is at risk of institutionalization in a hospital, skilled nursing facility, or intermediate care facility for the mentally retarded.

~~(T)~~(R) A child may be identified as having an "other health impairment-major" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, and if either of the following apply:

(1) The child is identified as having a medical condition that is among those listed by the superintendent of public instruction as conditions where a substantial majority of cases fall within the definition of "medically fragile child." The superintendent of public instruction shall issue an initial list no later than September 1, 2001.

(2) The child is determined by the superintendent of public instruction to be a medically fragile child. A school district superintendent may petition the superintendent of public instruction for a determination that a child is a medically fragile child.

~~(U)~~(S) A child may be identified as having an "other health impairment-minor" if the child's condition meets the definition of "other health impaired" established in rules adopted by the state board of education prior to July 1, 2001, but the child's condition does not meet either of the conditions specified in division ~~(T)~~(R)(1) or (2) of this section.

~~(V)~~(T) "State education aid" has the same meaning as in section 5751.20 of the Revised Code.

~~(W)~~(U) "Property exemption value" means zero in fiscal year 2006, and in fiscal year 2007 and each fiscal year thereafter, the amount certified for a school district under divisions (A)(6) and (7) of section 3317.021 of the Revised Code.

~~(X)~~(V) "Internet- or computer-based community school" has the same meaning as in section 3314.02 of the Revised Code.

~~(Y)~~(W) "State share percentage" ~~has the same meaning as in,~~ for a city, exempted village, or local school district, for fiscal years 2012 and 2013, means the district's state share percentage as computed for fiscal year 2011 under former section 3306.02 of the Revised Code. "State share percentage," for a joint vocational school district, for fiscal years 2012 and 2013, means the district's state share percentage as computed for fiscal year 2009 under section 3317.16 of the Revised Code as that section existed for that fiscal year.

Sec. 3317.021. ~~The information certified under this section shall be used to calculate payments under this chapter and Chapter 3306. of the Revised Code.~~

(A) On or before the first day of June of each year, the tax commissioner shall certify to the department of education and the office of budget and management the information described in divisions (A)(1) to (7) of this section for each city, exempted village, and local school district, and the information required by divisions (A)(1) and (2) of this section for each joint vocational school district, and it shall be used, along with the information certified under division (B) of this section, in making the computations for the district under this chapter ~~and Chapter 3306. of the Revised Code.~~

(1) The taxable value of real and public utility real property in the school district subject to taxation in the preceding tax year, by class and by county of location.

(2) The taxable value of tangible personal property, including public utility personal property, subject to taxation by the district for the preceding tax year.

(3)(a) The total property tax rate and total taxes charged and payable for the current expenses for the preceding tax year and the total property tax rate and the total taxes charged and payable to a joint vocational district for the preceding tax year that are limited to or to the extent apportioned to current expenses.

(b) The portion of the amount of taxes charged and payable reported for each city, local, and exempted village school district under division (A)(3)(a) of this section attributable to a joint vocational school district.

(4) The value of all real and public utility real property in the school district exempted from taxation minus both of the following:

(a) The value of real and public utility real property in the district owned by the United States government and used exclusively for a public purpose;

(b) The value of real and public utility real property in the district exempted from taxation under Chapter 725. or 1728. or section 3735.67, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, or 5709.78 of the Revised Code.

(5) The total federal adjusted gross income of the residents of the school district, based on tax returns filed by the residents of the district, for the most recent year for which this information is available.

(6) The sum of the school district compensation value as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code as if such property had been assessed for

taxation that year and the other compensation value for the school district, minus the amounts described in divisions (A)(6)(c) to (i) of this section. The portion of school district compensation value or other compensation value attributable to an incentive district exemption may be subtracted only once even if that incentive district satisfies more than one of the criteria in divisions (A)(6)(c) to (i) of this section.

(a) "School district compensation value" means the aggregate value of real property in the school district exempted from taxation pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code to the extent that the exempted value results in the charging of payments in lieu of taxes required to be paid to the school district under division (D)(1) or (2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code.

(b) "Other compensation value" means the quotient that results from dividing (i) the dollar value of compensation received by the school district during the preceding tax year pursuant to division (B), (C), or (D) of section 5709.82 of the Revised Code and the amounts received pursuant to an agreement as specified in division (D)(2) of section 5709.40, division (D) of section 5709.73, or division (C) of section 5709.78 of the Revised Code to the extent those amounts were not previously reported or included in division (A)(6)(a) of this section, and so that any such amount is reported only once under division (A)(6)(b) of this section, in relation to exemptions from taxation granted pursuant to an ordinance or resolution adopted under division (C) of section 5709.40, division (C) of section 5709.73, or division (B) of section 5709.78 of the Revised Code, by (ii) the real property tax rate in effect for the preceding tax year for nonresidential/agricultural real property after making the reductions required by section 319.301 of the Revised Code.

(c) The portion of school district compensation value or other compensation value that was exempted from taxation pursuant to such an ordinance or resolution for the preceding tax year, if the ordinance or resolution is adopted prior to January 1, 2006, and the legislative authority or board of township trustees or county commissioners, prior to January 1, 2006, executes a contract or agreement with a developer, whether for-profit or not-for-profit, with respect to the development of a project undertaken or to be undertaken and identified in the ordinance or resolution, and upon which parcels such project is being, or will be, undertaken;

(d) The portion of school district compensation value that was exempted from taxation for the preceding tax year and for which payments in lieu of

taxes for the preceding tax year were provided to the school district under division (D)(1) of section 5709.40 of the Revised Code.

(e) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if and to the extent that, on or before April 1, 2006, the fiscal officer of the municipal corporation that adopted the ordinance, or of the township or county that adopted the resolution, certifies and provides appropriate supporting documentation to the tax commissioner and the director of development that, based on hold-harmless provisions in any agreement between the school district and the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners that was entered into on or before June 1, 2005, the ability or obligation of the municipal corporation, township, or county to repay bonds, notes, or other financial obligations issued or entered into prior to January 1, 2006, will be impaired, including obligations to or of any other body corporate and politic with whom the legislative authority of the municipal corporation or board of township trustees or county commissioners has entered into an agreement pertaining to the use of service payments derived from the improvements exempted;

(f) The portion of school district compensation value that was exempted from taxation for the preceding tax year pursuant to such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, in a municipal corporation with a population that exceeds one hundred thousand, as shown by the most recent federal decennial census, that includes a major employment center and that is adjacent to historically distressed neighborhoods, if the legislative authority of the municipal corporation that exempted the property prepares an economic analysis that demonstrates that all taxes generated within the incentive district accruing to the state by reason of improvements constructed within the district during its existence exceed the amount the state pays the school district under section 3317.022 of the Revised Code attributable to such property exemption from the school district's recognized valuation. The analysis shall be submitted to and approved by the department of development prior to January 1, 2006, and the department shall not unreasonably withhold approval.

(g) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if the ordinance or resolution is adopted prior to January 1, 2006, and if service payments have been pledged to be used for mixed-use riverfront entertainment development in any county with a population that exceeds six hundred thousand, as shown by the most recent federal

decennial census;

(h) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution, if, prior to January 1, 2006, the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners has pledged service payments for a designated transportation capacity project approved by the transportation review advisory council under Chapter 5512. of the Revised Code;

(i) The portion of school district compensation value that was exempted from taxation for the preceding tax year under such an ordinance or resolution if the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners have, by January 1, 2006, pledged proceeds for designated transportation improvement projects that involve federal funds for which the proceeds are used to meet a local share match requirement for such funding.

As used in division (A)(6) of this section, "project" has the same meaning as in section 5709.40 of the Revised Code.

(7) The aggregate value of real property in the school district for which an exemption from taxation is granted by an ordinance or resolution adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code, as indicated on the list of exempted property for the preceding tax year under section 5713.08 of the Revised Code and as if such property had been assessed for taxation that year, minus the product determined by multiplying (a) the aggregate value of the real property in the school district exempted from taxation for the preceding tax year under any of the chapters or sections specified in this division, by (b) a fraction, the numerator of which is the difference between (i) the amount of anticipated revenue such school district would have received for the preceding tax year if the real property exempted from taxation had not been exempted from taxation and (ii) the aggregate amount of payments in lieu of taxes on the exempt real property for the preceding tax year and other compensation received for the preceding tax year by the school district pursuant to any agreements entered into on or after January 1, 2006, under section 5709.82 of the Revised Code between the school district and the legislative authority of a political subdivision that acted under the authority of a chapter or statute specified in this division, that were entered into in relation to such exemption, and the denominator of which is the amount of anticipated revenue such school district would have received in the preceding fiscal year if the real property exempted from taxation had not been exempted.

(B) On or before the first day of May each year, the tax commissioner shall certify to the department of education and the office of budget and management the total taxable real property value of railroads and, separately, the total taxable tangible personal property value of all public utilities for the preceding tax year, by school district and by county of location.

(C) If a public utility has properly and timely filed a petition for reassessment under section 5727.47 of the Revised Code with respect to an assessment issued under section 5727.23 of the Revised Code affecting taxable property apportioned by the tax commissioner to a school district, the taxable value of public utility tangible personal property included in the certification under divisions (A)(2) and (B) of this section for the school district shall include only the amount of taxable value on the basis of which the public utility paid tax for the preceding year as provided in division (B)(1) or (2) of section 5727.47 of the Revised Code.

(D) If on the basis of the information certified under division (A) of this section, the department determines that any district fails in any year to meet the qualification requirement specified in ~~division (A)(1) of section 3306.01~~ and division (A) of section 3317.01 of the Revised Code, the department shall immediately request the tax commissioner to determine the extent to which any school district income tax levied by the district under Chapter 5748. of the Revised Code shall be included in meeting that requirement. Within five days of receiving such a request from the department, the tax commissioner shall make the determination required by this division and report the quotient obtained under division (D)(3) of this section to the department and the office of budget and management. This quotient represents the number of mills that the department shall include in determining whether the district meets the qualification requirement of ~~division (A)(1) of section 3306.01~~ and division (A) of section 3317.01 of the Revised Code.

The tax commissioner shall make the determination required by this division as follows:

(1) Multiply one mill times the total taxable value of the district as determined in divisions (A)(1) and (2) of this section;

(2) Estimate the total amount of tax liability for the current tax year under taxes levied by Chapter 5748. of the Revised Code that are apportioned to current operating expenses of the district, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code;

(3) Divide the amount estimated under division (D)(2) of this section by the product obtained under division (D)(1) of this section.

(E)(1) On or before June 1, 2006, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to division (D) of section 5709.40, division (D) of section 5709.73, division (C) of section 5709.78, or division (B)(1), (B)(2), (C), or (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to an ordinance adopted by the legislative authority of a municipal corporation under division (C) of section 5709.40 of the Revised Code, or a resolution adopted by a board of township trustees or board of county commissioners under division (C) of section 5709.73 or division (B) of section 5709.78 of the Revised Code, respectively. On or before April 1, 2006, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided in this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported erroneous, inaccurate, or incomplete data under this division.

(2) On or before April 1, 2007, and the first day of April of each year thereafter, the director of development shall report to the department of education, the tax commissioner, and the director of budget and management the total amounts of payments received by each city, local, exempted village, or joint vocational school district for the preceding tax year pursuant to divisions (B), (C), and (D) of section 5709.82 of the Revised Code in relation to exemptions from taxation granted pursuant to ordinances or resolutions adopted on or after January 1, 2006, under Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.62, 5709.63, 5709.632, 5709.84, or 5709.88 of the Revised Code. On or before March 1, 2007, and the first day of March of each year thereafter, the treasurer of each city, local, exempted village, or joint vocational school district that has entered into such an agreement shall report to the director of development the total amounts of such payments the district received for the preceding tax year as provided by this section. The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may suspend or revoke the license of a treasurer found to have willfully reported

erroneous, inaccurate, or incomplete data under this division.

Sec. 3317.022. (A)(1) The department of education shall compute and distribute state base cost funding to each eligible school district for the fiscal year, using the information obtained under section 3317.021 of the Revised Code in the calendar year in which the fiscal year begins, according to the following formula:

$$\begin{aligned} & \{ [\text{the formula amount X (formula ADM +} \\ & \quad \text{preschool scholarship ADM)}] + \\ & \quad \text{the sum of the base funding supplements} \\ & \quad \text{prescribed in divisions (C)(1) to (4)} \\ & \quad \text{of section 3317.012 of the Revised Code} \} - \\ & \quad [.023 \times (\text{the sum of recognized valuation} \\ & \quad \text{and property exemption value)}] + \\ & \quad \text{the amounts calculated for the district under} \\ & \quad \text{sections 3317.029 and 3317.0217 of the Revised Code} \end{aligned}$$

If the difference obtained is a negative number, the district's computation shall be zero.

(2)(a) For each school district for which the tax exempt value of the district equals or exceeds twenty-five per cent of the potential value of the district, the department of education shall calculate the difference between the district's tax exempt value and twenty-five per cent of the district's potential value.

(b) For each school district to which division (A)(2)(a) of this section applies, the department shall adjust the recognized valuation used in the calculation under division (A)(1) of this section by subtracting from it the amount calculated under division (A)(2)(a) of this section.

(B) As used in this section:

(1) The "total special education weight" for a district means the sum of the following amounts:

(a) The district's category one special education ADM multiplied by the multiple specified in division (A) of section 3317.013 of the Revised Code;

(b) The district's category two special education ADM multiplied by the multiple specified in division (B) of section 3317.013 of the Revised Code;

(c) The district's category three special education ADM multiplied by the multiple specified in division (C) of section 3317.013 of the Revised Code;

(d) The district's category four special education ADM multiplied by the multiple specified in division (D) of section 3317.013 of the Revised Code;

(e) The district's category five special education ADM multiplied by the multiple specified in division (E) of section 3317.013 of the Revised Code;

(f) The district's category six special education ADM multiplied by the multiple specified in division (F) of section 3317.013 of the Revised Code.

(2) "Related services" includes:

(a) Child study, special education supervisors and coordinators, speech and hearing services, adaptive physical development services, occupational or physical therapy, teacher assistants for children with disabilities whose disabilities are described in division (B) of section 3317.013 or division (F)(3) of section 3317.02 of the Revised Code, behavioral intervention, interpreter services, work study, nursing services, and specialized integrative services as those terms are defined by the department;

(b) Speech and language services provided to any student with a disability, including any student whose primary or only disability is a speech and language disability;

(c) Any related service not specifically covered by other state funds but specified in federal law, including but not limited to, audiology and school psychological services;

(d) Any service included in units funded under former division (O)(1) of section 3317.024 of the Revised Code;

(e) Any other related service needed by children with disabilities in accordance with their individualized education programs.

(3) The "total vocational education weight" for a district means the sum of the following amounts:

(a) The district's category one vocational education ADM multiplied by the multiple specified in division (A) of section 3317.014 of the Revised Code;

(b) The district's category two vocational education ADM multiplied by the multiple specified in division (B) of section 3317.014 of the Revised Code.

(4) "Preschool scholarship ADM" means the number of preschool children with disabilities reported under division (B)(3)(h) of section 3317.03 of the Revised Code.

(C)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each school district in accordance with the following formula:

The district's state share percentage X
the formula amount for the year for which
the aid is calculated X the district's
total special education weight

(2) The attributed local share of special education and related services additional weighted costs equals:

(1 - the district's state share percentage) X the district's
total special education weight X the formula amount

(3)(a) The department shall compute and pay in accordance with this division additional state aid to school districts for students in categories two through six special education ADM. If a district's costs for the fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(i) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(ii) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(b) For purposes of division (C)(3)(a) of this section, the threshold catastrophic cost for serving a student equals:

(i) For a student in the school district's category two, three, four, or five special education ADM, twenty-seven thousand three hundred seventy-five dollars;

(ii) For a student in the district's category six special education ADM, thirty-two thousand eight hundred fifty dollars.

(c) The district shall only report under division (C)(3)(a) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(4)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2008 and 2009.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department of education shall pay each school district an amount calculated under the following formula:

$$\begin{aligned} & (\text{formula ADM divided by } 2000) \times \\ & \text{the personnel allowance} \times \\ & \text{the state share percentage} \end{aligned}$$

(5) In any fiscal year, a school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

$$\begin{aligned} & \text{(formula amount X the sum of categories} \\ & \text{one through six special education ADM) +} \\ & \text{(total special education weight X formula amount)} \end{aligned}$$

The purposes approved by the department for special education expenses shall include, but shall not be limited to, identification of children with disabilities, compliance with state rules governing the education of children with disabilities and prescribing the continuum of program options for children with disabilities, provision of speech language pathology services, and the portion of the school district's overall administrative and overhead costs that are attributable to the district's special education student population.

The scholarships deducted from the school district's account under section 3310.41 of the Revised Code shall be considered to be an approved special education and related services expense for the purpose of the school district's compliance with division (C)(5) of this section.

The department shall require school districts to report data annually to allow for monitoring compliance with division (C)(5) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each school district for special education and related services.

(6) In any fiscal year, a school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (C)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (C)(4) of this section.

~~(D)(1) As used in this division:~~

~~(a) "Daily bus miles per student" equals the number of bus miles traveled per day, divided by transportation base.~~

~~(b) "Transportation base" equals total student count as defined in section 3301.011 of the Revised Code, minus the number of students enrolled in units for preschool children with disabilities, plus the number of nonpublic school students included in transportation ADM.~~

~~(c) "Transported student percentage" equals transportation ADM divided by transportation base.~~

~~(d) "Transportation cost per student" equals total operating costs for board-owned or contractor-operated school buses divided by transportation base.~~

~~(2) Analysis of student transportation cost data has resulted in a finding that an average efficient transportation use cost per student can be calculated by means of a regression formula that has as its two independent variables the number of daily bus miles per student and the transported student percentage. For fiscal year 1998 transportation cost data, the average efficient transportation use cost per student is expressed as follows:~~

$$\begin{aligned} &51.79027 + (139.62626 \times \text{daily bus miles per student}) + \\ &\quad (116.25573 \times \text{transported student percentage}) \end{aligned}$$

~~The department of education shall annually determine the average efficient transportation use cost per student in accordance with the principles stated in division (D)(2) of this section, updating the intercept and regression coefficients of the regression formula modeled in this division, based on an annual statewide analysis of each school district's daily bus miles per student, transported student percentage, and transportation cost per student data. The department shall conduct the annual update using data, including daily bus miles per student, transported student percentage, and transportation cost per student data, from the prior fiscal year. The department shall notify the office of budget and management of such update by the fifteenth day of February of each year.~~

~~(3) In addition to funds paid under divisions (A), (C), and (E) of this section, each district with a transported student percentage greater than zero shall receive a payment equal to a percentage of the product of the district's transportation base from the prior fiscal year times the annually updated average efficient transportation use cost per student, times an inflation factor of two and eight tenths per cent to account for the one year difference between the data used in updating the formula and calculating the payment and the year in which the payment is made. The percentage shall be the following percentage of that product specified for the corresponding fiscal year:~~

FISCAL YEAR	PERCENTAGE
2000	52.5%
2001	55%
2002	57.5%
2003 and thereafter	The greater of 60% or the district's state share percentage

~~The payments made under division (D)(3) of this section each year shall be calculated based on all of the same prior year's data used to update the formula.~~

~~(4) In addition to funds paid under divisions (D)(2) and (3) of this section, a school district shall receive a rough road subsidy if both of the~~

following apply:

(a) Its county rough road percentage is higher than the statewide rough road percentage, as those terms are defined in division (D)(5) of this section;

(b) Its district student density is lower than the statewide student density, as those terms are defined in that division.

(5) The rough road subsidy paid to each district meeting the qualifications of division (D)(4) of this section shall be calculated in accordance with the following formula:

$$\frac{\text{(per rough mile subsidy X total rough road miles)}}{\text{X density multiplier}}$$

where:

(a) "Per rough mile subsidy" equals the amount calculated in accordance with the following formula:

$$0.75 - \{0.75 \times [(\text{maximum rough road percentage} - \text{county rough road percentage}) / (\text{maximum rough road percentage} - \text{statewide rough road percentage})]\}$$

(i) "Maximum rough road percentage" means the highest county rough road percentage in the state.

(ii) "County rough road percentage" equals the percentage of the mileage of state, municipal, county, and township roads that is rated by the department of transportation as type A, B, C, E2, or F in the county in which the school district is located or, if the district is located in more than one county, the county to which it is assigned for purposes of determining its cost-of-doing-business factor.

(iii) "Statewide rough road percentage" means the percentage of the statewide total mileage of state, municipal, county, and township roads that is rated as type A, B, C, E2, or F by the department of transportation.

(b) "Total rough road miles" means a school district's total bus miles traveled in one year times its county rough road percentage.

(c) "Density multiplier" means a figure calculated in accordance with the following formula:

$$1 - [(\text{minimum student density} - \text{district student density}) / (\text{minimum student density} - \text{statewide student density})]$$

(i) "Minimum student density" means the lowest district student density in the state.

(ii) "District student density" means a school district's transportation base divided by the number of square miles in the district.

(iii) "Statewide student density" means the sum of the transportation bases for all school districts divided by the sum of the square miles in all

school districts.

~~(6)~~ In addition to funds paid under divisions ~~(D)~~(2) to (5) of this section, each district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than board-owned or contractor-operated buses and whose transportation is not funded under division ~~(G)~~ of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

~~(E)~~(1) The department shall compute and distribute state vocational education additional weighted costs funds to each school district in accordance with the following formula:

$$\frac{\text{state share percentage X}}{\text{the formula amount X}} \times \text{total vocational education weight}$$

In any fiscal year, a school district receiving funds under division ~~(E)~~(D)(1) of this section shall spend those funds only for the purposes that the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division ~~(E)~~(D)(1) of this section may be spent.

(2) The department shall compute for each school district state funds for vocational education associated services in accordance with the following formula:

$$\frac{\text{state share percentage X} \times .05 \times \text{the formula amount X}}{\text{the sum of categories one and two vocational education ADM}}$$

In any fiscal year, a school district receiving funds under division ~~(E)~~(D)(2) of this section, or through a transfer of funds pursuant to division ~~(E)~~(I) of section 3317.023 of the Revised Code, shall spend those funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division ~~(E)~~(D)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division ~~(E)~~(D)(2) of this section, or through a transfer of funds pursuant to division ~~(E)~~(I) of section 3317.023 of the Revised Code, for other purposes.

~~(E)~~(E) The actual local share in any fiscal year for the combination of

special education and related services additional weighted costs funding calculated under division (C)(1) of this section, transportation ~~funding base payment~~ calculated under divisions ~~(D)(2) and (3)~~ division (E) of ~~this~~ section 3317.0212 of the Revised Code, and vocational education and associated services additional weighted costs funding calculated under divisions ~~(E)(D)~~(1) and (2) of this section shall not exceed for any school district the product of three and three-tenths mills times the district's recognized valuation. The department annually shall pay each school district as an excess cost supplement any amount by which the sum of the district's attributed local shares for that funding exceeds that product. For purposes of calculating the excess cost supplement:

(1) The attributed local share for special education and related services additional weighted costs funding is the amount specified in division (C)(2) of this section.

(2) The attributed local share of the district's transportation funding base payment equals the difference of the total amount calculated for the district ~~using the formula developed~~ under division ~~(D)(2)(E)~~ of ~~this~~ section 3317.0212 of the Revised Code minus the actual amount paid to the district after applying the percentage specified in division ~~(D)(E)~~(3) of ~~this that~~ section.

(3) The attributed local share of vocational education and associated services additional weighted costs funding is the amount determined as follows:

$$(1 - \text{state share percentage}) \times [(\text{total vocational education weight} \times \text{the formula amount}) + \text{the payment under division } \del{(E)(D)}(2) \text{ of this section}]$$

Sec. 3317.023. (A) The amounts required to be paid to a district under this chapter ~~and Chapter 3306. of the Revised Code~~ shall be adjusted by the amount of the computations made under divisions (B) to ~~(N)(K)~~ of this section. ~~The department of education shall not make payments or adjustments under divisions (B), (C), and (D) of this section for any fiscal year after fiscal year 2009.~~

As used in this section:

(1) ~~"Classroom teacher" means a licensed employee who provides direct instruction to pupils, excluding teachers funded from money paid to the district from federal sources; educational service personnel; and vocational and special education teachers.~~

(2) ~~"Educational service personnel" shall not include such specialists funded from money paid to the district from federal sources or assigned~~

~~full-time to vocational or special education students and classes and may only include those persons employed in the eight specialist areas in a pattern approved by the department of education under guidelines established by the state board of education.~~

~~(3) "Annual salary" means the annual base salary stated in the state minimum salary schedule for the performance of the teacher's regular teaching duties that the teacher earns for services rendered for the first full week of October of the fiscal year for which the adjustment is made under division (C) of this section. It shall not include any salary payments for supplemental teachers contracts.~~

~~(4) "Regular student population" means the formula ADM plus the number of students reported as enrolled in the district pursuant to division (A)(1) of section 3313.981 of the Revised Code; minus the number of students reported under division (A)(2) of section 3317.03 of the Revised Code; minus the FTE of students reported under division (B)(6), (7), (8), (9), (10), (11), or (12) of that section who are enrolled in a vocational education class or receiving special education; and minus twenty per cent of the students enrolled concurrently in a joint vocational school district.~~

~~(5) "VEPD" means a school district or group of school districts designated by the department of education as being responsible for the planning for and provision of vocational education services to students within the district or group.~~

~~(6)(2) "Lead district" means a school district, including a joint vocational school district, designated by the department as a VEPD, or designated to provide primary vocational education leadership within a VEPD composed of a group of districts.~~

~~(B) If the district employs less than one full-time equivalent classroom teacher for each twenty five pupils in the regular student population in any school district, deduct the sum of the amounts obtained from the following computations:~~

~~(1) Divide the number of the district's full-time equivalent classroom teachers employed by one twenty fifth;~~

~~(2) Subtract the quotient in (1) from the district's regular student population;~~

~~(3) Multiply the difference in (2) by seven hundred fifty two dollars.~~

~~(C) If a positive amount, add one half of the amount obtained by multiplying the number of full-time equivalent classroom teachers by:~~

~~(1) The mean annual salary of all full-time equivalent classroom teachers employed by the district at their respective training and experience levels minus;~~

~~(2) The mean annual salary of all such teachers at their respective levels in all school districts receiving payments under this section.~~

~~The number of full-time equivalent classroom teachers used in this computation shall not exceed one twenty-fifth of the district's regular student population. In calculating the district's mean salary under this division, those full-time equivalent classroom teachers with the highest training level shall be counted first, those with the next highest training level second, and so on, in descending order. Within the respective training levels, teachers with the highest years of service shall be counted first, the next highest years of service second, and so on, in descending order.~~

~~(D) This division does not apply to a school district that has entered into an agreement under division (A) of section 3313.42 of the Revised Code. Deduct the amount obtained from the following computations if the district employs fewer than five full-time equivalent educational service personnel, including elementary school art, music, and physical education teachers, counselors, librarians, visiting teachers, school social workers, and school nurses for each one thousand pupils in the regular student population:~~

~~(1) Divide the number of full-time equivalent educational service personnel employed by the district by five one thousandths;~~

~~(2) Subtract the quotient in (1) from the district's regular student population;~~

~~(3) Multiply the difference in (2) by ninety-four dollars.~~

~~(E) If a local school district, or a city or exempted village school district to which a governing board of an educational service center provides services pursuant to section 3313.843 of the Revised Code, deduct the amount of the payment required for the reimbursement of the governing board under section 3317.11 of the Revised Code.~~

~~(F)(C)(1) If the district is required to pay to or entitled to receive tuition from another school district under division (C)(2) or (3) of section 3313.64 or section 3313.65 of the Revised Code, or if the superintendent of public instruction is required to determine the correct amount of tuition and make a deduction or credit under section 3317.08 of the Revised Code, deduct and credit such amounts as provided in division (J) of section 3313.64 or section 3317.08 of the Revised Code.~~

~~(2) For each child for whom the district is responsible for tuition or payment under division (A)(1) of section 3317.082 or section 3323.091 of the Revised Code, deduct the amount of tuition or payment for which the district is responsible.~~

~~(G)(D) If the district has been certified by the superintendent of public instruction under section 3313.90 of the Revised Code as not in compliance~~

with the requirements of that section, deduct an amount equal to ten per cent of the amount computed for the district under ~~Chapter 3306. of the Revised Code~~ this chapter.

~~(H)~~(E) If the district has received a loan from a commercial lending institution for which payments are made by the superintendent of public instruction pursuant to division (E)(3) of section 3313.483 of the Revised Code, deduct an amount equal to such payments.

~~(H)~~(F)(1) If the district is a party to an agreement entered into under division (D), (E), or (F) of section 3311.06 or division (B) of section 3311.24 of the Revised Code and is obligated to make payments to another district under such an agreement, deduct an amount equal to such payments if the district school board notifies the department in writing that it wishes to have such payments deducted.

(2) If the district is entitled to receive payments from another district that has notified the department to deduct such payments under division ~~(H)~~(F)(1) of this section, add the amount of such payments.

~~(H)~~(G) If the district is required to pay an amount of funds to a cooperative education district pursuant to a provision described by division (B)(4) of section 3311.52 or division (B)(8) of section 3311.521 of the Revised Code, deduct such amounts as provided under that provision and credit those amounts to the cooperative education district for payment to the district under division (B)(1) of section 3317.19 of the Revised Code.

~~(K)~~(H)(1) If a district is educating a student entitled to attend school in another district pursuant to a shared education contract, compact, or cooperative education agreement other than an agreement entered into pursuant to section 3313.842 of the Revised Code, credit to that educating district on an FTE basis both of the following:

(a) An amount equal to the formula amount.

(b) An amount equal to ~~the current formula amount~~ \$5,732 times the state share percentage times any multiple applicable to the student for fiscal year 2009 pursuant to section ~~3306.11~~ 3317.013 or 3317.014 of the Revised Code, as those sections existed for that fiscal year.

(2) Deduct any amount credited pursuant to division ~~(K)~~(H)(1) of this section from amounts paid to the school district in which the student is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) If the district is required by a shared education contract, compact, or cooperative education agreement to make payments to an educational service center, deduct the amounts from payments to the district and add them to the amounts paid to the service center pursuant to section 3317.11

of the Revised Code.

~~(E)~~(I)(1) If a district, including a joint vocational school district, is a lead district of a VEPD, credit to that district the following amounts calculated for all the school districts within that VEPD ~~pursuant to:~~

(a) In any fiscal year except fiscal year 2012 or 2013, the amount computed under division ~~(E)~~(D)(2) of section 3317.022 of the Revised Code:

(b) In fiscal years 2012 and 2013, an amount equal to the following:
state share percentage X .05 X \$5,732 X
the sum of categories one
and two vocational education ADM

(2) Deduct from each appropriate district that is not a lead district, the amount attributable to that district that is credited to a lead district under division ~~(E)~~(I)(1) of this section.

~~(M)~~(J) If the department pays a joint vocational school district under division (G)(4) of section 3317.16 of the Revised Code for excess costs of providing special education and related services to a student with a disability, as calculated under division (G)(2) of that section, the department shall deduct the amount of that payment from the city, local, or exempted village school district that is responsible as specified in that section for the excess costs.

~~(N)~~(K)(1) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall pay that amount to the district.

(2) If the district reports an amount of excess cost for special education services for a child under division (C) of section 3323.14 of the Revised Code, the department shall deduct that amount from the district of residence of that child.

Sec. 3317.024. The following shall be distributed monthly, quarterly, or annually as may be determined by the state board of education, ~~except that the department of education shall not make payments under divisions (F) and (N) of this section for any fiscal year after fiscal year 2009 or under division (L) of this section for fiscal year 2010 or 2011:~~

(A) An amount for each island school district and each joint state school district for the operation of each high school and each elementary school maintained within such district and for capital improvements for such schools. Such amounts shall be determined on the basis of standards adopted by the state board of education. However, for fiscal years 2012 and 2013, an island district shall receive the lesser of its actual cost of operation, as certified to the department of education, or ninety-three per cent of the

amount the district received in state operating funding for fiscal year 2011. If an island district received no funding for fiscal year 2011, it shall receive no funding for either of fiscal year 2012 or 2013.

~~(B) An amount for each school district operating classes for children of migrant workers who are unable to be in attendance in an Ohio school during the entire regular school year. The amounts shall be determined on the basis of standards adopted by the state board of education, except that payment shall be made only for subjects regularly offered by the school district providing the classes.~~

~~(C) An amount for each school district with guidance, testing, and counseling programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~

~~(D) An amount for the emergency purchase of school buses as provided for in section 3317.07 of the Revised Code;~~

~~(E) An amount for each school district required to pay tuition for a child in an institution maintained by the department of youth services pursuant to section 3317.082 of the Revised Code, provided the child was not included in the calculation of the district's average daily membership for the preceding school year.~~

~~(F) An amount for adult basic literacy education for each district participating in programs approved by the state board of education. The amount shall be determined on the basis of standards adopted by the state board of education.~~

~~(G)~~(C) An amount for the approved cost of transporting eligible pupils with disabilities attending a special education program approved by the department of education whom it is impossible or impractical to transport by regular school bus in the course of regular route transportation provided by the school district or educational service center. No district or service center is eligible to receive a payment under this division for the cost of transporting any pupil whom it transports by regular school bus and who is included in the district's transportation ADM. The state board of education shall establish standards and guidelines for use by the department of education in determining the approved cost of such transportation for each district or service center.

~~(H)~~(D) An amount to each school district, including each cooperative education school district, pursuant to section 3313.81 of the Revised Code to assist in providing free lunches to needy children ~~and an amount to assist needy school districts in purchasing necessary equipment for food preparation.~~ The amounts shall be determined on the basis of rules adopted

by the state board of education.

~~(H)~~(E) An amount to each school district, for each pupil attending a chartered nonpublic elementary or high school within the district. The amount shall equal the amount appropriated for the implementation of section 3317.06 of the Revised Code divided by the average daily membership in grades kindergarten through twelve in nonpublic elementary and high schools within the state as determined during the first full week in October of each school year.

~~(J)~~(E) An amount for each county DD board, distributed on the basis of standards adopted by the state board of education, for the approved cost of transportation required for children attending special education programs operated by the county DD board under section 3323.09 of the Revised Code;

~~(K)~~ An amount for each school district that establishes a mentor teacher program that complies with rules of the state board of education. No school district shall be required to establish or maintain such a program in any year unless sufficient funds are appropriated to cover the district's total costs for the program.

~~(L)~~ An amount to each school district or educational service center for the total number of gifted units approved pursuant to section 3317.05 of the Revised Code. The amount for each such unit shall be the sum of the minimum salary for the teacher of the unit, calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001, plus fifteen per cent of that minimum salary amount, plus two thousand six hundred seventy eight dollars.

~~(M)~~(G) An amount to each institution defined under section 3317.082 of the Revised Code providing elementary or secondary education to children other than children receiving special education under section 3323.091 of the Revised Code. This amount for any institution in any fiscal year shall equal the total of all tuition amounts required to be paid to the institution under division (A)(1) of section 3317.082 of the Revised Code.

~~(N)~~ A grant to each school district and joint vocational school district that operates a "graduation, reality, and dual-role skills" (GRADS) program for pregnant and parenting students that is approved by the department. The amount of the payment shall be the district's state share percentage, as defined in section 3317.022 or 3317.16 of the Revised Code, times the GRADS personnel allowance times the full time equivalent number of GRADS teachers approved by the department. The GRADS personnel allowance is \$47,555 in fiscal years 2008 and 2009. The GRADS program

~~shall include instruction on adoption as an option for unintended pregnancies.~~

The state board of education or any other board of education or governing board may provide for any resident of a district or educational service center territory any educational service for which funds are made available to the board by the United States under the authority of public law, whether such funds come directly or indirectly from the United States or any agency or department thereof or through the state or any agency, department, or political subdivision thereof.

Sec. 3317.025. On or before the first day of June of each year, the tax commissioner shall certify the following information to the department of education and the office of budget and management, for each school district in which the value of the property described under division (A) of this section exceeds one per cent of the taxable value of all real and tangible personal property in the district or in which is located tangible personal property designed for use or used in strip mining operations, whose taxable value exceeds five million dollars, and the taxes upon which the district is precluded from collecting by virtue of legal proceedings to determine the value of such property:

(A) The total taxable value of all property in the district owned by a public utility or railroad that has filed a petition for reorganization under the "Bankruptcy Act," 47 Stat. 1474 (1898), 11 U.S.C. 205, as amended, and all tangible personal property in the district designed for use or used in strip mining operations whose taxable value exceeds five million dollars upon which have not been paid in full on or before the first day of April of that calendar year all real and tangible personal property taxes levied for the preceding calendar year and which the district was precluded from collecting by virtue of proceedings under section 205 of said act or by virtue of legal proceedings to determine the tax liability of such strip mining equipment;

(B) The percentage of the total operating taxes charged and payable for school district purposes levied against such valuation for the preceding calendar year that have not been paid by such date;

(C) The product obtained by multiplying the value certified under division (A) of this section by the percentage certified under division (B) of this section. If the value certified under division (A) of this section includes taxable property owned by a public utility or railroad that has filed a petition for reorganization under the bankruptcy act, the amount used in making the calculation under this division shall be reduced by one per cent of the total value of all real and tangible personal property in the district or the value of

the utility's or railroad's property, whichever is less.

Upon receipt of the certification, the department shall recompute the payments required under ~~Chapter 3306. of the Revised Code~~ this chapter in the manner the payments would have been computed if:

(1) The amount certified under division (C) of this section was not subject to taxation by the district and was not included in the certification made under division (A)(1), (A)(2), or (D) of section 3317.021 of the Revised Code.

(2) The amount of taxes charged and payable and unpaid and used to make the computation under division (B) of this section had not been levied and had not been used in the computation required by division (B) of section 3317.021 of the Revised Code. The department shall pay the district that amount in the ensuing fiscal year in lieu of the amounts computed under ~~Chapter 3306. of the Revised Code~~ this chapter.

If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0210. (A) As used in this section:

(1) "Bankruptcy Reform Act" means the "Bankruptcy Reform Act of 1978," 92 Stat. 2558, 11 U.S.C. 301, as amended.

(2) "Chapter 11 corporation" means a corporation, company, or other business organization that has filed a petition for reorganization under Chapter 11 of the "Bankruptcy Reform Act," 92 Stat. 2626, 11 U.S.C. 1101, as amended.

(3) "Uncollectable taxes" means property taxes payable in a calendar year by a Chapter 11 corporation on its property that a school district is precluded from collecting by virtue of proceedings under the Bankruptcy Reform Act.

(4) "Basic state aid" means ~~the a school district's state education aid calculated for a school district under Chapter 3306. of the Revised Code.~~

(5) "Effective value" means the amount obtained by multiplying the total taxable value certified in a calendar year under section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable in that calendar year exclusive of the uncollectable taxes payable in that year, and the denominator of which is the total taxes charged and payable in that year.

(6) "Total taxes charged and payable" has the same meaning given

"taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) Between the first day of January and the first day of February of any year, a school district shall notify the department of education if it has uncollectable taxes payable in the preceding calendar year from one Chapter 11 corporation.

(2) The department shall verify whether the district has such uncollectable taxes from such a corporation, and if the district does, shall immediately request the tax commissioner to certify the district's total taxes charged and payable in the preceding calendar year, and the tax commissioner shall certify that information to the department within thirty days after receiving the request. For the purposes of this section, taxes are payable in the calendar year that includes the day prescribed by law for their payment, including any lawful extension thereof.

(C) Upon receiving the certification from the tax commissioner, the department shall determine whether the amount of uncollectable taxes from the corporation equals at least one per cent of the total taxes charged and payable as certified by the tax commissioner. If it does, the department shall compute the district's effective value and shall recompute the basic state aid payable to the district for the current fiscal year using the effective value in lieu of the total taxable value used to compute the basic state aid for the current fiscal year. The difference between the basic state aid amount originally computed for the district for the current fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives payments of uncollectable taxes in such future year. The district shall notify the department of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. 3317.0211. (A) As used in this section:

(1) "Port authority" means any port authority as defined in section 4582.01 or 4582.21 of the Revised Code.

(2) "Real property" includes public utility real property and "personal property" includes public utility personal property.

(3) "Uncollected taxes" means property taxes charged and payable against the property of a port authority for a tax year that a school district has not collected.

(4) "Basic state aid" means ~~the~~ a school district's state education aid calculated for a school district under Chapter 3306. of the Revised Code.

(5) "Effective value" means the sum of the effective residential/agricultural real property value, the effective nonresidential/agricultural real property value, and the effective personal value.

(6) "Effective residential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of residential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the residential/agricultural real property subject to taxation in the district.

(7) "Effective nonresidential/agricultural real property value" means, for a tax year, the amount obtained by multiplying the value for that year of nonresidential/agricultural real property subject to taxation in the district by a fraction, the numerator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district, exclusive of the uncollected taxes for that year on all real property subject to taxation in the district, and the denominator of which is the total taxes charged and payable for that year against the nonresidential/agricultural real property subject to taxation in the district.

(8) "Effective personal value" means, for a tax year, the amount obtained by multiplying the value for that year certified under division (A)(2) of section 3317.021 of the Revised Code by a fraction, the numerator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district, exclusive of the uncollected taxes for that year on that property, and the denominator of which is the total taxes charged and payable for that year against personal property subject to taxation in the district.

(9) "Nonresidential/agricultural real property value" means, for a tax year, the sum of the values certified for a school district for that year under division (B)(2)(a) of this section, and "residential/agricultural real property value" means, for a tax year, the sum of the values certified for a school district under division (B)(2)(b) of this section.

(10) "Taxes charged and payable against real property" means the taxes charged and payable against that property after making the reduction required by section 319.301 of the Revised Code.

(11) "Total taxes charged and payable" has the same meaning given "taxes charged and payable" in section 3317.02 of the Revised Code.

(B)(1) By the first day of August of any calendar year, a school district shall notify the department of education if it has any uncollected taxes from one port authority for the second preceding tax year whose taxes charged and payable represent at least one-half of one per cent of the district's total taxes charged and payable for that tax year.

(2) The department shall verify whether the district has such uncollected taxes by the first day of September, and if the district does, shall immediately request the county auditor of each county in which the school district has territory to certify the following information concerning the district's property values and taxes for the second preceding tax year, and each such auditor shall certify that information to the department within thirty days of receiving the request:

(a) The value of the property subject to taxation in the district that was classified as nonresidential/agricultural real property pursuant to section 5713.041 of the Revised Code, and the taxes charged and payable on that property; and

(b) The value of the property subject to taxation in the district that was classified as residential/agricultural real property under section 5713.041 of the Revised Code.

(C) By the fifteenth day of November, the department shall compute the district's effective nonresidential/agricultural real property value, effective residential/agricultural real property value, effective personal value, and effective value, and shall determine whether the school district's effective value for the second preceding tax year is at least one per cent less than its total value for that year certified under divisions (A)(1) and (2) of section 3317.021 of the Revised Code. If it is, the department shall recompute the basic state aid payable to the district for the immediately preceding fiscal year using the effective value in lieu of the amounts previously certified under section 3317.021 of the Revised Code. The difference between the original basic state aid amount computed for the district for the preceding fiscal year and the recomputed amount shall be paid to the district from the lottery profits education fund before the end of the current fiscal year.

(D) Except as provided in division (E) of this section, amounts received by a school district under division (C) of this section shall be repaid to the department of education in any future year to the extent the district receives

payments of uncollectable taxes in such future year. The department shall notify a district of any amount owed under this division.

(E) If a school district received a grant from the catastrophic expenditures account pursuant to division (C) of section 3316.20 of the Revised Code on the basis of the same circumstances for which a recomputation is made under this section, the amount of the recomputation shall be reduced and transferred in accordance with division (C) of section 3316.20 of the Revised Code.

Sec. ~~3306.12~~ 3317.0212. (A) The department of education shall make no payments under this section for fiscal year 2012 or 2013.

(A) As used in this section:

(1) "Assigned bus" means a school bus used to transport qualifying riders.

(2) "Nontraditional ridership" means the average number of qualifying riders who are enrolled in a community school established under Chapter 3314. of the Revised Code, in a STEM school established under Chapter 3326. of the Revised Code, or in a nonpublic school and are provided school bus service by a school district during the first full week of October.

(3) "Qualifying riders" means resident students enrolled in regular education in grades kindergarten to twelve who are provided school bus service by a school district and who live more than one mile from the school they attend, including students with dual enrollment in a joint vocational school district or a cooperative education school district, and students enrolled in a community school, STEM school, or nonpublic school.

(4) "Qualifying ridership" means the average number of qualifying riders who are provided school bus service by a school district during the first full week of October.

(5) "Rider density" means the number of qualifying riders per square mile of a school district.

(6) "School bus service" means a school district's transportation of qualifying riders in any of the following types of vehicles:

(a) School buses owned or leased by the district;

(b) School buses operated by a private contractor hired by the district;

(c) School buses operated by another school district or entity with which the district has contracted, either as part of a consortium for the provision of transportation or otherwise.

(B) Not later than the fifteenth day of October each year, each city, local, and exempted village school district shall report to the department of education its qualifying ridership, nontraditional ridership, number of qualifying riders per assigned bus, and any other information requested by

the department. Subsequent adjustments to the reported numbers shall be made only in accordance with rules adopted by the department.

(C) The department shall calculate the statewide transportation cost per student as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per student by dividing the district's total costs for school bus service in the previous fiscal year by its qualifying ridership in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per student and the ten districts with the lowest transportation costs per student, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate qualifying ridership of those districts in the previous fiscal year.

(D) The department shall calculate the statewide transportation cost per mile as follows:

(1) Determine each city, local, and exempted village school district's transportation cost per mile by dividing the district's total costs for school bus service in the previous fiscal year by its total number of miles driven for school bus service in the previous fiscal year.

(2) After excluding districts that do not provide school bus service and the ten districts with the highest transportation costs per mile and the ten districts with the lowest transportation costs per mile, divide the aggregate cost for school bus service for the remaining districts in the previous fiscal year by the aggregate miles driven for school bus service in those districts in the previous fiscal year.

(E) The department shall calculate each city, local, and exempted village school district's transportation base payment as follows:

(1) Multiply the statewide transportation cost per student by the district's qualifying ridership for the current fiscal year.

(2) Multiply the statewide transportation cost per mile by the district's total number of miles driven for school bus service in the current fiscal year.

(3) Multiply the greater of the amounts calculated under divisions (E)(1) and (2) of this section by the greater of sixty per cent or the district's state share percentage, as defined in section 3317.02 of the Revised Code.

(F) The department shall calculate each city, local, and exempted village school district's nontraditional ridership adjustment according to the following formula:

$$\frac{\text{(nontraditional ridership for the current fiscal year /} \\ \text{qualifying ridership for the current fiscal year)} \times 0.1}{X}$$

transportation base payment

(G) If a city, local, ~~and~~ or exempted village school district offers school bus service to all resident students who are enrolled in regular education in district schools in grades nine to twelve and who live more than one mile from the school they attend, the department shall calculate the district's high school ridership adjustment according to the following formula:

$$0.025 \times \text{transportation base payment}$$

(H) If a city, local, ~~and~~ or exempted village school district offers school bus service to students enrolled in grades kindergarten to eight who live more than one mile, but two miles or less, from the school they attend, the department shall calculate an additional adjustment according to the following formula:

$$0.025 \times \text{transportation base payment}$$

(I)(1) The department annually shall establish a target number of qualifying riders per assigned bus for each city, local, and exempted village school district. The department shall use the most recently available data in establishing the target number. The target number shall be based on the statewide median number of qualifying riders per assigned bus as adjusted to reflect the district's rider density in comparison to the rider density of all other districts. The department shall post on the department's web site each district's target number of qualifying riders per assigned bus and a description of how the target number was determined.

(2) The department shall determine each school district's efficiency index by dividing the district's median number of qualifying riders per assigned bus by its target number of qualifying riders per assigned bus.

(3) The department shall determine each city, local, and exempted village school district's efficiency adjustment as follows:

(a) If the district's efficiency index is equal to or greater than 1.5, the efficiency adjustment shall be calculated according to the following formula:

$$0.1 \times \text{transportation base payment}$$

(b) If the district's efficiency index is less than 1.5 but equal to or greater than 1.0, the efficiency adjustment shall be calculated according to the following formula:

$$[(\text{efficiency index} - 1) / 5] \times \text{transportation base payment}$$

(c) If the district's efficiency index is less than 1.0, the efficiency adjustment shall be zero.

(J) The department shall pay each city, local, and exempted village school district the lesser of the following:

(1) The sum of the amounts calculated under divisions (E) to (H) and

(I)(3) of this section;

(2) The district's total costs for school bus service for the prior fiscal year.

(K) In addition to funds paid under division (J) of this section, each city, local, and exempted village district shall receive in accordance with rules adopted by the state board of education a payment for students transported by means other than school bus service and whose transportation is not funded under division ~~(G)~~(C) of section 3317.024 of the Revised Code. The rules shall include provisions for school district reporting of such students.

~~(L)(1) In fiscal years 2010 and 2011, the department shall pay each district a pro rata portion of the amounts calculated under division (J) of this section and described in division (K) of this section, based on state appropriations.~~

~~(2) In addition to the prorated payment under division (L)(1) of this section, in fiscal years 2010 and 2011, the department shall pay each school district that meets the conditions prescribed in division (L)(3) of this section an additional amount equal to the following product:~~

~~(a) The difference of (i) the amounts calculated under division (J) of this section and prescribed in division (K) of this section minus (ii) that prorated payment; times~~

~~(b) 0.30 in fiscal year 2010 and 0.70 in fiscal year 2011.~~

~~(3) Division (L)(2) of this section applies to each school district that meets all of the following conditions:~~

~~(a) The district qualifies for the calculation of a payment under division (J) of this section because it transports students on board owned or contractor owned school buses.~~

~~(b) The district's local wealth per pupil, calculated as prescribed in section 3317.0217 of the Revised Code, is at or below the median local wealth per pupil of all districts that qualify for calculation of a payment under division (J) of this section.~~

~~(c) The district's rider density is at or below the median rider density of all districts that qualify for calculation of a payment under division (J) of this section.~~

~~Sec. 3317.03. The information certified and verified under this section shall be used to calculate payments under this chapter and Chapter 3306. of the Revised Code.~~

(A) The superintendent of each city, local, and exempted village school district and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week

in October the average daily membership of students receiving services from schools under the superintendent's supervision, and the numbers of other students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code the superintendent is required to report under this section, so that the department of education can calculate the district's formula ADM. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the average daily membership for that school for that week and specify an alternate week for certifying the average daily membership of that school.

The average daily membership during such week shall consist of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code;
- (e) Students receiving services in the district through a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

- (a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;
- (b) An alternative school pursuant to sections 3313.974 to 3313.979 of

the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(h) An alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code.

As used in this section, "alternative public provider" and "registered private provider" have the same meanings as in section 3310.41 or 3310.51 of the Revised Code, as applicable.

(i) A science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(j) A college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(3) The number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of children with disabilities, other than preschool children with disabilities, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed by the district with a county DD board, minus the number of such children placed with a county DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter ~~and Chapter~~

~~3306. of the Revised Code~~, in addition to the average daily membership, each superintendent shall report separately the following student counts for the same week for which average daily membership is certified:

(1) The total average daily membership in regular learning day classes included in the report under division (A)(1) or (2) of this section for each of the individual grades kindergarten through twelve in schools under the superintendent's supervision;

(2) The number of all preschool children with disabilities enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(g) Enrolled in kindergarten through grade twelve in an alternative public provider or a registered private provider with a scholarship awarded under section 3310.41 of the Revised Code;

(h) Enrolled as a preschool child with a disability in an alternative public provider or a registered private provider with a scholarship awarded

under section 3310.41 of the Revised Code;

(i) Participating in a program operated by a county DD board or a state institution;

(j) Enrolled in a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(k) Enrolled in a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(4) The number of pupils enrolled in joint vocational schools;

(5) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category one disability described in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(6) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category two disabilities described in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(7) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category three disabilities described in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(8) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for category four disabilities described in division ~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(9) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) of this section receiving special education services for the category five disabilities described in division ~~(D)(5)~~(E) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under sections 3310.51 to 3310.64 of the Revised Code;

(10) The combined average daily membership of children with disabilities reported under division (A)(1) or (2) and under division (B)(3)(h) of this section receiving special education services for category six disabilities described in division ~~(D)(6)~~(F) of section ~~3306.02~~ 3317.013 of the Revised Code, including children attending a special education program operated by an alternative public provider or a registered private provider with a scholarship awarded under either section 3310.41 or sections 3310.51 to 3310.64 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

Beginning with fiscal year 2010, vocational education ADM shall not be used to calculate a district's funding but shall be reported under divisions (B)(11) and (12) of this section for statistical purposes.

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than preschool children with disabilities, the district placed with a county DD board in fiscal year 1998;

(b) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category one disability described in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(c) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category two disabilities described in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(d) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category three disabilities described in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(e) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category four disabilities described in division ~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(f) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for the category five disabilities described in division ~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(g) The number of children with disabilities, other than preschool children with disabilities, placed with a county DD board in the current fiscal year to receive special education services for category six disabilities described in division ~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code.

(C)(1) The average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section. Each student enrolled in kindergarten shall be counted as one full-time equivalent student regardless of whether the student is enrolled in a part-day or all-day kindergarten class.

(2) A student enrolled in a community school established under Chapter 3314. ~~or~~, a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school ~~or~~, the science, technology, engineering, and mathematics school, or the college-preparatory boarding school for purposes of section 3314.08 ~~or~~, 3326.33, or 3328.24 of the Revised Code. Notwithstanding the number of students reported pursuant to division (B)(3)(d), (e), ~~or~~ (j), or (k) of this section, the department may adjust the formula ADM of a school district to account for students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in a community school ~~or~~, a science, technology, engineering, and mathematics school, or a college-preparatory boarding school for only a portion of the school year.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a disability described in ~~division (D) of section 3306.02~~ 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall

certify to the superintendent of public instruction on or before the fifteenth day of October in each year for the first full school week in October the formula ADM, for purposes of section 3318.42 of the Revised Code and for any other purpose prescribed by law for which "formula ADM" of the joint vocational district is a factor. If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. or a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school or the governing body of the science, technology, engineering, and mathematics school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) ~~It~~ To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average

daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:

(a) Students enrolled in each individual grade included in the joint vocational district schools;

(b) Children with disabilities receiving special education services for the category one disability described in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(c) Children with disabilities receiving special education services for the category two disabilities described in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(d) Children with disabilities receiving special education services for category three disabilities described in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(e) Children with disabilities receiving special education services for category four disabilities described in division ~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(f) Children with disabilities receiving special education services for the category five disabilities described in division ~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(g) Children with disabilities receiving special education services for category six disabilities described in division ~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code;

(h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;

(i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such

manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

(1) Any pupil who has graduated from the twelfth grade of a public or nonpublic high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when assessments were administered under section 3301.0711 of the Revised Code but did not take one or more of the assessments required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take an assessment required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the assessment to the specific pupil and a parent is not paying tuition for the pupil pursuant to section 3313.6410 of the Revised Code. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the week for which the average daily membership is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those children with

disabilities currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2006.

(2) If on the first school day of April the total number of classes or units for preschool children with disabilities that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. ~~or~~, a science, technology, engineering, and mathematics school established under Chapter 3326., or a college-preparatory boarding school established under Chapter 3328. of the Revised Code is not included in the formula ADM certified for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter ~~and Chapter 3306. of the Revised Code~~ for the entire fiscal year on the basis of

that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school or, the science, technology, engineering, and mathematics school, or the college-preparatory boarding school during the week for which the formula ADM is being certified.

(4) If a student awarded an educational choice scholarship is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.08 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter and Chapter 3306. of the Revised Code for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the chartered nonpublic school, the school district, or a community school during the week for which the formula ADM is being certified.

(5) If a student awarded a scholarship under the Jon Peterson special needs scholarship program is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.55 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in an alternative public provider, a registered private provider, or the school district during the week for which the formula ADM is being certified.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education, in the manner prescribed by the superintendent of public instruction, both of the following:

(i) The average daily membership of all children with disabilities other than preschool children with disabilities receiving services at the institution for each category of disability described in divisions ~~(D)(1) to (6)(A)~~ to (F) of section ~~3306.02~~ 3317.013 of the Revised Code;

(ii) The average daily membership of all preschool children with disabilities in classes or programs approved annually by the department of education for unit funding under section 3317.05 of the Revised Code.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all preschool children with disabilities enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for preschool children with disabilities by the county DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in

which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend ~~any such~~ an alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(K) If the superintendent of public instruction determines that a component of the average daily membership certified or reported by a district superintendent, or other reporting entity, is not correct, the superintendent of public instruction may order that the formula ADM used for the purposes of payments under any section of Title XXXIII of the Revised Code be adjusted in the amount of the error.

Sec. 3317.031. A membership record shall be kept by grade level in each city, local, exempted village, joint vocational, and cooperative education school district and such a record shall be kept by grade level in each educational service center that provides academic instruction to pupils, classes for pupils with disabilities, or any other direct instructional services to pupils. Such membership record shall show the following information for each pupil enrolled: Name, date of birth, name of parent, date entered school, date withdrawn from school, days present, days absent, and the number of days school was open for instruction while the pupil was enrolled. At the end of the school year this membership record shall show the total days present, the total days absent, and the total days due for all

pupils in each grade. Such membership record shall show the pupils that are transported to and from school and it shall also show the pupils that are transported living within one mile of the school attended. This membership record shall also show any other information prescribed by the state board of education.

This membership record shall be kept intact for at least five years and shall be made available to the state board of education or its representative in making an audit of the average daily membership or the transportation of the district or educational service center. ~~The membership records of local school districts shall be filed at the close of each school year in the office of the educational service center superintendent.~~

The state board of education may withhold any money due any school district or educational service center under this chapter ~~and Chapter 3306. of the Revised Code~~ until it has satisfactory evidence that the board of education or educational service center governing board has fully complied with all of the provisions of this section.

Nothing in this section shall require any person to release, or to permit access to, public school records in violation of section 3319.321 of the Revised Code.

Sec. 3317.05. (A) For the purpose of calculating payments under sections 3317.052 and 3317.053 of the Revised Code, the department of education shall determine for each institution, by the last day of January of each year and based on information certified under section 3317.03 of the Revised Code, the number of vocational education units or fractions of units approved by the department on the basis of standards and rules adopted by the state board of education. As used in this division, "institution" means an institution operated by a department specified in section 3323.091 of the Revised Code and that provides vocational education programs under the supervision of the division of vocational education of the department that meet the standards and rules for these programs, including licensure of professional staff involved in the programs, as established by the state board.

(B) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each educational service center, for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county DD board: the number of classes operated by the school district, service

center, institution, or county DD board for preschool children with disabilities, or fraction thereof, including in the case of a district or service center that is a funding agent, classes taught by a licensed teacher employed by that district or service center under section 3313.841 of the Revised Code, approved annually by the department on the basis of standards and rules adopted by the state board.

(C) For the purpose of calculating payments under sections 3317.052, 3317.053, 3317.11, and 3317.19 of the Revised Code, the department shall determine, based on information certified under section 3317.03 of the Revised Code, the following by the last day of January of each year for each school district, including each cooperative education school district, for each institution eligible for payment under section 3323.091 of the Revised Code, and for each county DD board: the number of units for related services, as defined in section 3323.01 of the Revised Code, for preschool children with disabilities approved annually by the department on the basis of standards and rules adopted by the state board.

(D) All of the arithmetical calculations made under this section shall be carried to the second decimal place. The total number of units for school districts, service centers, and institutions approved annually under this section shall not exceed the number of units included in the estimate of cost for these units and appropriations made for them by the general assembly.

In the case of units for preschool children with disabilities described in division (B) of this section, the department shall approve only preschool units for children who are under age six on the thirtieth day of September of the academic year, or on the first day of August of the academic year if the school district in which the child is enrolled has adopted a resolution under division (A)(3) of section 3321.01 of the Revised Code, but not less than age three on the first day of December of the academic year, except that such a unit may include one or more children who are under age three or are age six or over on the applicable date, as reported under division (B)(2) or (G)(2)(b) of section 3317.03 of the Revised Code, if such children have been admitted to the unit pursuant to rules of the state board. The number of units for county DD boards and institutions eligible for payment under section 3323.091 of the Revised Code approved under this section shall not exceed the number that can be funded with appropriations made for such purposes by the general assembly.

No unit shall be approved under divisions (B) and (C) of this section unless a plan has been submitted and approved under Chapter 3323. of the Revised Code.

~~(E) The department shall approve units or fractions thereof for gifted~~

~~children on the basis of standards and rules adopted by the state board.~~

~~Sec. 3317.051. (A)(1) Notwithstanding sections 3317.05 and 3317.11 of the Revised Code, a unit funded pursuant to division (L) of section 3317.024 or division (A)(2) of section 3317.052 of the Revised Code shall not be approved for state funding in one school district, including any cooperative education school district or any educational service center, to the extent that such unit provides programs in or services to another district which receives payment pursuant to section 3317.04 of the Revised Code.~~

(2) Any city, local, exempted village, or cooperative education school district or any educational service center may combine partial unit eligibility for programs for preschool children with disabilities pursuant to section 3317.05 of the Revised Code, and such combined partial units may be approved for state funding in one school district or service center.

~~(B) After units have been initially approved for any fiscal year under section 3317.05 of the Revised Code, no unit shall be subsequently transferred from a school district or educational service center to another city, exempted village, local, or cooperative education school district or educational service center or to an institution or county DD board solely for the purpose of reducing the financial obligations of the school district in a fiscal year it receives payment pursuant to section 3317.04 of the Revised Code.~~

Sec. 3317.053. (A) As used in this section:

(1) "State share percentage" has the same meaning as in section 3317.022 of the Revised Code.

(2) "Dollar amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	DOLLAR AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$8,334
Division (C) of that section	\$3,234
Division (E) of that section	\$5,550

(3) "Average unit amount" means the amount shown in the following table for the corresponding type of unit:

TYPE OF UNIT	AVERAGE UNIT AMOUNT
Division (B) of section 3317.05 of the Revised Code	\$7,799
Division (C) of that section	\$2,966
Division (E) of that section	\$5,251

(B) In the case of each unit described in division (B); or (C); ~~or (E)~~ of

section 3317.05 of the Revised Code and allocated to a city, local, or exempted village school district, the department of education, in addition to the amounts specified in ~~division (L) of section 3317.024 and~~ sections 3317.052 and 3317.19 of the Revised Code, shall pay a supplemental unit allowance equal to the sum of the following amounts:

- (1) An amount equal to 50% of the average unit amount for the unit;
- (2) An amount equal to the percentage of the dollar amount for the unit that equals the district's state share percentage.

If, prior to the fifteenth day of May of a fiscal year, a school district's aid computed under section 3317.022 of the Revised Code is recomputed pursuant to section 3317.027 or 3317.028 of the Revised Code, the department shall also recompute the district's entitlement to payment under this section utilizing a new state share percentage. Such new state share percentage shall be determined using the district's recomputed basic aid amount pursuant to section 3317.027 or 3317.028 of the Revised Code. During the last six months of the fiscal year, the department shall pay the district a sum equal to one-half of the recomputed payment in lieu of one-half the payment otherwise calculated under this section.

(C)(1) In the case of each unit allocated to an institution pursuant to division (A) of section 3317.05 of the Revised Code, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,227.

(2) In the case of each unit described in division (B) of section 3317.05 of the Revised Code that is allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amount specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$7,799.

(3) In the case of each unit described in division (C) of section 3317.05 of the Revised Code and allocated to any entity other than a city, exempted village, or local school district, the department, in addition to the amounts specified in section 3317.052 of the Revised Code, shall pay a supplemental unit allowance of \$2,966.

~~(4) In the case of each unit described in division (E) of section 3317.05 of the Revised Code and allocated to an educational service center, the department, in addition to the amounts specified in division (L) of section 3317.024 of the Revised Code, shall pay a supplemental unit allowance of \$5,251.~~

Sec. 3317.06. Moneys paid to school districts under division ~~(H)~~(E) of section 3317.024 of the Revised Code shall be used for the following independent and fully severable purposes:

(A) To purchase such secular textbooks or electronic textbooks as have been approved by the superintendent of public instruction for use in public schools in the state and to loan such textbooks or electronic textbooks to pupils attending nonpublic schools within the district or to their parents and to hire clerical personnel to administer such lending program. Such loans shall be based upon individual requests submitted by such nonpublic school pupils or parents. Such requests shall be submitted to the school district in which the nonpublic school is located. Such individual requests for the loan of textbooks or electronic textbooks shall, for administrative convenience, be submitted by the nonpublic school pupil or the pupil's parent to the nonpublic school, which shall prepare and submit collective summaries of the individual requests to the school district. As used in this section:

(1) "Textbook" means any book or book substitute that a pupil uses as a consumable or nonconsumable text, text substitute, or text supplement in a particular class or program in the school the pupil regularly attends.

(2) "Electronic textbook" means ~~computer software, interactive videodisc, magnetic media, CD-ROM, computer courseware, local and remote computer assisted instruction, on-line service, electronic medium, or other means of conveying information to the student or otherwise contributing~~ any book or book substitute that a student accesses through the use of a computer or other electronic medium or that is available through an internet-based provider of course content, or any other material that contributes to the learning process through electronic means.

(B) To provide speech and hearing diagnostic services to pupils attending nonpublic schools within the district. Such service shall be provided in the nonpublic school attended by the pupil receiving the service.

(C) To provide physician, nursing, dental, and optometric services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the nonpublic school pupil receiving the service.

(D) To provide diagnostic psychological services to pupils attending nonpublic schools within the district. Such services shall be provided in the school attended by the pupil receiving the service.

(E) To provide therapeutic psychological and speech and hearing services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(F) To provide guidance, counseling, and social work services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(G) To provide remedial services to pupils attending nonpublic schools within the district. Such services shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such services are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(H) To supply for use by pupils attending nonpublic schools within the district such standardized tests and scoring services as are in use in the public schools of the state;

(I) To provide programs for children who attend nonpublic schools within the district and are children with disabilities as defined in section 3323.01 of the Revised Code or gifted children. Such programs shall be provided in the public school, in nonpublic schools, in public centers, or in mobile units located on or off of the nonpublic premises. If such programs are provided in the public school or in public centers, transportation to and from such facilities shall be provided by the school district in which the nonpublic school is located.

(J) To hire clerical personnel to assist in the administration of programs pursuant to divisions (B), (C), (D), (E), (F), (G), and (I) of this section and to hire supervisory personnel to supervise the providing of services and textbooks pursuant to this section.

(K) To purchase or lease any secular, neutral, and nonideological computer application software (including designed to assist students in performing a single task or multiple related tasks, device management software, learning management software, site-licensing), ~~prerecorded video laserdiscs,~~ digital video on demand (DVD), ~~compact discs, and video cassette cartridges,~~ wide area connectivity and related technology as it relates to internet access, mathematics or science equipment and materials, instructional materials, and school library materials that are in general use in the public schools of the state and loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. Only such items that are incapable of diversion to religious use and that are susceptible of loan to

individual pupils and are furnished for the use of individual pupils shall be purchased and loaned under this division. As used in this section, "instructional materials" means prepared learning materials that are secular, neutral, and nonideological in character and are of benefit to the instruction of school children, and may include educational resources and services developed by the eTech Ohio commission.

(L) To purchase or lease instructional equipment, including computer hardware and related equipment in general use in the public schools of the state, for use by pupils attending nonpublic schools within the district and to loan such items to pupils attending nonpublic schools within the district or to their parents, and to hire clerical personnel to administer the lending program. "Computer hardware and related equipment" includes desktop computers and workstations; laptop computers, computer tablets, and other mobile handheld devices; and their operating systems and accessories.

(M) To purchase mobile units to be used for the provision of services pursuant to divisions (E), (F), (G), and (I) of this section and to pay for necessary repairs and operating costs associated with these units.

(N) To reimburse costs the district incurred to store the records of a chartered nonpublic school that closes. Reimbursements under this division shall be made one time only for each chartered nonpublic school that closes.

(O) To purchase life-saving medical or other emergency equipment for placement in nonpublic schools within the district or to maintain such equipment.

Clerical and supervisory personnel hired pursuant to division (J) of this section shall perform their services in the public schools, in nonpublic schools, public centers, or mobile units where the services are provided to the nonpublic school pupil, except that such personnel may accompany pupils to and from the service sites when necessary to ensure the safety of the children receiving the services.

All services provided pursuant to this section may be provided under contract with educational service centers, the department of health, city or general health districts, or private agencies whose personnel are properly licensed by an appropriate state board or agency.

Transportation of pupils provided pursuant to divisions (E), (F), (G), and (I) of this section shall be provided by the school district from its general funds and not from moneys paid to it under division ~~(H)~~(E) of section 3317.024 of the Revised Code unless a special transportation request is submitted by the parent of the child receiving service pursuant to such divisions. If such an application is presented to the school district, it may pay for the transportation from moneys paid to it under division ~~(H)~~(E) of

section 3317.024 of the Revised Code.

No school district shall provide health or remedial services to nonpublic school pupils as authorized by this section unless such services are available to pupils attending the public schools within the district.

Materials, equipment, computer hardware or software, textbooks, electronic textbooks, and health and remedial services provided for the benefit of nonpublic school pupils pursuant to this section and the admission of pupils to such nonpublic schools shall be provided without distinction as to race, creed, color, or national origin of such pupils or of their teachers.

No school district shall provide services, materials, or equipment that contain religious content for use in religious courses, devotional exercises, religious training, or any other religious activity.

As used in this section, "parent" includes a person standing in loco parentis to a child.

Notwithstanding section 3317.01 of the Revised Code, payments shall be made under this section to any city, local, or exempted village school district within which is located one or more nonpublic elementary or high schools and any payments made to school districts under division ~~(H)~~(E) of section 3317.024 of the Revised Code for purposes of this section may be disbursed without submission to and approval of the controlling board.

The allocation of payments for materials, equipment, textbooks, electronic textbooks, health services, and remedial services to city, local, and exempted village school districts shall be on the basis of the state board of education's estimated annual average daily membership in nonpublic elementary and high schools located in the district.

Payments made to city, local, and exempted village school districts under this section shall be equal to specific appropriations made for the purpose. All interest earned by a school district on such payments shall be used by the district for the same purposes and in the same manner as the payments may be used.

The department of education shall adopt guidelines and procedures under which such programs and services shall be provided, under which districts shall be reimbursed for administrative costs incurred in providing such programs and services, and under which any unexpended balance of the amounts appropriated by the general assembly to implement this section may be transferred to the auxiliary services personnel unemployment compensation fund established pursuant to section 4141.47 of the Revised Code. The department shall also adopt guidelines and procedures limiting the purchase and loan of the items described in division (K) of this section to items that are in general use in the public schools of the state, that are

incapable of diversion to religious use, and that are susceptible to individual use rather than classroom use. Within thirty days after the end of each biennium, each board of education shall remit to the department all moneys paid to it under division ~~(H)~~(E) of section 3317.024 of the Revised Code and any interest earned on those moneys that are not required to pay expenses incurred under this section during the biennium for which the money was appropriated and during which the interest was earned. If a board of education subsequently determines that the remittal of moneys leaves the board with insufficient money to pay all valid expenses incurred under this section during the biennium for which the remitted money was appropriated, the board may apply to the department of education for a refund of money, not to exceed the amount of the insufficiency. If the department determines the expenses were lawfully incurred and would have been lawful expenditures of the refunded money, it shall certify its determination and the amount of the refund to be made to the director of job and family services who shall make a refund as provided in section 4141.47 of the Revised Code.

Each school district shall label materials, equipment, computer hardware or software, textbooks, and electronic textbooks purchased or leased for loan to a nonpublic school under this section, acknowledging that they were purchased or leased with state funds under this section. However, a district need not label materials, equipment, computer hardware or software, textbooks, or electronic textbooks that the district determines are consumable in nature or have a value of less than two hundred dollars.

Sec. 3317.061. The superintendent of each school district, including each cooperative education and joint vocational school district and the superintendent of each educational service center, shall, on forms prescribed and furnished by the state board of education, certify to the state board of education, on or before the fifteenth day of October of each year, the name of each licensed employee employed, on an annual salary, in each school under such superintendent's supervision during the first full school week of said month of October, the number of years of recognized college training such licensed employee has completed, the college degrees from a recognized college earned by such licensed employee, the type of teaching license held by such licensed employee, the number of months such licensed employee is employed in the school district, the annual salary of such licensed employee, and such other information as the state board of education may request. For the purposes of ~~Chapters 3306. and Chapter~~ 3317. of the Revised Code, a licensed employee is any employee in a position that requires a license issued pursuant to sections 3319.22 to

3319.31 of the Revised Code.

Pursuant to standards adopted by the state board of education, experience of vocational teachers in trade and industry shall be recognized by such board for the purpose of complying with the requirements of recognized college training provided by ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code.

~~Sec. 3317.07. The state board of education shall establish rules for the purpose of distributing subsidies for the purchase of school buses under division (D) of section 3317.024 of the Revised Code.~~

~~No school bus subsidy payments shall be paid to any district unless such district can demonstrate that pupils residing more than one mile from the school could not be transported without such additional aid.~~

~~The amount paid to a county DD board for buses purchased for transportation of children in special education programs operated by the board shall be based on a per pupil allocation for eligible students.~~

~~The amount paid to a school district for buses purchased for transportation of pupils with disabilities and nonpublic school pupils shall be determined by a per pupil allocation based on the number of special education and nonpublic school pupils for whom transportation is provided.~~

~~The state board of education shall adopt a formula to determine the amount of payments that shall be distributed to school districts to purchase school buses for pupils other than pupils with disabilities or nonpublic school pupils.~~

~~If any district or county DD board obtains bus services for pupil transportation pursuant to a contract, such district or board may use payments received under this section to defray the costs of contracting for bus services in lieu of for purchasing buses.~~

If the department of education determines that a county DD board no longer needs a school bus because the board no longer transports children to a special education program operated by the board, or if the department determines that a school district no longer needs a school bus to transport pupils to a nonpublic school or special education program, the department may reassign a bus that was funded with payments provided pursuant to the version of this section in effect prior to the effective date of this amendment for the purpose of transporting such pupils. The department may reassign a bus to a county DD board or school district that transports children to a special education program designated in the children's individualized education plans, or to a school district that transports pupils to a nonpublic school, and needs an additional school bus.

Sec. 3317.08. A board of education may admit to its schools a child it is

not required by section 3313.64 or 3313.65 of the Revised Code to admit, if tuition is paid for the child.

Unless otherwise provided by law, tuition shall be computed in accordance with this section. A district's tuition charge for a school year shall be one of the following:

(A) For any child, except a preschool child with a disability described in division (B) of this section, the quotient obtained by dividing the sum of the amounts described in divisions (A)(1) and (2) of this section by the district's formula ADM.

(1) The district's total taxes charged and payable for current expenses for the tax year preceding the tax year in which the school year begins as certified under division (A)(3) of section 3317.021 of the Revised Code.

(2) The district's total taxes collected for current expenses under a school district income tax adopted pursuant to section 5748.03 ~~or~~ 5748.08, or 5748.09 of the Revised Code that are disbursed to the district during the fiscal year, excluding any income tax receipts allocated for the project cost, debt service, or maintenance set-aside associated with a state-assisted classroom facilities project as authorized by section 3318.052 of the Revised Code. On or before the first day of June of each year, the tax commissioner shall certify the amount to be used in the calculation under this division for the next fiscal year to the department of education and the office of budget and management for each city, local, and exempted village school district that levies a school district income tax.

(B) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, an amount computed for the school year as follows:

(1) For each type of special education service provided to the child for whom tuition is being calculated, determine the amount of the district's operating expenses in providing that type of service to all preschool children with disabilities not included in units approved under division (B) of section 3317.05 of the Revised Code;

(2) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, determine the amount of such operating expenses that was paid from any state funds received under this chapter;

(3) For each type of special education service for which operating expenses are determined under division (B)(1) of this section, divide the difference between the amount determined under division (B)(1) of this section and the amount determined under division (B)(2) of this section by the total number of preschool children with disabilities not included in units

approved under division (B) of section 3317.05 of the Revised Code who received that type of service;

(4) Determine the sum of the quotients obtained under division (B)(3) of this section for all types of special education services provided to the child for whom tuition is being calculated.

The state board of education shall adopt rules defining the types of special education services and specifying the operating expenses to be used in the computation under this section.

If any child for whom a tuition charge is computed under this section for any school year is enrolled in a district for only part of that school year, the amount of the district's tuition charge for the child for the school year shall be computed in proportion to the number of school days the child is enrolled in the district during the school year.

Except as otherwise provided in division (J) of section 3313.64 of the Revised Code, whenever a district admits a child to its schools for whom tuition computed in accordance with this section is an obligation of another school district, the amount of the tuition shall be certified by the treasurer of the board of education of the district of attendance, to the board of education of the district required to pay tuition for its approval and payment. If agreement as to the amount payable or the district required to pay the tuition cannot be reached, or the board of education of the district required to pay the tuition refuses to pay that amount, the board of education of the district of attendance shall notify the superintendent of public instruction. The superintendent shall determine the correct amount and the district required to pay the tuition and shall deduct that amount, if any, under division ~~(G)~~(D) of section 3317.023 of the Revised Code, from the district required to pay the tuition and add that amount to the amount allocated to the district attended under such division. The superintendent of public instruction shall send to the district required to pay the tuition an itemized statement showing such deductions at the time of such deduction.

When a political subdivision owns and operates an airport, welfare, or correctional institution or other project or facility outside its corporate limits, the territory within which the facility is located is exempt from taxation by the school district within which such territory is located, and there are school age children residing within such territory, the political subdivision owning such tax exempt territory shall pay tuition to the district in which such children attend school. The tuition for these children shall be computed as provided for in this section.

Sec. 3317.081. (A) Tuition shall be computed in accordance with this section if:

(1) The tuition is required by division (C)(3)(b) of section 3313.64 of the Revised Code; or

(2) Neither the child nor the child's parent resides in this state and tuition is required by section 3327.06 of the Revised Code.

(B) Tuition computed in accordance with this section shall equal the attendance district's tuition rate computed under section 3317.08 of the Revised Code plus the amount in state education aid that district would have received for the child ~~pursuant to Chapter 3306. and sections 3317.023 and 3317.025 to 3317.0211 of the Revised Code~~ during the school year had the attendance district been authorized to count the child in its formula ADM for that school year under section 3317.03 of the Revised Code.

Sec. 3317.082. As used in this section, "institution" means a residential facility that receives and cares for children maintained by the department of youth services and that operates a school chartered by the state board of education under section 3301.16 of the Revised Code.

(A) On or before the thirty-first day of each January and July, the superintendent of each institution that during the six-month period immediately preceding each January or July provided an elementary or secondary education for any child, other than a child receiving special education under section 3323.091 of the Revised Code, shall prepare and submit to the department of education, a statement for each such child indicating the child's name, any school district responsible to pay tuition for the child as determined by the superintendent in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code, and the period of time during that six-month period that the child received an elementary or secondary education. If any school district is responsible to pay tuition for any such child, the department of education, no later than the immediately succeeding last day of February or August, as applicable, shall calculate the amount of the tuition of the district under section 3317.08 of the Revised Code for the period of time indicated on the statement and do one of the following:

(1) If the tuition amount is equal to or less than the ~~amount of state basic aid funds payable to the district under Chapter 3306. and section 3317.023 of the Revised Code~~ district's state education aid, pay to the institution submitting the statement an amount equal to the tuition amount, as provided under division ~~(M)~~(G) of section 3317.024 of the Revised Code, and deduct the tuition amount from the state basic aid funds payable to the district, as provided under division ~~(F)~~(C)(2) of section 3317.023 of the Revised Code;

(2) If the tuition amount is greater than the ~~amount of state basic aid funds payable to the district under Chapter 3306. and section 3317.023 of~~

~~the Revised Code~~ district's state education aid, require the district to pay to the institution submitting the statement an amount equal to the tuition amount.

(B) In the case of any disagreement about the school district responsible to pay tuition for a child pursuant to this section, the superintendent of public instruction shall make the determination in any such case in accordance with division (C)(2) or (3) of section 3313.64 of the Revised Code.

Sec. 3317.09. All moneys distributed to a school district, including any cooperative education or joint vocational school district and all moneys distributed to any educational service center, by the state whether from a state or federal source, shall be accounted for by the division of school finance of the department of education. All moneys distributed shall be coded as to county, school district or educational service center, source, and other pertinent information, and at the end of each month, a report of such distribution shall be made by such division of school finance to each school district and educational service center. If any board of education fails to make the report required in section 3319.33 of the Revised Code, the superintendent of public instruction shall be without authority to distribute funds to that school district or educational service center ~~pursuant to sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, or 3317.19 of the Revised Code~~ under this chapter until such time as the required reports are filed with all specified officers, boards, or agencies.

Sec. 3317.11. (A) As used in this section:

(1) "Client school district" means a city or exempted village school district that has entered into an agreement under section 3313.843 of the Revised Code to receive any services from an educational service center.

(2) "Service center ADM" means the sum of the total student counts of all local school districts within an educational service center's territory and all of the service center's client school districts.

(3) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(4) "Total student count" has the same meaning as in section 3301.011 of the Revised Code.

(B)(1) The governing board of each educational service center shall provide supervisory services to each local school district within the service center's territory. Each city or exempted village school district that enters into an agreement under section 3313.843 of the Revised Code for a governing board to provide any services also is considered to be provided supervisory services by the governing board. Except as provided in division

(B)(2) of this section, the supervisory services shall not exceed one supervisory teacher for the first fifty classroom teachers required to be employed in the districts, as calculated in the manner prescribed under former division (B) of section 3317.023 of the Revised Code, as that division existed prior to the effective date of this amendment, and one for each additional one hundred required classroom teachers, as so calculated.

The supervisory services shall be financed annually through supervisory units. Except as provided in division (B)(2) of this section, the number of supervisory units assigned to each district shall not exceed one unit for the first fifty classroom teachers required to be employed in the district, as calculated in the manner prescribed under former division (B) of section 3317.023 of the Revised Code, as that division existed prior to the effective date of this amendment, and one for each additional one hundred required classroom teachers, as so calculated. The cost of each supervisory unit shall be the sum of:

(a) The minimum salary prescribed by section 3317.13 of the Revised Code for the licensed supervisory employee of the governing board;

(b) An amount equal to fifteen per cent of ~~the~~ that salary ~~prescribed by section 3317.13 of the Revised Code~~;

(c) An allowance for necessary travel expenses, limited to the lesser of two hundred twenty-three dollars and sixteen cents per month or two thousand six hundred seventy-eight dollars per year.

(2) If a majority of the boards of education, or superintendents acting on behalf of the boards, of the local and client school districts receiving services from the educational service center agree to receive additional supervisory services and to pay the cost of a corresponding number of supervisory units in excess of the services and units specified in division (B)(1) of this section, the service center shall provide the additional services as agreed to by the majority of districts to, and the department of education shall apportion the cost of the corresponding number of additional supervisory units pursuant to division (B)(3) of this section among, all of the service center's local and client school districts.

(3) The department shall apportion the total cost for all supervisory units among the service center's local and client school districts based on each district's total student count. The department shall deduct each district's apportioned share pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised Code and pay the apportioned share to the service center.

(C) The department annually shall deduct from each local and client school district of each educational service center, pursuant to division ~~(E)~~(B) of section 3317.023 of the Revised Code, and pay to the service center an

amount equal to six dollars and fifty cents times the school district's total student count. The board of education, or the superintendent acting on behalf of the board, of any local or client school district may agree to pay an amount in excess of six dollars and fifty cents per student in total student count. If a majority of the boards of education, or superintendents acting on behalf of the boards, of the local school districts within a service center's territory approve an amount in excess of six dollars and fifty cents per student in total student count, the department shall deduct the approved excess per student amount from all of the local school districts within the service center's territory and pay the excess amount to the service center.

(D) The department shall pay each educational service center the amounts due to it from school districts pursuant to contracts, compacts, or agreements under which the service center furnishes services to the districts or their students. In order to receive payment under this division, an educational service center shall furnish either a copy of the contract, compact, or agreement clearly indicating the amounts of the payments, or a written statement that clearly indicates the payments owed and is signed by the superintendent or treasurer of the responsible school district. The amounts paid to service centers under this division shall be deducted from payments to school districts pursuant to division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code.

(E) Each school district's deduction under this section and divisions ~~(E)~~(B) and ~~(K)~~(H)(3) of section 3317.023 of the Revised Code shall be made from the total payment computed for the district under this chapter, after making any other adjustments in that payment required by law.

(F)(1) Except as provided in division (F)(2) of this section, the department annually shall pay the governing board of each educational service center state funds equal to thirty-seven dollars times its service center ADM.

(2) The department annually shall pay state funds equal to forty dollars and fifty-two cents times the service center ADM to each educational service center comprising territory that was included in the territory of at least three former service centers or county school districts, which former centers or districts engaged in one or more mergers under section 3311.053 of the Revised Code to form the present center.

(G) Each city, exempted village, local, joint vocational, or cooperative education school district shall pay to the governing board of an educational service center any amounts agreed to for each child enrolled in the district who receives special education and related services or career-technical education from the educational service center, unless these educational

services are provided pursuant to a contract, compact, or agreement for which the department deducts and transfers payments under division (D) of this section and division ~~(K)~~(H)(3) of section 3317.023 of the Revised Code.

(H) The department annually shall pay the governing board of each educational service center that has entered into a contract with a STEM school for the provision of services described in division (B) of section 3326.45 of the Revised Code state funds equal to the per-pupil amount specified in the contract for the provision of those services times the number of students enrolled in the STEM school.

(I) An educational service center:

(1) May provide special education and career-technical education to students in its local or client school districts;

(2) Is eligible for transportation funding under division ~~(G)~~(C) of section 3317.024 of the Revised Code ~~and for state subsidies for the purchase of school buses under section 3317.07 of the Revised Code;~~

(3) May apply for and receive gifted education units and provide gifted education services to students in its local or client school districts;

(4) May conduct driver education for high school students in accordance with Chapter 4508. of the Revised Code.

Sec. 3317.12. Any board of education participating in funds distributed under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code shall annually adopt a salary schedule for nonteaching school employees based upon training, experience, and qualifications with initial salaries no less than the salaries in effect on October 13, 1967. Each board of education shall prepare and may amend from time to time, specifications descriptive of duties, responsibilities, requirements, and desirable qualifications of the classifications of employees required to perform the duties specified in the salary schedule. All nonteaching school employees are to be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all employees working for a particular school board shall be uniform for like positions except as compensation would be affected by salary increments based upon length of service.

On the fifteenth day of October each year the salary schedule and the list of job classifications and salaries in effect on that date shall be filed by each board of education with the superintendent of public instruction. If such salary schedule and classification plan is not filed the superintendent of public instruction shall order the board to file such schedules forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent of public instruction, no money shall be distributed to the district under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code until

the superintendent has satisfactory evidence of the board of education's full compliance with such order.

Sec. 3317.14. Any school district board of education or educational service center governing board participating in funds distributed under Chapter 3317. of the Revised Code shall annually adopt a teachers' salary schedule with provision for increments based upon training and years of service. Notwithstanding sections 3317.13 and 3319.088 of the Revised Code, the board may establish its own service requirements and may grant service credit for such activities as teaching in public or nonpublic schools in this state or in another state, for service as an educational assistant other than as a classroom aide employed in accordance with section 5107.541 of the Revised Code, and for service in the military or in an appropriate state or federal governmental agency, provided no teacher receives less than the amount required to be paid pursuant to section 3317.13 of the Revised Code and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of section 3317.13 of the Revised Code is given to each teacher.

On the fifteenth day of October of each year ~~the salary schedule in effect on that date in each school district and each educational service center shall be filed with the superintendent of public instruction. A, a copy of such the salary schedule in effect on that date shall also annually~~ be filed by the board of education of each local school district with the educational service center superintendent, who thereupon shall certify to the treasurer of such local district the correct salary to be paid to each teacher in accordance with the adopted schedule.

Each teacher who has completed training which would qualify such teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the treasurer of the board of education or educational service center satisfactory evidence of the completion of such additional training. The treasurer shall then immediately place the teacher, pursuant to this section and section 3317.13 of the Revised Code, in the proper salary bracket in accordance with training and years of service before certifying such salary, training, and years of service to the superintendent of public instruction. No teacher shall be paid less than the salary to which such teacher is entitled pursuant to section 3317.13 of the Revised Code.

Sec. 3317.141. The board of education of any city, exempted village, local, or joint vocational school district that is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, shall comply

with this section in accordance with the timeline contained in the board's scope of work, as approved by the superintendent of public instruction, and shall not be subject to sections 3317.13 and 3317.14 of the Revised Code. The board of education of any other school district, and the governing board of each educational service center, shall comply with either this section or sections 3317.13 and 3317.14 of the Revised Code.

(A) The board annually shall adopt a salary schedule for teachers based upon performance as described in division (B) of this section.

(B) For purposes of the schedule, a board shall measure a teacher's performance by considering all of the following:

(1) The level of license issued under section 3319.22 of the Revised Code that the teacher holds;

(2) Whether the teacher is a highly qualified teacher, as defined in section 3319.074 of the Revised Code;

(3) Ratings received by the teacher on performance evaluations conducted under section 3319.111 of the Revised Code.

(C) The schedule shall provide for annual adjustments based on performance on the evaluations conducted under section 3319.111 of the Revised Code. The annual performance-based adjustment for a teacher rated as accomplished shall be greater than the annual performance-based adjustment for a teacher rated as proficient.

(D) The salary schedule adopted under this section may provide for additional compensation for teachers who agree to perform duties, not contracted for under a supplemental contract, that the employing board determines warrant additional compensation. Those duties may include, but are not limited to, assignment to a school building eligible for funding under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301 et seq.; assignment to a building in "school improvement" status under the "No Child Left Behind Act of 2001," as defined in section 3302.01 of the Revised Code; teaching in a grade level or subject area in which the board has determined there is a shortage within the district or service center; or assignment to a hard-to-staff school, as determined by the board.

Sec. 3317.16. (A) As used in this section:

(1) The "total special education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code.

(2) The "total vocational education weight" for a joint vocational school district shall be calculated in the same manner as prescribed in section 3317.022 of the Revised Code.

(3) The "total recognized valuation" of a joint vocational school district

shall be determined by adding the recognized valuations of all its constituent school districts that were subject to the joint vocational school district's tax levies for both the current and preceding tax years.

(4) "Resident district" means the city, local, or exempted village school district in which a student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

(5) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(B) The department of education shall compute and distribute state base cost funding to each joint vocational school district for the fiscal year in accordance with the following formula:

$$\begin{aligned} & (\text{formula amount X formula ADM}) - \\ & (.0005 \text{ X total recognized valuation}) \end{aligned}$$

If the difference obtained under this division is a negative number, the district's computation shall be zero.

(C)(1) The department shall compute and distribute state vocational education additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\begin{aligned} & \text{state share percentage X formula amount X} \\ & \text{total vocational education weight} \end{aligned}$$

In each fiscal year, a joint vocational school district receiving funds under division (C)(1) of this section shall spend those funds only for the purposes the department designates as approved for vocational education expenses. Vocational educational expenses approved by the department shall include only expenses connected to the delivery of career-technical programming to career-technical students. The department shall require the joint vocational school district to report data annually so that the department may monitor the district's compliance with the requirements regarding the manner in which funding received under division (C)(1) of this section may be spent.

(2) The department shall compute for each joint vocational school district state funds for vocational education associated services costs in accordance with the following formula:

$$\begin{aligned} & \text{state share percentage X .05 X} \\ & \text{the formula amount X the sum of} \\ & \text{categories one and two vocational} \\ & \text{education ADM} \end{aligned}$$

In any fiscal year, a joint vocational school district receiving funds under division (C)(2) of this section, or through a transfer of funds pursuant to division ~~(E)~~(I) of section 3317.023 of the Revised Code, shall spend those

funds only for the purposes that the department designates as approved for vocational education associated services expenses, which may include such purposes as apprenticeship coordinators, coordinators for other vocational education services, vocational evaluation, and other purposes designated by the department. The department may deny payment under division (C)(2) of this section to any district that the department determines is not operating those services or is using funds paid under division (C)(2) of this section, or through a transfer of funds pursuant to division ~~(L)~~(I) of section 3317.023 of the Revised Code, for other purposes.

(D)(1) The department shall compute and distribute state special education and related services additional weighted costs funds to each joint vocational school district in accordance with the following formula:

$$\frac{\text{state share percentage} \times \text{formula amount}}{\text{total special education weight}}$$

(2)(a) As used in this division, the "personnel allowance" means thirty thousand dollars in fiscal years 2008 and 2009.

(b) For the provision of speech language pathology services to students, including students who do not have individualized education programs prepared for them under Chapter 3323. of the Revised Code, and for no other purpose, the department shall pay each joint vocational school district an amount calculated under the following formula:

$$\frac{(\text{formula ADM divided by 2000}) \times \text{the personnel allowance}}{\text{state share percentage}}$$

(3) In any fiscal year, a joint vocational school district shall spend for purposes that the department designates as approved for special education and related services expenses at least the amount calculated as follows:

$$\frac{(\text{formula amount} \times \text{the sum of categories one through six special education ADM}) + (\text{total special education weight} \times \text{formula amount})}{\text{total special education weight}}$$

The purposes approved by the department for special education expenses shall include, but shall not be limited to, compliance with state rules governing the education of children with disabilities, providing services identified in a student's individualized education program as defined in section 3323.01 of the Revised Code, provision of speech language pathology services, and the portion of the district's overall administrative and overhead costs that are attributable to the district's special education student population.

The department shall require joint vocational school districts to report

data annually to allow for monitoring compliance with division (D)(3) of this section. The department shall annually report to the governor and the general assembly the amount of money spent by each joint vocational school district for special education and related services.

(4) In any fiscal year, a joint vocational school district shall spend for the provision of speech language pathology services not less than the sum of the amount calculated under division (D)(1) of this section for the students in the district's category one special education ADM and the amount calculated under division (D)(2) of this section.

(E)(1) If a joint vocational school district's costs for a fiscal year for a student in its categories two through six special education ADM exceed the threshold catastrophic cost for serving the student, as specified in division (C)(3)(b) of section 3317.022 of the Revised Code, the district may submit to the superintendent of public instruction documentation, as prescribed by the superintendent, of all of its costs for that student. Upon submission of documentation for a student of the type and in the manner prescribed, the department shall pay to the district an amount equal to the sum of the following:

(a) One-half of the district's costs for the student in excess of the threshold catastrophic cost;

(b) The product of one-half of the district's costs for the student in excess of the threshold catastrophic cost multiplied by the district's state share percentage.

(2) The district shall only report under division (E)(1) of this section, and the department shall only pay for, the costs of educational expenses and the related services provided to the student in accordance with the student's individualized education program. Any legal fees, court costs, or other costs associated with any cause of action relating to the student may not be included in the amount.

(F) Each fiscal year, the department shall pay each joint vocational school district an amount for adult technical and vocational education and specialized consultants.

(G)(1) A joint vocational school district's local share of special education and related services additional weighted costs equals:

$$(1 - \text{state share percentage}) \times \\ \text{Total special education weight} \times \\ \text{the formula amount } \$5,732$$

(2) For each student with a disability receiving special education and related services under an individualized education program, as defined in section 3323.01 of the Revised Code, at a joint vocational district, the

resident district or, if the student is enrolled in a community school, the community school shall be responsible for the amount of any costs of providing those special education and related services to that student that exceed the sum of the amount calculated for those services attributable to that student under divisions (B), (D), (E), and (G)(1) of this section.

Those excess costs shall be calculated by subtracting the sum of the following from the actual cost to provide special education and related services to the student:

(a) The formula amount;

(b) The product of ~~the formula amount~~ \$5,732 times the applicable multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code as that section existed prior to the effective date of this amendment;

(c) Any funds paid under division (E) of this section for the student;

(d) Any other funds received by the joint vocational school district under this chapter to provide special education and related services to the student, not including the amount calculated under division (G)(2) of this section.

(3) The board of education of the joint vocational school district may report the excess costs calculated under division (G)(2) of this section to the department of education.

(4) If the board of education of the joint vocational school district reports excess costs under division (G)(3) of this section, the department shall pay the amount of excess cost calculated under division (G)(2) of this section to the joint vocational school district and shall deduct that amount as provided in division (G)(4)(a) or (b) of this section, as applicable:

(a) If the student is not enrolled in a community school, the department shall deduct the amount from the account of the student's resident district pursuant to division ~~(M)~~(J) of section 3317.023 of the Revised Code.

(b) If the student is enrolled in a community school, the department shall deduct the amount from the account of the community school pursuant to section 3314.083 of the Revised Code.

Sec. 3317.18. (A) As used in this section, the terms "Chapter 133. securities," "credit enhancement facilities," "debt charges," "general obligation," "legislation," "public obligations," and "securities" have the same meanings as in section 133.01 of the Revised Code.

(B) The board of education of any school district authorizing the issuance of securities under section 133.10, 133.301, or 3313.372 of the Revised Code or general obligation Chapter 133. securities may adopt legislation requesting the state department of education to approve, and enter into an agreement with the school district and the primary paying

agent or fiscal agent for such securities providing for, the withholding and deposit of funds, otherwise due the district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code, for the payment of debt service charges on such securities.

The board of education shall deliver to the state department a copy of such resolution and any additional pertinent information the state department may require.

The department of education and the office of budget and management shall evaluate each request received from a school district under this section and the department, with the advice and consent of the director of budget and management, shall approve or deny each request based on all of the following:

(1) Whether approval of the request will enhance the marketability of the securities for which the request is made;

(2) Any other pertinent factors or limitations established in rules made under division (I) of this section, including:

(a) Current and projected obligations of funds due to the requesting school district under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code including obligations of those funds to public obligations or relevant credit enhancement facilities under this section, Chapter 133. and section 3313.483 of the Revised Code, and under any other similar provisions of law;

(b) Whether the department of education or the office of budget and management has any reason to believe the requesting school district will be unable to pay when due the debt charges on the securities for which the request is made.

The department may require a school district to establish schedules for the payment of all debt charges that take into account the amount and timing of anticipated distributions of funds to the district under Chapter 3317. of the Revised Code.

(C) If the department approves the request of a school district to withhold and deposit funds pursuant to this section, the department shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the securities which shall provide for the withholding of funds pursuant to this section for the payment of debt charges on those securities, and may include both of the following:

(1) Provisions for certification by the district to the department, at a time prior to any date for the payment of applicable debt charges, whether the district is able to pay those debt charges when due;

(2) Requirements that the district deposit amounts for the payment of debt charges on the securities with the primary paying agent or fiscal agent

for the securities prior to the date on which those debt charge payments are due to the owners or holders of the securities.

(D) Whenever a district notifies the department of education that it will be unable to pay debt charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the department that it has not timely received from a school district the full amount needed for the payment when due of those debt charges to the holders or owners of such securities, the department shall immediately contact the school district and the paying agent or fiscal agent to confirm or determine whether the district is unable to make the required payment by the date on which it is due.

Upon demand of the treasurer of state while holding a school district obligation purchased under division (G)(1) of section 135.143 of the Revised Code, the state department of education, without a request of the school district, shall withhold and deposit funds pursuant to this section for payment of debt service charges on that obligation.

If the department confirms or determines that the district will be unable to make such payment and payment will not be made pursuant to a credit enhancement facility, the department shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for debt charges or the amount due the district for the remainder of the fiscal year under Chapter 3317. of the Revised Code. If this amount is insufficient to pay the total amount then due the agent for the payment of debt charges, the department shall pay to the agent each fiscal year thereafter, and until the full amount due the agent for unpaid debt charges is paid in full, the lesser of the remaining amount due the agent for debt charges or the amount due the district for the fiscal year under Chapter 3317. of the Revised Code.

(E) The state department may make any payments under this division by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of debt charges on the securities of the school district subject to this section or to the reimbursement to the provider of a credit enhancement facility that has paid such debt charges.

(F) To the extent a school district whose securities are subject to this section is unable to pay applicable debt charges because of the failure to collect property taxes levied for the payment of those debt charges, the district may transfer to or deposit into any fund that would have received payments under ~~3306.07~~ Chapter 3317. of the Revised Code that were withheld under this section any such delinquent property taxes when later collected, provided that transfer or deposit shall be limited to the amounts

withheld from that fund under this section.

(G) The department may make payments under this section to paying agents or fiscal agents only from and to the extent that money is appropriated by the general assembly for Chapter 3317. of the Revised Code or for the purposes of this section. No securities of a school district to which this section is made applicable constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of such securities have no right to have taxes levied or appropriations made by the general assembly for the payment of debt charges on those securities, and those securities, if the department requires, shall contain a statement to that effect. The agreement for or the actual withholding and payment of moneys under this section does not constitute the assumption by the state of any debt of a school district.

(H) In the case of securities subject to the withholding provisions of this section, the issuing board of education shall appoint a paying agent or fiscal agent who is not an officer or employee of the school district.

(I) The department of education, with the advice of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section and division (B) of section 133.25 of the Revised Code as it relates to the withholding and depositing of payments under ~~Chapters 3306. and~~ Chapter 3317. of the Revised Code to secure payment of debt charges on school district securities. Those rules shall include criteria for the evaluation and approval or denial of school district requests for withholding under this section and limits on the obligation for the purpose of paying debt charges or reimbursing credit enhancement facilities of funds otherwise to be paid to school districts under Chapter 3317. of the Revised Code.

(J) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 3317.19. (A) As used in this section, "total unit allowance" means an amount equal to the sum of the following:

(1) The total of the salary allowances for the teachers employed in the cooperative education school district for all units approved under division (B) or (C) of section 3317.05 of the Revised Code. The salary allowance for each unit shall equal the minimum salary for the teacher of the unit calculated on the basis of the teacher's training level and years of experience pursuant to the salary schedule prescribed in the version of section 3317.13 of the Revised Code in effect prior to July 1, 2001.

(2) Fifteen per cent of the total computed under division (A)(1) of this

section;

(3) The total of the unit operating allowances for all approved units. The amount of each allowance shall equal one of the following:

(a) Eight thousand twenty-three dollars times the number of units for preschool children with disabilities or fraction thereof approved for the year under division (B) of section 3317.05 of the Revised Code;

(b) Two thousand one hundred thirty-two dollars times the number of units or fraction thereof approved for the year under division (C) of section 3317.05 of the Revised Code.

(B) The state board of education shall compute and distribute to each cooperative education school district for each fiscal year an amount equal to the sum of the following:

(1) An amount equal to the total of the amounts credited to the cooperative education school district pursuant to division ~~(K)~~(H) of section 3317.023 of the Revised Code;

(2) The total unit allowance;

(3) An amount for assisting in providing free lunches to needy children ~~and an amount for assisting needy school districts in purchasing necessary equipment for food preparation~~ pursuant to division ~~(H)~~(D) of section 3317.024 of the Revised Code.

(C) If a cooperative education school district has had additional special education units approved for the year under division (F)(2) of section 3317.03 of the Revised Code, the district shall receive an additional amount during the last half of the fiscal year. For each unit, the additional amount shall equal fifty per cent of the amount computed under division (A) of this section for a unit approved under division (B) of section 3317.05 of the Revised Code.

Sec. 3317.20. This section does not apply to preschool children with disabilities.

(A) As used in this section:

(1) "Applicable weight" means the multiple specified in section ~~3306.11~~ 3317.013 of the Revised Code for a disability described in that section.

(2) "Child's school district" means the school district in which a child is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(3) "State share percentage" means the state share percentage of the child's school district.

(B) Except as provided in division (C) of this section, the department shall annually pay each county DD board for each child with a disability, other than a preschool child with a disability, for whom the county DD

board provides special education and related services an amount equal to the formula amount + (state share percentage X formula amount X the applicable weight).

(C) If any school district places with a county DD board more children with disabilities than it had placed with a county DD board in fiscal year 1998, the department shall not make a payment under division (B) of this section for the number of children exceeding the number placed in fiscal year 1998. The department instead shall deduct from the district's payments under this chapter ~~and Chapter 3306. of the Revised Code~~, and pay to the county DD board, an amount calculated in accordance with the formula prescribed in division (B) of this section for each child over the number of children placed in fiscal year 1998.

(D) The department shall calculate for each county DD board receiving payments under divisions (B) and (C) of this section the following amounts:

(1) The amount received by the county DD board for approved special education and related services units, other than units for preschool children with disabilities, in fiscal year 1998, divided by the total number of children served in the units that year;

(2) The product of the quotient calculated under division (D)(1) of this section times the number of children for whom payments are made under divisions (B) and (C) of this section.

If the amount calculated under division (D)(2) of this section is greater than the total amount calculated under divisions (B) and (C) of this section, the department shall pay the county DD board one hundred per cent of the difference in addition to the payments under divisions (B) and (C) of this section.

(E) Each county DD board shall report to the department, in the manner specified by the department, the name of each child for whom the county DD board provides special education and related services and the child's school district.

(F)(1) For the purpose of verifying the accuracy of the payments under this section, the department may request from either of the following entities the data verification code assigned under division (D)(2) of section 3301.0714 of the Revised Code to any child who is placed with a county DD board:

(a) The child's school district;

(b) The independent contractor engaged to create and maintain data verification codes.

(2) Upon a request by the department under division (F)(1) of this section for the data verification code of a child, the child's school district

shall submit that code to the department in the manner specified by the department. If the child has not been assigned a code, the district shall assign a code to that child and submit the code to the department by a date specified by the department. If the district does not assign a code to the child by the specified date, the department shall assign a code to the child.

The department annually shall submit to each school district the name and data verification code of each child residing in the district for whom the department has assigned a code under this division.

(3) The department shall not release any data verification code that it receives under division (F) of this section to any person except as provided by law.

(G) Any document relative to special education and related services provided by a county DD board that the department holds in its files that contains both a student's name or other personally identifiable information and the student's data verification code shall not be a public record under section 149.43 of the Revised Code.

Sec. 3317.201. This section does not apply to preschool children with disabilities.

(A) As used in this section, the "total special education weight" for an institution means the sum of the following amounts:

(1) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(1)(A)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(2) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(2)(B)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(3) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(3)(C)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(4) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(4)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(5) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(5)(E)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division;

(6) The number of children reported by the institution under division (G)(1)(a)(i) of section 3317.03 of the Revised Code as receiving services for a disability described in division ~~(D)(6)(F)~~ of section ~~3306.02~~ 3317.013 of the Revised Code multiplied by the multiple specified in that division.

(B) For each fiscal year, the department of education shall pay each state institution required to provide special education services under division (A) of section 3323.091 of the Revised Code an amount equal to the greater of:

(1) The formula amount times the institution's total special education weight;

(2) The aggregate amount of special education and related services unit funding the institution received for all children with disabilities other than preschool children with disabilities in fiscal year 2005 under sections 3317.052 and 3317.053 of the Revised Code, as those sections existed prior to June 30, 2005.

Sec. 3318.011. For purposes of providing assistance under sections 3318.01 to 3318.20 of the Revised Code, the department of education shall annually do all of the following:

(A) Calculate the adjusted valuation per pupil of each city, local, and exempted village school district according to the following formula:

$$\frac{\text{The district's valuation per pupil}}{[\$30,000 \times (1 - \text{the district's income factor})]}$$

For purposes of this calculation:

(1) Except for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, "valuation per pupil" for a district means its average taxable value, divided by its formula ADM for the previous fiscal year. "Valuation per pupil," for a district with an open enrollment net gain that is ten per cent or more of its formula ADM, means its average taxable value, divided by the sum of its formula ADM for the previous fiscal year plus its open enrollment net gain for the previous fiscal year.

(2) "Average Except for a tangible personal property phase-out impacted district, "average taxable value" means the average of the sum of the amounts certified for a district under divisions (A)(1) and (2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years. For a tangible personal property phase-out impacted district, "average taxable value" means the average of the sum of the amounts certified for the district under division (A)(1) and as public utility personal property under division (A)(2) of section 3317.021 of the Revised Code in the second, third, and fourth preceding fiscal years.

(3) "Entitled to attend school" means entitled to attend school in a city,

local, or exempted village school district under section 3313.64 or 3313.65 of the Revised Code.

(4) "Formula ADM" and "income factor" have the same meanings as in section 3317.02 of the Revised Code.

(5) "Native student" has the same meaning as in section 3313.98 of the Revised Code.

(6) "Open enrollment net gain" for a district means (a) the number of the students entitled to attend school in another district but who are enrolled in the schools of the district under its open enrollment policy minus (b) the number of the district's native students who are enrolled in the schools of another district under the other district's open enrollment policy, both numbers as certified to the department under section 3313.981 of the Revised Code. If the difference is a negative number, the district's "open enrollment net gain" is zero.

(7) "Open enrollment policy" means an interdistrict open enrollment policy adopted under section 3313.98 of the Revised Code.

(8) "Tangible personal property phase-out impacted district" means a school district for which the taxable value of its tangible personal property certified under division (A)(2) of section 3317.021 of the Revised Code for tax year 2005, excluding the taxable value of public utility personal property, made up eighteen per cent or more of its total taxable value for tax year 2005 as certified under that section.

(B) Calculate for each district the three-year average of the adjusted valuations per pupil calculated for the district for the current and two preceding fiscal years;

(C) Rank all such districts in order of adjusted valuation per pupil from the district with the lowest three-year average adjusted valuation per pupil to the district with the highest three-year average adjusted valuation per pupil;

(D) Divide such ranking into percentiles with the first percentile containing the one per cent of school districts having the lowest three-year average adjusted valuations per pupil and the one-hundredth percentile containing the one per cent of school districts having the highest three-year average adjusted valuations per pupil;

(E) Determine the school districts that have three-year average adjusted valuations per pupil that are greater than the median three-year average adjusted valuation per pupil for all school districts in the state;

(F) On or before the first day of September, certify the information described in divisions (A) to (E) of this section to the Ohio school facilities commission.

Sec. 3318.032. (A) Except as otherwise provided in divisions (C) and

(D) of this section, the portion of the basic project cost supplied by the school district shall be the greater of:

(1) The required percentage of the basic project costs;

(2)(a) For all districts except a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the required level of indebtedness;

(b) For a district that opts to divide its entire classroom facilities needs into segments to be completed separately as authorized by section 3318.034 of the Revised Code, an amount necessary to raise the school district's net bonded indebtedness, as of the date the controlling board approved the project, to within five thousand dollars of the following:

The required level of indebtedness X (the basic project cost of the segment as approved by the controlling board / the estimated basic project cost of the district's entire classroom facilities needs as determined jointly by the staff of the Ohio school facilities commission and the district)

(B) The amount of the district's share determined under this section shall be calculated only as of the date the controlling board approved the project, and that amount applies throughout the ~~one-year~~ thirteen-month period permitted under section 3318.05 of the Revised Code for the district's electors to approve the propositions described in that section. If the amount reserved and encumbered for a project is released because the electors do not approve those propositions within that ~~year~~ period, and the school district later receives the controlling board's approval for the project, subject to a new project scope and estimated costs under section 3318.054 of the Revised Code, the district's portion shall be recalculated in accordance with this section as of the date of the controlling board's subsequent approval.

(C) At no time shall a school district's portion of the basic project cost be greater than ninety-five per cent of the total basic project cost.

(D) If the controlling board approves a project under sections 3318.01 to 3318.20 of the Revised Code for a school district that previously received assistance under those sections or section 3318.37 of the Revised Code within the twenty-year period prior to the date on which the controlling board approves the new project, the district's portion of the basic project cost for the new project shall be the lesser of the following:

(1) The portion calculated under division (A) of this section;

(2) The greater of the following:

(a) The required percentage of the basic project costs for the new project;

(b) The percentage of the basic project cost paid by the district for the previous project.

Sec. 3318.034. (A) This section applies to both of the following:

(1) Any school district that has not executed an agreement for a project under sections 3318.01 to 3318.20 of the Revised Code prior to ~~the effective date of this section~~ June 24, 2008;

(2) Any school district that is eligible for additional assistance under sections 3318.01 to 3318.20 of the Revised Code pursuant to division (B)(2) of section 3318.04 of the Revised Code.

Notwithstanding any provision of this chapter to the contrary, with the approval of the Ohio school facilities commission, any school district to which this section applies may opt to divide the district's entire classroom facilities needs, as those needs are jointly determined by the staff of the commission and the school district, into discrete segments and shall comply with all of the provisions of those sections unless otherwise provided in this section.

(B) ~~Each~~ Except as provided in division (C) of this section, each segment shall comply with all of the following:

(1) The segment shall consist of the new construction of one or more entire buildings or the complete renovation of one or more entire existing buildings, with any necessary additions to that building.

(2) The segment shall not include any construction of or renovation or repair to any building that does not complete the needs of the district with respect to that particular building at the time the segment is completed.

(3) The segment shall consist of new construction, renovations, additions, reconstruction, or repair of classroom facilities to the extent that the school district portion, as determined under section 3318.032 of the Revised Code, is an amount not less than the product of 0.040 times the district's valuation at the time the agreement for the segment is executed, unless the district previously has undertaken a segment under this section and the district's portion of the estimated basic project cost of the remainder of its entire classroom facilities needs, as determined jointly by the staff of the commission and the district, is less than the amount otherwise required by this division.

(C) A district described in division (A)(2) of this section that has not received the additional assistance authorized under division (B)(2) of section 3318.04 of the Revised Code may undertake a segment, with commission

approval, for the purpose of renovating or replacing work performed on a facility under the district's prior project. The commission may approve that segment if the commission determines that the renovation or replacement is necessary to protect the facility. The basic project cost of the segment shall be allocated between the state and the district in accordance with section 3318.032 of the Revised Code. However, the requirements of division (B) of this section shall not apply to a segment undertaken under this division.

(D) The commission shall conditionally approve and seek controlling board approval in accordance with division (A) of section 3318.04 of the Revised Code of each segment.

~~(D)~~(E) The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code, shall run for twenty-three years from the date the first segment is undertaken; however, the maintenance levy requirement does not apply to a segment undertaken under division (C) of this section.

Sec. 3318.05. The conditional approval of the Ohio school facilities commission for a project shall lapse and the amount reserved and encumbered for such project shall be released unless the school district board accepts such conditional approval within one hundred twenty days following the date of certification of the conditional approval to the school district board and the electors of the school district vote favorably on both of the propositions described in divisions (A) and (B) of this section within ~~one year~~ thirteen months of the date of such certification, except that a school district described in division (C) of this section does not need to submit the proposition described in division (B) of this section. The propositions described in divisions (A) and (B) of this section shall be combined in a single proposal. If the district board or the district's electors fail to meet such requirements and the amount reserved and encumbered for the district's project is released, the district shall be given first priority for project funding as such funds become available, subject to section 3318.054 of the Revised Code.

(A) On the question of issuing bonds of the school district board, for the school district's portion of the basic project cost, in an amount equal to the school district's portion of the basic project cost less the amount of the proceeds of any securities authorized or to be authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost; and

(B) On the question of levying a tax the proceeds of which shall be used to pay the cost of maintaining the classroom facilities included in the project. Such tax shall be at the rate of not less than one-half mill for each

dollar of valuation for a period of twenty-three years, subject to any extension approved under section 3318.061 of the Revised Code.

(C) If a school district has in place a tax levied under section 5705.21 of the Revised Code for general permanent improvements for a continuing period of time and the proceeds of such tax can be used for maintenance, or if a district agrees to the transfers described in section 3318.051 of the Revised Code, the school district need not levy the additional tax required under division (B) of this section, provided the school district board includes in the agreement entered into under section 3318.08 of the Revised Code provisions either:

(1) Earmarking an amount from the proceeds of that permanent improvement tax for maintenance of classroom facilities equivalent to the amount of the additional tax and for the equivalent number of years otherwise required under this section;

(2) Requiring the transfer of money in accordance with section 3318.051 of the Revised Code.

The district board subsequently may rescind the agreement to make the transfers under section 3318.051 of the Revised Code only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors.

(D) Proceeds of the tax to be used for maintenance of the classroom facilities under either division (B) or (C)(1) of this section, and transfers of money in accordance with section 3318.051 of the Revised Code shall be deposited into a separate fund established by the school district for such purpose.

Sec. 3318.051. (A) Any city, exempted village, or local school district that commences a project under sections 3318.01 to 3318.20, 3318.36, 3318.37, or 3318.38 of the Revised Code on or after September 5, 2006, need not levy the tax otherwise required under division (B) of section 3318.05 of the Revised Code, if the district board of education adopts a resolution petitioning the Ohio school facilities commission to approve the transfer of money in accordance with this section and the commission approves that transfer. If so approved, the commission and the district board shall enter into an agreement under which the board, in each of twenty-three consecutive years beginning in the year in which the board and the commission enter into the project agreement under section 3318.08 of the Revised Code, shall transfer into the maintenance fund required by division (D) of section 3318.05 of the Revised Code not less than an amount equal to

one-half mill for each dollar of the district's valuation unless and until the agreement to make those transfers is rescinded by the district board pursuant to division (F) of this section.

(B) On the first day of July each year, or on an alternative date prescribed by the commission, the district treasurer shall certify to the commission and the auditor of state that the amount required for the year has been transferred. The auditor of state shall include verification of the transfer as part of any audit of the district under section 117.11 of the Revised Code. If the auditor of state finds that less than the required amount has been deposited into a district's maintenance fund, the auditor of state shall notify the district board of education in writing of that fact and require the board to deposit into the fund, within ninety days after the date of the notice, the amount by which the fund is deficient for the year. If the district board fails to demonstrate to the auditor of state's satisfaction that the board has made the deposit required in the notice, the auditor of state shall notify the department of education. At that time, the department shall withhold an amount equal to ten per cent of the district's funds calculated for the current fiscal year under ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code until the auditor of state notifies the department that the auditor of state is satisfied that the board has made the required transfer.

(C) Money transferred to the maintenance fund shall be used for the maintenance of the facilities acquired under the district's project.

(D) The transfers to the maintenance fund under this section does not affect a district's obligation to establish and maintain a capital and maintenance fund under section 3315.18 of the Revised Code.

(E) Any decision by the commission to approve or not approve the transfer of money under this section is final and not subject to appeal. The commission shall not be responsible for errors or miscalculations made in deciding whether to approve a petition to make transfers under this section.

(F) If the district board determines that it no longer can continue making the transfers agreed to under this section, the board may rescind the agreement only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors. That levy shall be for a number of years that is equal to the difference between twenty-three years and the number of years that the district made transfers under this section and shall be at the rate of not less than one-half mill for each dollar of the district's valuation. The district board shall continue to make the transfers agreed to under this section until that levy has

been approved by the electors.

Sec. 3318.054. (A) If conditional approval of a city, exempted village, or local school district's project lapses as provided in section 3318.05 of the Revised Code, or if conditional approval of a joint vocational school district's project lapses as provided in division (D) of section 3318.41 of the Revised Code, because the district's electors have not approved the ballot measures necessary to generate the district's portion of the basic project cost, and if the district board desires to seek a new conditional approval of the project, the district board shall request that the Ohio school facilities commission set the scope, basic project cost, and school district portion of the basic project cost prior to resubmitting the ballot measures to the electors. To do so, the commission shall use the district's current assessed tax valuation and the district's percentile for the prior fiscal year. For a district that has entered into an agreement under section 3318.36 of the Revised Code and desires to proceed with a project under sections 3318.01 to 3318.20 of the Revised Code, the district's portion of the basic project cost shall be the percentage specified in that agreement. The project scope and basic costs established under this division shall be valid for one year from the date the commission approves them.

(B) Upon the commission's approval under division (A) of this section, the district board may submit the ballot measures to the district's electors for approval of the project based on the new project scope and estimated costs. Upon electoral approval of those measures, the district shall be given first priority for project funding as such funds become available.

(C) When the commission determines that funds are available for the district's project, the commission shall do all of the following:

(1) Determine the school district portion of the basic project cost under section 3318.032 of the Revised Code, in the case of a city, exempted village, or local school district, or under section 3318.42 of the Revised Code, in the case of a joint vocational school district;

(2) Conditionally approve the project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code;

(3) Encumber funds for the project under section 3318.11 of the Revised Code;

(4) Enter into an agreement with the district board under section 3318.08 of the Revised Code.

Sec. 3318.08. Except in the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the requisite favorable vote on the election is obtained, or if the school district board has resolved to apply the proceeds of a property tax levy or the

proceeds of an income tax, or a combination of proceeds from such taxes, as authorized in section 3318.052 of the Revised Code, the Ohio school facilities commission, upon certification to it of either the results of the election or the resolution under section 3318.052 of the Revised Code, shall enter into a written agreement with the school district board for the construction and sale of the project. In the case of a joint vocational school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code, if the school district board of education and the school district electors have satisfied the conditions prescribed in division (D)(1) of section 3318.41 of the Revised Code, the commission shall enter into an agreement with the school district board for the construction and sale of the project. In either case, the agreement shall include, but need not be limited to, the following provisions:

(A) The sale and issuance of bonds or notes in anticipation thereof, as soon as practicable after the execution of the agreement, in an amount equal to the school district's portion of the basic project cost, including any securities authorized under division (J) of section 133.06 of the Revised Code and dedicated by the school district board to payment of the district's portion of the basic project cost of the project; provided, that if at that time the county treasurer of each county in which the school district is located has not commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, the school district board shall authorize the issuance of a first installment of bond anticipation notes in an amount specified by the agreement, which amount shall not exceed an amount necessary to raise the net bonded indebtedness of the school district as of the date of the controlling board's approval to within five thousand dollars of the required level of indebtedness for the preceding year. In the event that a first installment of bond anticipation notes is issued, the school district board shall, as soon as practicable after the county treasurer of each county in which the school district is located has commenced the collection of taxes on the general duplicate of real and public utility property for the year in which the controlling board approved the project, authorize the issuance of a second and final installment of bond anticipation notes or a first and final issue of bonds.

The combined value of the first and second installment of bond anticipation notes or the value of the first and final issue of bonds shall be equal to the school district's portion of the basic project cost. The proceeds of any such bonds shall be used first to retire any bond anticipation notes. Otherwise, the proceeds of such bonds and of any bond anticipation notes,

except the premium and accrued interest thereon, shall be deposited in the school district's project construction fund. In determining the amount of net bonded indebtedness for the purpose of fixing the amount of an issue of either bonds or bond anticipation notes, gross indebtedness shall be reduced by moneys in the bond retirement fund only to the extent of the moneys therein on the first day of the year preceding the year in which the controlling board approved the project. Should there be a decrease in the tax valuation of the school district so that the amount of indebtedness that can be incurred on the tax duplicates for the year in which the controlling board approved the project is less than the amount of the first installment of bond anticipation notes, there shall be paid from the school district's project construction fund to the school district's bond retirement fund to be applied against such notes an amount sufficient to cause the net bonded indebtedness of the school district, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness for the year in which the controlling board approved the project. The maximum amount of indebtedness to be incurred by any school district board as its share of the cost of the project is either an amount that will cause its net bonded indebtedness, as of the first day of the year following the year in which the controlling board approved the project, to be within five thousand dollars of the required level of indebtedness, or an amount equal to the required percentage of the basic project costs, whichever is greater. All bonds and bond anticipation notes shall be issued in accordance with Chapter 133. of the Revised Code, and notes may be renewed as provided in section 133.22 of the Revised Code.

(B) The transfer of such funds of the school district board available for the project, together with the proceeds of the sale of the bonds or notes, except premium, accrued interest, and interest included in the amount of the issue, to the school district's project construction fund;

(C) For all school districts except joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the following provisions as applicable:

(1) If section 3318.052 of the Revised Code applies, the earmarking of the proceeds of a tax levied under section 5705.21 of the Revised Code for general permanent improvements or under section 5705.218 of the Revised Code for the purpose of permanent improvements, or the proceeds of a school district income tax levied under Chapter 5748. of the Revised Code, or the proceeds from a combination of those two taxes, in an amount to pay all or part of the service charges on bonds issued to pay the school district

portion of the project and an amount equivalent to all or part of the tax required under division (B) of section 3318.05 of the Revised Code;

(2) If section 3318.052 of the Revised Code does not apply, one of the following:

(a) The levy of the tax authorized at the election for the payment of maintenance costs, as specified in division (B) of section 3318.05 of the Revised Code;

(b) If the school district electors have approved a continuing tax for general permanent improvements under section 5705.21 of the Revised Code and that tax can be used for maintenance, the earmarking of an amount of the proceeds from such tax for maintenance of classroom facilities as specified in division (B) of section 3318.05 of the Revised Code;

(c) If, in lieu of the tax otherwise required under division (B) of section 3318.05 of the Revised Code, the commission has approved the transfer of money to the maintenance fund in accordance with section 3318.051 of the Revised Code, a requirement that the district board comply with the provisions that section. The district board may rescind the provision prescribed under division (C)(2)(c) of this section only so long as the electors of the district have approved, in accordance with section 3318.063 of the Revised Code, the levy of a tax for the maintenance of the classroom facilities acquired under the district's project and that levy continues to be collected as approved by the electors.

(D) For joint vocational school districts that receive assistance under sections 3318.40 to 3318.45 of the Revised Code, provision for deposit of school district moneys dedicated to maintenance of the classroom facilities acquired under those sections as prescribed in section 3318.43 of the Revised Code;

(E) Dedication of any local donated contribution as provided for under section 3318.084 of the Revised Code, including a schedule for depositing such moneys applied as an offset of the district's obligation to levy the tax described in division (B) of section 3318.05 of the Revised Code as required under division (D)(2) of section 3318.084 of the Revised Code;

(F) Ownership of or interest in the project during the period of construction, which shall be divided between the commission and the school district board in proportion to their respective contributions to the school district's project construction fund;

(G) Maintenance of the state's interest in the project until any obligations issued for the project under section 3318.26 of the Revised Code are no longer outstanding;

(H) The insurance of the project by the school district from the time

there is an insurable interest therein and so long as the state retains any ownership or interest in the project pursuant to division (F) of this section, in such amounts and against such risks as the commission shall require; provided, that the cost of any required insurance until the project is completed shall be a part of the basic project cost;

(I) The certification by the director of budget and management that funds are available and have been set aside to meet the state's share of the basic project cost as approved by the controlling board pursuant to either section 3318.04 or division (B)(1) of section 3318.41 of the Revised Code;

(J) Authorization of the school district board to advertise for and receive construction bids for the project, for and on behalf of the commission, and to award contracts in the name of the state subject to approval by the commission;

(K) Provisions for the disbursement of moneys from the school district's project account upon issuance by the commission or the commission's designated representative of vouchers for work done to be certified to the commission by the treasurer of the school district board;

(L) Disposal of any balance left in the school district's project construction fund upon completion of the project;

(M) Limitations upon use of the project or any part of it so long as any obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(N) Provision for vesting the state's interest in the project to the school district board when the obligations issued to finance the project under section 3318.26 of the Revised Code are outstanding;

(O) Provision for deposit of an executed copy of the agreement in the office of the commission;

(P) Provision for termination of the contract and release of the funds encumbered at the time of the conditional approval, if the proceeds of the sale of the bonds of the school district board are not paid into the school district's project construction fund and if bids for the construction of the project have not been taken within such period after the execution of the agreement as may be fixed by the commission;

(Q) Provision for the school district to maintain the project in accordance with a plan approved by the commission;

~~(R)(1) For all school districts except a district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision~~ Provision that all state funds reserved and encumbered to pay the state share of the cost of the project ~~pursuant to~~

~~section 3318.03 of the Revised Code be spent on the construction or acquisition of the project prior to the expenditure of any and the funds provided by the school district to pay for its share of the project cost, unless including the respective shares of the cost of a segment if the project is divided into segments, be spent on the construction and acquisition of the project or segment simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code. However, if the school district certifies to the commission that expenditure by the school district is necessary to maintain the federal tax status or tax-exempt status of notes or bonds issued by the school district to pay for its share of the project cost or to comply with applicable temporary investment periods or spending exceptions to rebate as provided for under federal law in regard to those notes or bonds, in which cases, the school district may commit to spend, or spend, a greater portion of the funds it provides;~~

~~(2) For a school district undertaking a project under section 3318.38 of the Revised Code or a joint vocational school district undertaking a project under sections 3318.40 to 3318.45 of the Revised Code, provision that the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project, or of the entire project if it is not divided into segments, be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code or, if the district is a joint vocational school district, under section 3318.42 of the Revised Code during any specific period than would otherwise be required under this division.~~

(S) A provision stipulating that the commission may prohibit the district from proceeding with any project if the commission determines that the site is not suitable for construction purposes. The commission may perform soil tests in its determination of whether a site is appropriate for construction purposes.

(T) A provision stipulating that, unless otherwise authorized by the commission, any contingency reserve portion of the construction budget prescribed by the commission shall be used only to pay costs resulting from unforeseen job conditions, to comply with rulings regarding building and other codes, to pay costs related to design clarifications or corrections to contract documents, and to pay the costs of settlements or judgments related to the project as provided under section 3318.086 of the Revised Code;

(U) Provision stipulating that for continued release of project funds the

school district board shall comply with section 3313.41 of the Revised Code throughout the project and shall notify the department of education and the Ohio community school association when the board plans to dispose of facilities by sale under that section;

(V) Provision that the commission shall not approve a contract for demolition of a facility until the school district board has complied with section 3313.41 of the Revised Code relative to that facility, unless demolition of that facility is to clear a site for construction of a replacement facility included in the district's project.

Sec. 3318.12. (A) The Ohio school facilities commission shall cause to be transferred to the school district's project construction fund the necessary amounts from amounts appropriated by the general assembly and set aside for such purpose, from time to time as may be necessary to pay obligations chargeable to such fund when due. All investment earnings of a school district's project construction fund shall be credited to the fund.

(B)(1) The treasurer of the school district board shall disburse funds from the school district's project construction fund, including investment earnings credited to the fund, only upon the approval of the commission or the commission's designated representative. The commission or the commission's designated representative shall issue vouchers against such fund, in such amounts, and at such times as required by the contracts for construction of the project.

(2) Notwithstanding anything to the contrary in division (B)(1) of this section, the school district board may, by a duly adopted resolution, choose to use all or part of the investment earnings of the district's project construction fund that are attributable to the district's contribution to the fund to pay the cost of classroom facilities or portions or components of classroom facilities that are not included in the district's basic project cost but that are related to the district's project. If the district board adopts a resolution in favor of using those investment earnings as authorized under division (B)(2) of this section, the treasurer shall disburse the amount as designated and directed by the board. However, if the district board chooses to use any part of the investment earnings for classroom facilities or portions or components of classroom facilities that are not included in the basic project cost, as authorized under division (B)(2) of this section, and, subsequently, the cost of the project exceeds the amount in the project construction fund, the district board shall restore to the project construction fund the full amount of the investment earnings used under division (B)(2) of this section before any additional state moneys shall be released for the project.

(C) After ~~the~~ a certificate of completion has been issued for a project has been completed under section 3318.48 of the Revised Code:

(1) At the discretion of the school district board, any investment earnings remaining in the project construction fund that are attributable to the school district's contribution to the fund shall be:

- (a) Retained in the project construction fund for future projects;
- (b) Transferred to the district's maintenance fund required by division (B) of section 3318.05 or section 3318.43 of the Revised Code, and the money so transferred shall be used solely for maintaining the classroom facilities included in the project;
- (c) Transferred to the district's permanent improvement fund.

(2) Any investment earnings remaining in the project construction fund that are attributable to the state's contribution to the fund shall be transferred to the commission for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

(3) Any other surplus remaining in the school district's project construction fund ~~after the project has been completed~~ shall be transferred to the commission and the school district board in proportion to their respective contributions to the fund. The commission shall use the money transferred to it under this division for expenditure pursuant to sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code.

(D) Pursuant to appropriations of the general assembly, any moneys transferred to the commission under division (C)(2) or (3) of this section from a project construction fund for a project under sections 3318.40 to 3318.45 of the Revised Code may be used for future expenditures for projects under sections 3318.40 to 3318.45 of the Revised Code, notwithstanding the two per cent annual limit specified in division (B) of section 3318.40 of the Revised Code.

Sec. 3318.31. (A) The Ohio school facilities commission may perform any act and ensure the performance of any function necessary or appropriate to carry out the purposes of, and exercise the powers granted under, Chapter 3318. of the Revised Code, including any of the following:

(1) Adopt, amend, and rescind, pursuant to section 111.15 of the Revised Code, rules for the administration of programs authorized under Chapter 3318. of the Revised Code.

(2) Contract with, retain the services of, or designate, and fix the compensation of, such agents, accountants, consultants, advisers, and other independent contractors as may be necessary or desirable to carry out the programs authorized under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(3) Receive and accept any gifts, grants, donations, and pledges, and receipts therefrom, to be used for the programs authorized under Chapter 3318. of the Revised Code.

(4) Make and enter into all contracts, commitments, and agreements, and execute all instruments, necessary or incidental to the performance of its duties and the execution of its rights and powers under Chapter 3318. of the Revised Code, or authorize the executive director to perform such powers and duties.

(5) Request the director of administrative services to debar a contractor as provided in section 153.02 of the Revised Code.

(B) The commission shall appoint and fix the compensation of an executive director who shall serve at the pleasure of the commission. The executive director shall supervise the operations of the commission and perform such other duties as delegated by the commission. The executive director also shall employ and fix the compensation of such employees as will facilitate the activities and purposes of the commission, who shall serve at the pleasure of the executive director. The employees of the commission 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.

(C) The attorney general shall serve as the legal representative for the commission and may appoint other counsel as necessary for that purpose in accordance with section 109.07 of the Revised Code.

Sec. 3318.36. (A)(1) As used in this section:

(a) "Ohio school facilities commission," "classroom facilities," "school district," "school district board," "net bonded indebtedness," "required percentage of the basic project costs," "basic project cost," "valuation," and "percentile" have the same meanings as in section 3318.01 of the Revised Code.

(b) "Required level of indebtedness" means five per cent of the school district's valuation for the year preceding the year in which the commission and school district enter into an agreement under division (B) of this section, plus [two one-hundredths of one per cent multiplied by (the percentile in which the district ranks minus one)].

(c) "Local resources" means any moneys generated in any manner permitted for a school district board to raise the school district portion of a project undertaken with assistance under sections 3318.01 to 3318.20 of the Revised Code.

(d) "Tangible personal property phase-out impacted district" has the same meaning as in section 3318.011 of the Revised Code.

(2) For purposes of determining the required level of indebtedness, the

required percentage of the basic project costs under division (C)(1) of this section, and priority for assistance under sections 3318.01 to 3318.20 of the Revised Code, the percentile ranking of a school district with which the commission has entered into an agreement under this section between the first day of July and the thirty-first day of August in each fiscal year is the percentile ranking calculated for that district for the immediately preceding fiscal year, and the percentile ranking of a school district with which the commission has entered into such agreement between the first day of September and the thirtieth day of June in each fiscal year is the percentile ranking calculated for that district for the current fiscal year. However, in the case of a tangible personal property phase-out impacted district, the district's priority for assistance under sections 3318.01 to 3318.20 of the Revised Code and its portion of the basic project cost under those sections shall be determined in the manner prescribed, respectively, in divisions (B)(3)(b) and (E)(1)(b) of this section.

(B)(1) There is hereby established the school building assistance expedited local partnership program. Under the program, the Ohio school facilities commission may enter into an agreement with the school district board of any school district under which the school district board may proceed with the new construction or major repairs of a part of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code, through the expenditure of local resources prior to the school district's eligibility for state assistance under those sections and may apply that expenditure toward meeting the school district's portion of the basic project cost of the total of the school district's classroom facilities needs, as determined under sections 3318.01 to 3318.20 of the Revised Code and as recalculated under division (E) of this section, that are eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code when the school district becomes eligible for that assistance. Any school district that is reasonably expected to receive assistance under sections 3318.01 to 3318.20 of the Revised Code within two fiscal years from the date the school district adopts its resolution under division (B) of this section shall not be eligible to participate in the program established under this section.

(2) To participate in the program, a school district board shall first adopt a resolution certifying to the commission the board's intent to participate in the program.

The resolution shall specify the approximate date that the board intends to seek elector approval of any bond or tax measures or to apply other local resources to use to pay the cost of classroom facilities to be constructed

under this section. The resolution may specify the application of local resources or elector-approved bond or tax measures after the resolution is adopted by the board, and in such case the board may proceed with a discrete portion of its project under this section as soon as the commission and the controlling board have approved the basic project cost of the district's classroom facilities needs as specified in division (D) of this section. The board shall submit its resolution to the commission not later than ten days after the date the resolution is adopted by the board.

The commission shall not consider any resolution that is submitted pursuant to division (B)(2) of this section, as amended by this amendment, sooner than September 14, 2000.

(3) For purposes of determining when a district that enters into an agreement under this section becomes eligible for assistance under sections 3318.01 to 3318.20 of the Revised Code, the commission shall use one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section;

(b) For a tangible personal property phase-out impacted district, the least of (i) the district's percentile ranking determined at the time the district entered into the agreement under this section, as prescribed by division (A)(2) of this section, (ii) the district's current percentile ranking under section 3318.011 of the Revised Code, or (iii) for a project approved for fiscal year 2012, the district's percentile ranking under the alternate equity list prescribed by Section 387.70 of H.B. 153 of the 129th general assembly.

(4) Any project under this section shall comply with section 3318.03 of the Revised Code and with any specifications for plans and materials for classroom facilities adopted by the commission under section 3318.04 of the Revised Code.

(5) If a school district that enters into an agreement under this section has not begun a project applying local resources as provided for under that agreement at the time the district is notified by the commission that it is eligible to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code, all assessment and agreement documents entered into under this section are void.

(6) Only construction of or repairs to classroom facilities that have been approved by the commission and have been therefore included as part of a district's basic project cost qualify for application of local resources under this section.

(C) Based on the results of on-site visits and assessment, the commission shall determine the basic project cost of the school district's classroom facilities needs. The commission shall determine the school district's portion of such basic project cost, which shall be the greater of:

(1) The required percentage of the basic project costs, determined based on the school district's percentile ranking;

(2) An amount necessary to raise the school district's net bonded indebtedness, as of the fiscal year the commission and the school district enter into the agreement under division (B) of this section, to within five thousand dollars of the required level of indebtedness.

(D)(1) When the commission determines the basic project cost of the classroom facilities needs of a school district and the school district's portion of that basic project cost under division (C) of this section, the project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval thereof. The controlling board shall forthwith approve or reject the commission's determination, conditional approval, and the amount of the state's portion of the basic project cost; however, no state funds shall be encumbered under this section. Upon approval by the controlling board, the school district board may identify a discrete part of its classroom facilities needs, which shall include only new construction of or additions or major repairs to a particular building, to address with local resources. Upon identifying a part of the school district's basic project cost to address with local resources, the school district board may allocate any available school district moneys to pay the cost of that identified part, including the proceeds of an issuance of bonds if approved by the electors of the school district.

All local resources utilized under this division shall first be deposited in the project construction account required under section 3318.08 of the Revised Code.

(2) Unless the school district board exercises its option under division (D)(3) of this section, for a school district to qualify for participation in the program authorized under this section, one of the following conditions shall be satisfied:

(a) The electors of the school district by a majority vote shall approve the levy of taxes outside the ten-mill limitation for a period of twenty-three years at the rate of not less than one-half mill for each dollar of valuation to be used to pay the cost of maintaining the classroom facilities included in the basic project cost as determined by the commission. The form of the ballot to be used to submit the question whether to approve the tax required under this division to the electors of the school district shall be the form for

an additional levy of taxes prescribed in section 3318.361 of the Revised Code, which may be combined in a single ballot question with the questions prescribed under section 5705.218 of the Revised Code.

(b) As authorized under division (C) of section 3318.05 of the Revised Code, the school district board shall earmark from the proceeds of a permanent improvement tax levied under section 5705.21 of the Revised Code, an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(c) As authorized under section 3318.051 of the Revised Code, the school district board shall, if approved by the commission, annually transfer into the maintenance fund required under section 3318.05 of the Revised Code the amount prescribed in section 3318.051 of the Revised Code in lieu of the tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(d) If the school district board has rescinded the agreement to make transfers under section 3318.051 of the Revised Code, as provided under division (F) of that section, the electors of the school district, in accordance with section 3318.063 of the Revised Code, first shall approve the levy of taxes outside the ten-mill limitation for the period specified in that section at a rate of not less than one-half mill for each dollar of valuation.

(e) The school district board shall apply the proceeds of a tax to leverage bonds as authorized under section 3318.052 of the Revised Code or dedicate a local donated contribution in the manner described in division (B) of section 3318.084 of the Revised Code in an amount equivalent to the additional tax otherwise required under division (D)(2)(a) of this section for the maintenance of the classroom facilities included in the basic project cost as determined by the commission.

(3) A school district board may opt to delay taking any of the actions described in division (D)(2) of this section until the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code. In order to exercise this option, the board shall certify to the commission a resolution indicating the board's intent to do so prior to entering into an agreement under division (B) of this section.

(4) If pursuant to division (D)(3) of this section a district board opts to delay levying an additional tax until the district becomes eligible for state assistance, it shall submit the question of levying that tax to the district electors as follows:

(a) In accordance with section 3318.06 of the Revised Code if it will

also be necessary pursuant to division (E) of this section to submit a proposal for approval of a bond issue;

(b) In accordance with section 3318.361 of the Revised Code if it is not necessary to also submit a proposal for approval of a bond issue pursuant to division (E) of this section.

(5) No state assistance under sections 3318.01 to 3318.20 of the Revised Code shall be released until a school district board that adopts and certifies a resolution under division (D) of this section also demonstrates to the satisfaction of the commission compliance with the provisions of division (D)(2) of this section.

Any amount required for maintenance under division (D)(2) of this section shall be deposited into a separate fund as specified in division (B) of section 3318.05 of the Revised Code.

(E)(1) If the school district becomes eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code based on its percentile ranking under division (B)(3) of this section, the commission shall conduct a new assessment of the school district's classroom facilities needs and shall recalculate the basic project cost based on this new assessment. The basic project cost recalculated under this division shall include the amount of expenditures made by the school district board under division (D)(1) of this section. The commission shall then recalculate the school district's portion of the new basic project cost, which shall be one of the following as applicable:

(a) Except for a tangible personal property phase-out impacted district, the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section;

(b) For a tangible personal property phase-out impacted district, the least of (i) the percentage of the original basic project cost assigned to the school district as its portion under division (C) of this section, (ii) the percentage of the new basic project cost determined under section 3318.032 of the Revised Code using the district's current percentile ranking under section 3318.011 of the Revised Code, or (iii) for a project approved for fiscal year 2012, the percentage of the new basic project cost determined under section 3318.032 of the Revised Code using the district's percentile ranking under the alternate equity list prescribed by Section 387.70 of H.B. 153 of the 129th general assembly. The

The commission shall deduct the expenditure of school district moneys made under division (D)(1) of this section from the school district's portion of the basic project cost as recalculated under this division. If the amount of school district resources applied by the school district board to the school

district's portion of the basic project cost under this section is less than the total amount of such portion as recalculated under this division, the school district board by a majority vote of all of its members shall, if it desires to seek state assistance under sections 3318.01 to 3318.20 of the Revised Code, adopt a resolution as specified in section 3318.06 of the Revised Code to submit to the electors of the school district the question of approval of a bond issue in order to pay any additional amount of school district portion required for state assistance. Any tax levy approved under division (D) of this section satisfies the requirements to levy the additional tax under section 3318.06 of the Revised Code.

(2) If the amount of school district resources applied by the school district board to the school district's portion of the basic project cost under this section is more than the total amount of such portion as recalculated under ~~this division (E)(1) of this section~~, within one year after the school district's portion is so recalculated ~~under division (E)(1) of this section~~ the commission may grant to the school district the difference between the two calculated portions, but at no time shall the commission expend any state funds on a project in an amount greater than the state's portion of the basic project cost as recalculated under ~~this division (E)(1) of this section~~.

Any reimbursement under this division shall be only for local resources the school district has applied toward construction cost expenditures for the classroom facilities approved by the commission, which shall not include any financing costs associated with that construction.

The school district board shall use any moneys reimbursed to the district under this division to pay off any debt service the district owes for classroom facilities constructed under its project under this section before such moneys are applied to any other purpose. However, the district board first may deposit moneys reimbursed under this division into the district's general fund or a permanent improvement fund to replace local resources the district withdrew from those funds, as long as, and to the extent that, those local resources were used by the district for constructing classroom facilities included in the district's basic project cost.

(3) A tangible personal property phase-out impacted district shall receive credit under division (E) of this section for the expenditure of local resources pursuant to any prior agreement authorized by this section, notwithstanding any recalculation of its average taxable value.

Sec. 3318.37. (A)(1) As used in this section:

(a) "Large land area school district" means a school district with a territory of greater than three hundred square miles in any percentile as determined under section 3318.011 of the Revised Code.

(b) "Low wealth school district" means a school district in the first through seventy-fifth percentiles as determined under section 3318.011 of the Revised Code.

(c) A "school district with an exceptional need for immediate classroom facilities assistance" means a low wealth or large land area school district with an exceptional need for new facilities in order to protect the health and safety of all or a portion of its students.

~~(2) No school district reasonably expected to be eligible for state assistance under sections 3318.01 to 3318.20 of the Revised Code within three fiscal years after the year of the application for assistance under this section shall be eligible for assistance under this section, unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve and the district satisfies the conditions prescribed in divisions (A)(3)(a) and (b) of this section.~~

~~(3) No school district that participates in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code shall receive assistance under the program established under this section unless the following conditions are satisfied:~~

~~(a) The district board adopted a resolution certifying its intent to participate in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code prior to September 14, 2000.~~

~~(b) The district was selected by the Ohio school facilities commission for participation in the school building assistance expedited local partnership program under section 3318.36 of the Revised Code in the manner prescribed by the commission under that section as it existed prior to September 14, 2000.~~

(B)(1) There is hereby established the exceptional needs school facilities assistance program. Under the program, the Ohio school facilities commission may set aside from the moneys annually appropriated to it for classroom facilities assistance projects up to twenty-five per cent for assistance to school districts with exceptional needs for immediate classroom facilities assistance.

(2)(a) After consulting with education and construction experts, the commission shall adopt guidelines for identifying school districts with an exceptional need for immediate classroom facilities assistance.

(b) The guidelines shall include application forms and instructions for school districts to use in applying for assistance under this section.

(3) The commission shall evaluate the classroom facilities, and the need for replacement classroom facilities from the applications received under

this section. The commission, utilizing the guidelines adopted under division (B)(2)(a) of this section, shall prioritize the school districts to be assessed.

Notwithstanding section 3318.02 of the Revised Code, the commission may conduct on-site evaluation of the school districts prioritized under this section and approve and award funds until such time as all funds set aside under division (B)(1) of this section have been encumbered. However, the commission need not conduct the evaluation of facilities if the commission determines that a district's assessment conducted under section 3318.36 of the Revised Code is sufficient for purposes of this section.

(4) Notwithstanding division (A) of section 3318.05 of the Revised Code, the school district's portion of the basic project cost under this section shall be the "required percentage of the basic project costs," as defined in division (K) of section 3318.01 of the Revised Code.

(5) Except as otherwise specified in this section, any project undertaken with assistance under this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code. A school district may receive assistance under sections 3318.01 to 3318.20 of the Revised Code for the remainder of the district's classroom facilities needs as assessed under this section when the district is eligible for such assistance pursuant to section 3318.02 of the Revised Code, but any classroom facility constructed with assistance under this section shall not be included in a district's project at that time unless the commission determines the district has experienced the increased enrollment specified in division (B)(1) of section 3318.04 of the Revised Code.

(C) No school district shall receive assistance under this section for a classroom facility that has been included in the discrete part of the district's classroom facilities needs identified and addressed in the district's project pursuant to an agreement entered into under section 3318.36 of the Revised Code, unless the district's entire classroom facilities plan consists of only a single building designed to house grades kindergarten through twelve.

Sec. 3318.371. The Ohio school facilities commission may provide assistance under the exceptional needs school facilities program established by section 3318.37 of the Revised Code to any school district for the purpose of the relocation or replacement of classroom facilities required as a result of any contamination of air, soil, or water that impacts the occupants of the facility. Assistance under this section is not limited to school districts in the first through seventy-fifth percentiles as determined under section 3318.011 of the Revised Code.

The commission shall make a determination in accordance with guidelines adopted by the commission regarding eligibility and funding for

projects under this section. The commission may contract with an independent environmental consultant to conduct a study to assist the commission in making the determination.

If the federal government or other public or private entity provides funds for restitution of costs incurred by the state or school district in the relocation or replacement of the classroom facilities, the school district shall use such funds in excess of the school district's share to refund the state for the state's contribution to the environmental contamination portion of the project. The school district may apply an amount of such restitution funds up to an amount equal to the school district's portion of the project, as defined by the commission, toward paying its portion of that project to reduce the amount of bonds the school district otherwise must issue to receive state assistance under sections 3318.01 to 3318.20 of the Revised Code.

Sec. 3318.38. (A) As used in this section, "big-eight school district" has the same meaning as in section 3314.02 of the Revised Code.

(B) There is hereby established the accelerated urban school building assistance program. Under the program, notwithstanding section 3318.02 of the Revised Code, any big-eight school district that has not been approved to receive assistance under sections 3318.01 to 3318.20 of the Revised Code by July 1, 2002, may beginning on that date apply for approval of and be approved for such assistance. Except as otherwise provided in this section, any project approved and undertaken pursuant to this section shall comply with all provisions of sections 3318.01 to 3318.20 of the Revised Code.

The Ohio school facilities commission shall provide assistance to any big-eight school district eligible for assistance under this section in the following manner:

(1) Notwithstanding section 3318.02 of the Revised Code:

(a) Not later than June 30, 2002, the commission shall conduct an on-site visit and shall assess the classroom facilities needs of each big-eight school district eligible for assistance under this section;

(b) Beginning July 1, 2002, any big-eight school district eligible for assistance under this section may apply to the commission for conditional approval of its project as determined by the assessment conducted under division (B)(1)(a) of this section. The commission may conditionally approve that project and submit it to the controlling board for approval pursuant to section 3318.04 of the Revised Code.

(2) If the controlling board approves the project of a big-eight school district eligible for assistance under this section, the commission and the school district shall enter into an agreement as prescribed in section 3318.08

of the Revised Code. Any agreement executed pursuant to this division shall include any applicable segmentation provisions as approved by the commission under division (B)(3) of this section.

(3) Notwithstanding any provision to the contrary in sections 3318.05, 3318.06, and 3318.08 of the Revised Code, a big-eight school district eligible for assistance under this section may with the approval of the commission opt to divide the project as approved under division (B)(1)(b) of this section into discrete segments to be completed sequentially. Any project divided into segments shall comply with all other provisions of sections 3318.05, 3318.06, and 3318.08 of the Revised Code except as otherwise specified in this division.

If a project is divided into segments under this division:

(a) The school district need raise only the amount equal to its proportionate share, as determined under section 3318.032 of the Revised Code, of each segment at any one time and may seek voter approval of each segment separately;

(b) The state's proportionate share, as determined under section 3318.032 of the Revised Code, of only the segment which has been approved by the school district electors or for which the district has applied a local donated contribution under section 3318.084 of the Revised Code shall be encumbered in accordance with section 3318.11 of the Revised Code. Encumbrance of additional amounts to cover the state's proportionate share of later segments shall be approved separately as they are approved by the school district electors or as the district applies a local donated contribution to the segments under section 3318.084 of the Revised Code.

(c) The school district's maintenance levy requirement, as defined in section 3318.18 of the Revised Code, shall run for twenty-three years from the date the first segment is undertaken.

~~(4) For any project under this section~~ (C) In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of any segment of the project under this section, or of the entire project if it is not divided into segments, shall be spent on the construction and acquisition of the project simultaneously in proportion to the state's and the school district's respective shares of that basic project cost as determined under section 3318.032 of the Revised Code.

Sec. 3318.41. (A)(1) The Ohio school facilities commission annually shall assess the classroom facilities needs of the number of joint vocational school districts that the commission reasonably expects to be able to provide assistance to in a fiscal year, based on the amount set aside for that fiscal

year under division (B) of section 3318.40 of the Revised Code and the order of priority prescribed in division (B) of section 3318.42 of the Revised Code, except that in fiscal year 2004 the commission shall conduct at least the five assessments prescribed in division (E) of section 3318.40 of the Revised Code.

Upon conducting an assessment of the classroom facilities needs of a school district, the commission shall make a determination of all of the following:

(a) The number of classroom facilities to be included in a project and the basic project cost of acquiring the classroom facilities included in the project. The number of facilities and basic project cost shall be determined in accordance with the specifications adopted under section 3318.311 of the Revised Code except to the extent that compliance with such specifications is waived by the commission pursuant to the rule of the commission adopted under division (F) of section 3318.40 of the Revised Code.

(b) The school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code;

(c) The remaining portion of the basic project cost that shall be supplied by the state;

(d) The amount of the state's portion of the basic project cost to be encumbered in accordance with section 3318.11 of the Revised Code in the current and subsequent fiscal years from funds set aside under division (B) of section 3318.40 of the Revised Code.

(2) Divisions (A), (C), and (D) of section 3318.03 of the Revised Code apply to any project under sections 3318.40 to 3318.45 of the Revised Code.

(B)(1) If the commission makes a determination under division (A) of this section in favor of the acquisition of classroom facilities for a project under sections 3318.40 to 3318.45 of the Revised Code, such project shall be conditionally approved. Such conditional approval shall be submitted to the controlling board for approval. The controlling board shall immediately approve or reject the commission's determination, conditional approval, the amount of the state's portion of the basic project cost, and the amount of the state's portion of the basic project cost to be encumbered in the current fiscal year. In the event of approval by the controlling board, the commission shall certify the conditional approval to the joint vocational school district board of education and shall encumber the approved funds for the current fiscal year.

(2) No school district that receives assistance under sections 3318.40 to 3318.45 of the Revised Code shall have another such project conditionally approved until the expiration of twenty years after the school district's prior

project was conditionally approved, unless the school district board demonstrates to the satisfaction of the commission that the school district has experienced since conditional approval of its prior project an exceptional increase in enrollment or program requirements significantly above the school district's design capacity under that prior project as determined by rule of the commission. Any rule adopted by the commission to implement this division shall be tailored to address the classroom facilities needs of joint vocational school districts.

(C) In addition to generating the amount of the school district's portion of the basic project cost as determined under division (C) of section 3318.42 of the Revised Code, in order for a school district to receive assistance under sections 3318.40 to 3318.45 of the Revised Code, the school district board shall set aside school district moneys for the maintenance of the classroom facilities included in the school district's project in the amount and manner prescribed in section 3318.43 of the Revised Code.

(D)(1) The conditional approval for a project certified under division (B)(1) of this section shall lapse and the amount reserved and encumbered for such project shall be released unless both of the following conditions are satisfied:

(a) Within one hundred twenty days following the date of certification of the conditional approval to the joint vocational school district board, the school district board accepts the conditional approval and certifies to the commission the school district board's plan to generate the school district's portion of the basic project cost, as determined under division (C) of section 3318.42 of the Revised Code, and to set aside moneys for maintenance of the classroom facilities acquired under the project, as prescribed in section 3318.43 of the Revised Code.

(b) Within ~~one year~~ thirteen months following the date of certification of the conditional approval to the school district board, the electors of the school district vote favorably on any ballot measures proposed by the school district board to generate the school district's portion of the basic project cost.

(2) If the school district board or electors fail to satisfy the conditions prescribed in division (D)(1) of this section and the amount reserved and encumbered for the school district's project is released, the school district shall be given first priority over other joint vocational school districts for project funding under sections 3318.40 to 3318.45 of the Revised Code as such funds become available, subject to section 3318.054 of the Revised Code.

(E) If the conditions prescribed in division (D)(1) of this section are

satisfied, the commission and the school district board shall enter into an agreement as prescribed in section 3318.08 of the Revised Code and shall proceed with the development of plans, cost estimates, designs, drawings, and specifications as prescribed in section 3318.091 of the Revised Code.

(F) Costs in excess of those approved by the commission under section 3318.091 of the Revised Code shall be payable only as provided in sections 3318.042 and 3318.083 of the Revised Code.

(G) Advertisement for bids and the award of contracts for construction of any project under sections 3318.40 to 3318.45 of the Revised Code shall be conducted in accordance with section 3318.10 of the Revised Code.

(H) The In accordance with division (R) of section 3318.08 of the Revised Code, the state funds reserved and encumbered and the funds provided by the school district to pay the basic project cost of a project under sections 3318.40 to 3318.45 of the Revised Code shall be spent simultaneously in proportion to the state's and the school district's respective portions of that basic project cost.

(I) Sections 3318.13, 3318.14, and 3318.16 of the Revised Code apply to projects under sections 3318.40 to 3318.45 of the Revised Code.

Sec. 3318.44. (A) A joint vocational school district board of education may generate the school district's portion of the basic project cost of its project under sections 3318.40 to 3318.45 of the Revised Code using any combination of the following means if lawfully employed for the acquisition of classroom facilities:

(1) The issuance of securities in accordance with Chapter 133. and section 3311.20 of the Revised Code;

(2) Local donated contributions as authorized under section 3318.084 of the Revised Code;

(3) A levy for permanent improvements under section 3311.21 or 5705.21 of the Revised Code;

(4) Bonds issued pursuant to division (B) of this section.

(B) By resolution adopted by a majority of all its members, a school district board, in order to pay all or part of the school district's portion of its basic project cost, or portions or components of classroom facilities that are not included in the school district's basic project cost but that are related to the school district's project, may apply the proceeds of a tax levied under either section 3311.21 of the Revised Code for ten years or section 5705.21 of the Revised Code for general permanent improvements a continuing period of time, if the proceeds of that levy lawfully may be used for general construction, renovation, repair, or maintenance of classroom facilities to pay debt charges on and financing costs related to bonds issued to pay all or

part of the school district portion of the basic project cost of the school district's project under sections 3318.40 to 3318.45 of the Revised Code, or portions or components of classroom facilities that are not included in the school district's basic project cost but that are related to the school district's project, or to generate an amount equivalent to all or part of the amount required under section 3318.43 of the Revised Code to be used for maintenance of classroom facilities acquired under the project. Bonds issued under this division shall be Chapter 133. securities, and may be issued as general obligation securities, but the issuance of the bonds shall not be subject to a vote of the electors of the school district as long as the tax proceeds earmarked for payment of the debt charges on the bonds may lawfully be used for that purpose. Such bonds shall not be included in the calculation of net indebtedness under section 133.06 of the Revised Code if the resolution authorizing their issuance includes covenants to appropriate annually, from lawfully available proceeds of a property tax levied under either section 3311.21 or 5705.21 of the Revised Code, and to continue to levy that tax in amounts necessary to pay the debt charges on and financing costs related to the bonds as they become due. No property tax levied under section 5705.21 of the Revised Code that is pledged, or that the school district has covenanted to levy, collect, and appropriate annually to pay the debt charges on and financing costs related to the bonds under this section may be repealed while those bonds are outstanding. If such a tax is reduced by electors of the district or by the board of education while the bonds are outstanding, the board of education shall continue to levy and collect the tax under the authority of the original election authorizing the tax at a rate in each year that the board reasonably estimates will produce an amount in that year equal to the debt charges on the bonds in that year.

No state moneys shall be released for a project to which this division applies until the proceeds of any bonds issued under this division that are dedicated for payment of the school district's portion of the basic project cost are first deposited into the school district's project construction fund.

(C) A school district board of education may adopt a resolution proposing that any of the following questions be combined with a question specified in section 3318.45 of the Revised Code:

- (1) A bond issue question under section 133.18 of the Revised Code;
- (2) A tax levy question under section 3311.21 of the Revised Code;
- (3) A tax levy question under either section 3311.21 or 5705.21 of the Revised Code.

Any question described in divisions (C)(1) to (3) of this section that is combined with a question proposed under section 3318.45 of the Revised

Code shall be for the purpose of either paying for any permanent improvement, as defined in section 133.01 of the Revised Code, or generating operating revenue specifically for the facilities acquired under the school district's project under Chapter 3318. of the Revised Code or for both to the extent such purposes are permitted by the sections of law under which each is proposed.

(D) The board of education of a joint vocational school district that receives assistance under this section may enter into an agreement for joint issuance of bonds as provided for in section 3318.085 of the Revised Code.

Sec. 3318.48. (A) When all of the following have occurred, a project undertaken by a school district pursuant to this chapter shall be considered complete and the Ohio school facilities commission shall issue a certificate of completion to the district board of education:

(1) All facilities to be constructed under the project, as specified in the project agreement entered into under section 3318.08 of the Revised Code, have been completed and the board has received a permanent certificate of occupancy for each of those facilities.

(2) The commission has issued certificates of contract completion on all prime construction contracts entered into by the board under section 3318.10 of the Revised Code.

(3) The commission has completed a final accounting of the district's project construction fund and has determined that all payments from the fund were made in compliance with all policies of the commission.

(4) Any litigation concerning the project has been finally resolved with no chance of appeal.

(5) All construction management services typically provided by the commission to school districts have been delivered and the commission has canceled any remaining encumbrance of funds for those services.

(B) The commission may issue a certificate of completion to a district board prior to all of the conditions described in division (A) of this section being satisfied, if the commission determines that the circumstances preventing the conditions from being satisfied are so minor in nature that the project should be considered complete. When issuing a certificate of completion under this division, the commission may specify any of the following:

(1) Any construction or work that has yet to be completed and the manner in which the board shall oversee its completion, which may include procedures for reporting progress to the commission and for accounting of expenditures;

(2) Terms and conditions for the resolution of any pending litigation;

(3) Any remaining responsibilities of the construction manager regarding the project.

(C) The commission may issue a certificate of completion to a district board that does not voluntarily participate in the process of closing out the district's project, if the construction manager for the project verifies that all facilities to be constructed under the project, as specified in the project agreement entered into under section 3318.08 of the Revised Code, have been completed and the commission determines that those facilities have been occupied for at least one year. In that case, all funds due to the commission under division (C) of section 3318.12 of the Revised Code shall be returned to the commission not later than thirty days after receipt of the certificate of completion. If the funds due to the commission have not been returned within sixty days after receipt of the certificate of completion, the auditor of state shall issue a finding for recovery against the school district and shall request legal action under section 117.42 of the Revised Code.

(D) Upon issuance of a certificate of completion under this section, the commission's ownership of and interest in the project, as specified in division (F) of section 3318.08 of the Revised Code, shall cease. This cessation shall not alter or otherwise affect the state's or commission's interest in the project or any limitations on the use of the project as specified in the project agreement pursuant to divisions (G), (M), and (N) of that section or as specified in section 3318.16 of the Revised Code.

Sec. 3318.49. (A) The corrective action program is hereby established to provide funding for the correction of work, in connection with a project funded under sections 3318.01 to 3318.20 or sections 3318.40 to 3318.45 of the Revised Code, that is found after occupancy of the facility to be defective or to have been omitted.

(B) The Ohio school facilities commission may provide funding under this section only if the school district notifies the executive director of the commission of the defective or omitted work within five years after occupancy of the facility for which the district seeks the funding.

(C) The commission shall establish procedures and deadlines for school districts to follow in applying for assistance under this section. The procedures shall include definitions of "defective" and "omitted," and shall require that remediation efforts focus first on engaging the respective contractors that designed and constructed the areas that have design or construction-related issues. The commission shall consider applications on a case-by-case basis, taking into account the amount of money appropriated and available for purposes of this section.

(D) The commission may provide funding assistance necessary to take

corrective measures after evaluating the defective or omitted work.

(1) If the work to be corrected or remediated is part of a project not yet completed, the commission may amend the project agreement to increase the project budget and use corrective action funding to provide the state portion of the amendment. If the work to be corrected or remediated is part of a completed project and funds were retained or transferred pursuant to division (C) of section 3318.12 of the Revised Code, the commission may enter into a new agreement to address the corrective action.

(2) Whether or not the project is completed, the district shall contribute a portion of the cost of the corrective action, to be determined in accordance with section 3318.032 of the Revised Code or, if the district is a joint vocational school district, section 3318.42 of the Revised Code. A district that is unable to provide its portion so that remediation can proceed may apply to the commission for additional assistance under section 3318.042 of the Revised Code.

(E) The commission shall assess responsibility for the defective or omitted work and seek cost recovery from responsible parties, if applicable. Any recovery of the expense of remediation shall be applied first to the district portion of the cost of the corrective action. Any remaining funds shall be applied to the state portion and deposited into the school building program assistance fund established under section 3318.25 of the Revised Code.

Sec. 3318.60. (A) As used in this section:

(1) "Acquisition of classroom facilities" means constructing, reconstructing, repairing, or making additions to classroom facilities.

(2) "Ohio school facilities commission" and "classroom facilities" have the same meanings as in section 3318.01 of the Revised Code.

(B) There is hereby established the college-preparatory boarding school facilities program. Under the program, the Ohio school facilities commission shall provide assistance to the boards of trustees of college-preparatory boarding schools established under Chapter 3328. of the Revised Code for the acquisition of classroom facilities.

(C) To be eligible for assistance under this program, a board of trustees shall secure at least twenty million dollars of private money to satisfy its share of facilities acquisition. A board of trustees that receives assistance under the program shall fund the acquisition of residential facilities and any other facilities other than classroom facilities through private means.

(D) The lease payments made by the boards of trustees of college-preparatory boarding schools receiving assistance under the program shall be deposited into the state treasury and credited to the common schools

capital facilities bond service fund created in section 151.03 of the Revised Code.

(E) The acquisition of classroom facilities with assistance provided under the program shall not be subject to sections 3318.01 to 3318.20 of the Revised Code.

(F) Within the ninety-day period immediately following the effective date of this section, the commission shall adopt rules necessary for the implementation and administration of the program.

Sec. 3318.70. (A) As used in this section:

(1) "Acquisition of classroom facilities" has the same meaning as in section 3318.40 of the Revised Code.

(2) "Classroom facilities" has the same meaning as in section 3318.01 of the Revised Code.

(3) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code that is not governed by a single school district board of education, as prescribed by section 3326.51 of the Revised Code.

(B) Upon receipt of a written proposal by the governing body of a STEM school, the Ohio school facilities commission, subject to approval of the controlling board, may provide funding to assist that STEM school in the acquisition of classroom facilities. The proposal of the governing body shall be submitted in a form and in the manner prescribed by the commission and shall indicate both the total amount of state funding requested and the amount of nonstate funding pledged for the acquisition of the classroom facilities, which shall not be less than the total amount of state funding requested. If the commission decides in favor of providing funding for the classroom facilities and if the controlling board approves that funding, the commission shall enter into an agreement with the governing body for the acquisition of the classroom facilities and shall encumber, in accordance with section 3318.11 of the Revised Code, the approved funding from the amounts appropriated to the commission for classroom facilities assistance projects. The agreement shall include a stipulation of the ownership of the classroom facilities in the event the STEM school permanently closes at any time.

Sec. 3319.02. (A)(1) As used in this section, "other administrator" means any of the following:

(a) Except as provided in division (A)(2) of this section, any employee in a position for which a board of education requires a license designated by rule of the department of education for being an administrator issued under section 3319.22 of the Revised Code, including a professional pupil services

employee or administrative specialist or an equivalent of either one who is not employed as a school counselor and spends less than fifty per cent of the time employed teaching or working with students;

(b) Any nonlicensed employee whose job duties enable such employee to be considered as either a "supervisor" or a "management level employee," as defined in section 4117.01 of the Revised Code;

(c) A business manager appointed under section 3319.03 of the Revised Code.

(2) As used in this section, "other administrator" does not include a superintendent, assistant superintendent, principal, or assistant principal.

(B) The board of education of each school district and the governing board of an educational service center may appoint one or more assistant superintendents and such other administrators as are necessary. An assistant educational service center superintendent or service center supervisor employed on a part-time basis may also be employed by a local board as a teacher. The board of each city, exempted village, and local school district shall employ principals for all high schools and for such other schools as the board designates, and those boards may appoint assistant principals for any school that they designate.

(C) In educational service centers and in city, exempted village, and local school districts, assistant superintendents, principals, assistant principals, and other administrators shall only be employed or reemployed in accordance with nominations of the superintendent, except that a board of education of a school district or the governing board of a service center, by a three-fourths vote of its full membership, may reemploy any assistant superintendent, principal, assistant principal, or other administrator whom the superintendent refuses to nominate.

The board of education or governing board shall execute a written contract of employment with each assistant superintendent, principal, assistant principal, and other administrator it employs or reemploys. The term of such contract shall not exceed three years except that in the case of a person who has been employed as an assistant superintendent, principal, assistant principal, or other administrator in the district or center for three years or more, the term of the contract shall be for not more than five years and, unless the superintendent of the district recommends otherwise, not less than two years. If the superintendent so recommends, the term of the contract of a person who has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more may be one year, but all subsequent contracts granted such person shall be for a term of not less than two years

and not more than five years. When a teacher with continuing service status becomes an assistant superintendent, principal, assistant principal, or other administrator with the district or service center with which the teacher holds continuing service status, the teacher retains such status in the teacher's nonadministrative position as provided in sections 3319.08 and 3319.09 of the Revised Code.

A board of education or governing board may reemploy an assistant superintendent, principal, assistant principal, or other administrator at any regular or special meeting held during the period beginning on the first day of January of the calendar year immediately preceding the year of expiration of the employment contract and ending on the last day of March of the year the employment contract expires.

Except by mutual agreement of the parties thereto, no assistant superintendent, principal, assistant principal, or other administrator shall be transferred during the life of a contract to a position of lesser responsibility. No contract may be terminated by a board except pursuant to section 3319.16 of the Revised Code. No contract may be suspended except pursuant to section 3319.17 or 3319.171 of the Revised Code. The salaries and compensation prescribed by such contracts shall not be reduced by a board unless such reduction is a part of a uniform plan affecting the entire district or center. The contract shall specify the employee's administrative position and duties as included in the job description adopted under division (D) of this section, the salary and other compensation to be paid for performance of duties, the number of days to be worked, the number of days of vacation leave, if any, and any paid holidays in the contractual year.

An assistant superintendent, principal, assistant principal, or other administrator is, at the expiration of the current term of employment, deemed reemployed at the same salary plus any increments that may be authorized by the board, unless such employee notifies the board in writing to the contrary on or before the first day of June, or unless such board, on or before the last day of March of the year in which the contract of employment expires, either reemploys such employee for a succeeding term or gives written notice of its intention not to reemploy the employee. The term of reemployment of a person reemployed under this paragraph shall be one year, except that if such person has been employed by the school district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the term of reemployment shall be two years.

(D)(1) Each board shall adopt procedures for the evaluation of all assistant superintendents, principals, assistant principals, and other

administrators and shall evaluate such employees in accordance with those procedures. The procedures for the evaluation of principals shall be based on principles comparable to the teacher evaluation policy adopted by the board under section 3319.111 of the Revised Code, but shall be tailored to the duties and responsibilities of principals and the environment in which principals work. An evaluation based upon such procedures adopted under this division shall be considered by the board in deciding whether to renew the contract of employment of an assistant superintendent, principal, assistant principal, or other administrator.

(2) The evaluation shall measure each assistant superintendent's, principal's, assistant principal's, and other administrator's effectiveness in performing the duties included in the job description and the evaluation procedures shall provide for, but not be limited to, the following:

(a) Each assistant superintendent, principal, assistant principal, and other administrator shall be evaluated annually through a written evaluation process.

(b) The evaluation shall be conducted by the superintendent or designee.

(c) In order to provide time to show progress in correcting the deficiencies identified in the evaluation process, the evaluation process shall be completed as follows:

(i) In any school year that the employee's contract of employment is not due to expire, at least one evaluation shall be completed in that year. A written copy of the evaluation shall be provided to the employee no later than the end of the employee's contract year as defined by the employee's annual salary notice.

(ii) In any school year that the employee's contract of employment is due to expire, at least a preliminary evaluation and at least a final evaluation shall be completed in that year. A written copy of the preliminary evaluation shall be provided to the employee at least sixty days prior to any action by the board on the employee's contract of employment. The final evaluation shall indicate the superintendent's intended recommendation to the board regarding a contract of employment for the employee. A written copy of the evaluation shall be provided to the employee at least five days prior to the board's acting to renew or not renew the contract.

(3) Termination of an assistant superintendent, principal, assistant principal, or other administrator's contract shall be pursuant to section 3319.16 of the Revised Code. Suspension of any such employee shall be pursuant to section 3319.17 or 3319.171 of the Revised Code.

(4) Before taking action to renew or nonrenew the contract of an assistant superintendent, principal, assistant principal, or other administrator

under this section and prior to the last day of March of the year in which such employee's contract expires, the board shall notify each such employee of the date that the contract expires and that the employee may request a meeting with the board. Upon request by such an employee, the board shall grant the employee a meeting in executive session. In that meeting, the board shall discuss its reasons for considering renewal or nonrenewal of the contract. The employee shall be permitted to have a representative, chosen by the employee, present at the meeting.

(5) The establishment of an evaluation procedure shall not create an expectancy of continued employment. Nothing in division (D) of this section shall prevent a board from making the final determination regarding the renewal or nonrenewal of the contract of any assistant superintendent, principal, assistant principal, or other administrator. However, if a board fails to provide evaluations pursuant to division (D)(2)(c)(i) or (ii) of this section, or if the board fails to provide at the request of the employee a meeting as prescribed in division (D)(4) of this section, the employee automatically shall be reemployed at the same salary plus any increments that may be authorized by the board for a period of one year, except that if the employee has been employed by the district or service center as an assistant superintendent, principal, assistant principal, or other administrator for three years or more, the period of reemployment shall be for two years.

(E) On nomination of the superintendent of a service center a governing board may employ supervisors who shall be employed under written contracts of employment for terms not to exceed five years each. Such contracts may be terminated by a governing board pursuant to section 3319.16 of the Revised Code. Any supervisor employed pursuant to this division may terminate the contract of employment at the end of any school year after giving the board at least thirty days' written notice prior to such termination. On the recommendation of the superintendent the contract or contracts of any supervisor employed pursuant to this division may be suspended for the remainder of the term of any such contract pursuant to section 3319.17 or 3319.171 of the Revised Code.

(F) A board may establish vacation leave for any individuals employed under this section. Upon such an individual's separation from employment, a board that has such leave may compensate such an individual at the individual's current rate of pay for all lawfully accrued and unused vacation leave credited at the time of separation, not to exceed the amount accrued within three years before the date of separation. In case of the death of an individual employed under this section, such unused vacation leave as the board would have paid to the individual upon separation under this section

shall be paid in accordance with section 2113.04 of the Revised Code, or to the estate.

(G) The board of education of any school district may contract with the governing board of the educational service center from which it otherwise receives services to conduct searches and recruitment of candidates for assistant superintendent, principal, assistant principal, and other administrator positions authorized under this section.

Sec. 3319.08. (A) The board of education of each city, exempted village, local, and joint vocational school district and the governing board of each educational service center shall enter into written contracts for the employment and reemployment of all teachers. Contracts for the employment of teachers shall be of two types, limited contracts and continuing contracts. The board of each school district or service center that authorizes compensation in addition to the ~~base salary stated in the teachers' salary schedule~~ paid under section 3317.14 or 3317.141 of the Revised Code for the performance of duties by a teacher that are in addition to the teacher's regular teaching duties, shall enter into a supplemental written contract with each teacher who is to perform additional duties. Such supplemental written contracts shall be limited contracts. Such written contracts and supplemental written contracts shall set forth the teacher's duties and shall specify the salaries and compensation to be paid for regular teaching duties and additional teaching duties, respectively, either or both of which may be increased but not diminished during the term for which the contract is made, except as provided in section 3319.12 of the Revised Code.

If a board adopts a motion or resolution to employ a teacher under a limited or continuing contract and the teacher accepts such employment, the failure of such parties to execute a written contract shall not void such employment contract.

(B) Teachers must be paid for all time lost when the schools in which they are employed are closed due to an epidemic or other public calamity, and for time lost due to illness or otherwise for not less than five days annually as authorized by regulations which each board shall adopt.

(C) A limited contract is:

(1) For a superintendent, a contract for such term as authorized by section 3319.01 of the Revised Code;

(2) For an assistant superintendent, principal, assistant principal, or other administrator, a contract for such term as authorized by section 3319.02 of the Revised Code;

(3) For all other teachers, a contract for a term not to exceed five years.

(D) A continuing contract is a contract that remains in effect until the

teacher resigns, elects to retire, or is retired pursuant to former section 3307.37 of the Revised Code, or until it is terminated or suspended and shall be granted only to the following:

(1) Any teacher holding a professional, permanent, or life teacher's certificate;

(2) Any teacher who meets the following conditions:

(a) The teacher was initially issued a teacher's certificate or educator license prior to January 1, 2011.

(b) The teacher holds a professional educator license issued under section 3319.22 or 3319.222 or former section 3319.22 of the Revised Code or a senior professional educator license or lead professional educator license issued under section 3319.22 of the Revised Code.

(c) The teacher has completed the applicable one of the following:

(i) If the teacher did not hold a master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, thirty semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board of education shall adopt;

(ii) If the teacher held a master's degree at the time of initially receiving a teacher's certificate under former law or an educator license, six semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of such certificate or license, as specified in rules which the state board shall adopt.

(3) Any teacher who meets the following conditions:

(a) The teacher never held a teacher's certificate and was initially issued an educator license on or after January 1, 2011.

(b) The teacher holds a professional educator license, senior professional educator license, or lead professional educator license issued under section 3319.22 of the Revised Code.

(c) The teacher has held an educator license for at least seven years.

(d) The teacher has completed the applicable one of the following:

(i) If the teacher did not hold a master's degree at the time of initially receiving an educator license, thirty semester hours of coursework in the area of licensure or in an area related to the teaching field since the initial issuance of that license, as specified in rules which the state board shall adopt;

(ii) If the teacher held a master's degree at the time of initially receiving an educator license, six semester hours of graduate coursework in the area of licensure or in an area related to the teaching field since the initial issuance of that license, as specified in rules which the state board shall adopt.

(E) Division (D) of this section applies only to continuing contracts entered into on or after ~~the effective date of this amendment~~ October 16, 2009. Nothing in that division shall be construed to void or otherwise affect a continuing contract entered into prior to that date.

Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the requirements of division (D)(3) of this section prevail over any conflicting provisions of a collective bargaining agreement entered into on or after ~~the effective date of this amendment~~ October 16, 2009.

(F) Wherever the term "educator license" is used in this section without reference to a specific type of educator license, the term does not include an educator license for substitute teaching issued under section 3319.226 of the Revised Code.

Sec. 3319.081. Except as otherwise provided in division (G) of this section, in all school districts wherein the provisions of Chapter 124. of the Revised Code do not apply, the following employment contract system shall control for employees whose contracts of employment are not otherwise provided by law:

(A) Newly hired regular nonteaching school employees, including regular hourly rate and per diem employees, shall enter into written contracts for their employment which shall be for a period of not more than one year. If such employees are rehired, their subsequent contract shall be for a period of two years.

(B) After the termination of the two-year contract provided in division (A) of this section, if the contract of a nonteaching employee is renewed, the employee shall be continued in employment, and the salary provided in the contract may be increased but not reduced unless such reduction is a part of a uniform plan affecting the nonteaching employees of the entire district.

(C) The contracts as provided for in this section may be terminated by a majority vote of the board of education. Except as provided in ~~section~~ sections 3319.0810 and 3319.172 of the Revised Code, the contracts may be terminated only for violation of written rules and regulations as set forth by the board of education or for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, or any other acts of misfeasance, malfeasance, or nonfeasance. In addition to the right of the board of education to terminate the contract of an employee, the board may suspend an employee for a definite period of time or demote the employee for the reasons set forth in this division. The action of the board of education terminating the contract of an employee or suspending or demoting the employee shall be served upon the employee by certified mail. Within ten days following the receipt

of such notice by the employee, the employee may file an appeal, in writing, with the court of common pleas of the county in which such school board is situated. After hearing the appeal the common pleas court may affirm, disaffirm, or modify the action of the school board.

A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this division.

(D) All employees who have been employed by a school district where the provisions of Chapter 124. of the Revised Code do not apply, for a period of at least three years on November 24, 1967, shall hold continuing contracts of employment pursuant to this section.

(E) Any nonteaching school employee may terminate the nonteaching school employee's contract of employment thirty days subsequent to the filing of a written notice of such termination with the treasurer of the board.

(F) A person hired exclusively for the purpose of replacing a nonteaching school employee while such employee is on leave of absence granted under section 3319.13 of the Revised Code is not a regular nonteaching school employee under this section.

(G) All nonteaching employees employed pursuant to this section and Chapter 124. of the Revised Code shall be paid for all time lost when the schools in which they are employed are closed owing to an epidemic or other public calamity. Nothing in this division shall be construed as requiring payment in excess of an employee's regular wage rate or salary for any time worked while the school in which the employee is employed is officially closed for the reasons set forth in this division.

Sec. 3319.0810. (A) The board of education of any school district wherein the provisions of Chapter 124. of the Revised Code do not apply may terminate any of its transportation staff positions for reasons of economy and efficiency if the board instead of employing its own staff to transport some or all of the students enrolled in the district schools enters into a contract with an independent agent for the provision of transportation services for such students. Such a contract may be entered into only if all of the following conditions are satisfied:

(1) Any collective bargaining agreement between the employee organization representing the employees whose positions are terminated under this section and the board has expired or will expire within sixty days and has not been renewed in conformance with provisions of that agreement and with Chapter 4117. of the Revised Code, or the agreement contains provisions permitting the termination of positions for reasons of economy and efficiency while the agreement is in force and the board is in

conformance with those provisions.

(2) The board permits any employee whose position is terminated under this section to fill any vacancy within the district's organization for which the employee is qualified. The board shall select from among similarly qualified employees to fill such vacancies pursuant to procedures established under any collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination, or in absence of such provisions on the basis of seniority of employment by the board with the employee with the greatest seniority having highest priority.

(3) Unless a collective bargaining agreement between the employee organization representing the terminated employees and the board that is in force at the time of the termination provides otherwise, the board permits any employee whose position is terminated under this section to fill the employee's former position in the event that the board reinstates that position within one year after the date the position is terminated under this section.

(4) The board permits any employee whose position is terminated under this section to appeal in accordance with section 119.12 of the Revised Code the board's decision to terminate the employee's position, not to hire that employee for another position pursuant to division (A)(2) of this section, or not to rehire that employee for the position if it is reinstated within one year after the position is terminated pursuant to division (A)(3) of this section.

(5) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to consider hiring any employees of the school district whose positions are terminated under this section for similar positions within the agent's organization.

(6) The contract entered into by the board and an independent agent for the provision of transportation services contains a stipulation requiring the agent to recognize for purposes of employee representation in collective bargaining any employee organization that represented the employees whose positions are terminated under this section in collective bargaining with the board at the time of the termination provided:

(a) A majority of all employees in the bargaining unit agree to such representation;

(b) Such representation is not prohibited by federal law, including any ruling of the national labor relations board;

(c) The employee organization is not prohibited from representing nonpublic employees by other provisions of law or its own governing

instruments.

However, any employee whose position is terminated under this section shall not be compelled to be included in such bargaining unit if there is another bargaining unit within the agent's organization that is applicable to the employee.

(B) If after terminating any positions of employment under this section the board fails to comply with any condition prescribed in division (A) of this section or fails to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section, the terminations shall be void and the board shall reinstate the positions and fill them with the employees who filled those positions just prior to the terminations. Such employees shall be compensated at a rate equal to their rate of compensation in those positions just prior to the terminations plus any increases paid since the terminations to other nonteaching employees. The employees shall also be entitled to back pay at such rate for the period from the date of the terminations to the date of the reinstatements minus any pay received by the employees during any time the board was in compliance with such conditions or during any time the board enforced those obligations.

Any employee aggrieved by the failure of the board to comply with any condition prescribed in division (A) of this section or to enforce on the agent its contractual obligations prescribed in divisions (A)(5) and (6) of this section shall have the right to sue the board for reinstatement of the employee's former position as provided for in this division in the court of common pleas for the county in which the school district is located or, if the school district is located in more than one county, in the court of common pleas for the county in which the majority of the territory of the school district is located.

Sec. 3319.11. (A) As used in this section:

(1) "Evaluation procedures" means the procedures required by the policy adopted pursuant to division ~~(B)~~(A) of section 3319.111 of the Revised Code.

(2) "Limited contract" means a limited contract, as described in section 3319.08 of the Revised Code, that a school district board of education or governing board of an educational service center enters into with a teacher who is not eligible for continuing service status.

(3) "Extended limited contract" means a limited contract, as described in section 3319.08 of the Revised Code, that a board of education or governing board enters into with a teacher who is eligible for continuing service status.

(B) Teachers eligible for continuing service status in any city, exempted village, local, or joint vocational school district or educational service center

shall be those teachers qualified as described in division (D) of section 3319.08 of the Revised Code, who within the last five years have taught for at least three years in the district or center, and those teachers who, having attained continuing contract status elsewhere, have served two years in the district or center, but the board, upon the recommendation of the superintendent, may at the time of employment or at any time within such two-year period, declare any of the latter teachers eligible.

(1) Upon the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed, a continuing contract shall be entered into between the board and the teacher unless the board by a three-fourths vote of its full membership rejects the recommendation of the superintendent. If the board rejects by a three-fourths vote of its full membership the recommendation of the superintendent that a teacher eligible for continuing service status be reemployed and the superintendent makes no recommendation to the board pursuant to division (C) of this section, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If the superintendent recommends that a teacher eligible for continuing service status not be reemployed, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code or the board does not give the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited

contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of a teacher only a continuing contract may be entered into.

(3) Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(C)(1) If a board rejects the recommendation of the superintendent for reemployment of a teacher pursuant to division (B)(1) of this section, the superintendent may recommend reemployment of the teacher, if continuing service status has not previously been attained elsewhere, under an extended limited contract for a term not to exceed two years, provided that written notice of the superintendent's intention to make such recommendation has been given to the teacher with reasons directed at the professional improvement of the teacher on or before the thirtieth day of April. Upon subsequent reemployment of the teacher only a continuing contract may be entered into.

(2) If a board of education takes affirmative action on a superintendent's recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years but the board does not give the teacher written notice of its affirmative action on the superintendent's recommendation of an extended limited contract on or before the thirtieth day of April, the teacher is deemed reemployed under a continuing contract at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under such continuing contract unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a continuing contract shall be executed accordingly.

(3) A board shall not reject a superintendent's recommendation, made pursuant to division (C)(1) of this section, of an extended limited contract for a term not to exceed two years except by a three-fourths vote of its full membership. If a board rejects by a three-fourths vote of its full membership the recommendation of the superintendent of an extended limited contract for a term not to exceed two years, the board may declare its intention not to reemploy the teacher by giving the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher. If evaluation procedures have not been complied with pursuant to ~~division (A)~~ ~~of~~ section 3319.111 of the Revised Code or if the board does not give the teacher written notice on or before the thirtieth day of April of its intention

not to reemploy the teacher, the teacher is deemed reemployed under an extended limited contract for a term not to exceed one year at the same salary plus any increment provided by the salary schedule. The teacher is presumed to have accepted employment under the extended limited contract for a term not to exceed one year unless such teacher notifies the board in writing to the contrary on or before the first day of June, and an extended limited contract for a term not to exceed one year shall be executed accordingly. Upon any subsequent reemployment of the teacher only a continuing contract may be entered into.

Any teacher receiving written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(D) A teacher eligible for continuing contract status employed under an extended limited contract pursuant to division (B) or (C) of this section, is, at the expiration of such extended limited contract, deemed reemployed under a continuing contract at the same salary plus any increment granted by the salary schedule, unless evaluation procedures have been complied with pursuant to ~~division (A) of~~ section 3319.111 of the Revised Code and the employing board, acting on the superintendent's recommendation that the teacher not be reemployed, gives the teacher written notice on or before the thirtieth day of April of its intention not to reemploy such teacher. A teacher who does not have evaluation procedures applied in compliance with ~~division (A) of~~ section 3319.111 of the Revised Code or who does not receive notice on or before the thirtieth day of April of the intention of the board not to reemploy such teacher is presumed to have accepted employment under a continuing contract unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a continuing contract shall be executed accordingly.

Any teacher receiving a written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(E) ~~A The board shall enter into a limited contract may be entered into by each board with each teacher who has not been in the employ of the board for at least three years and shall be entered into, regardless of length of previous employment,~~ with each teacher employed by the board who is not eligible to be considered for a continuing contract.

Any teacher employed under a limited contract, and not eligible to be considered for a continuing contract, is, at the expiration of such limited contract, considered reemployed under the provisions of this division at the same salary plus any increment provided by the salary schedule unless

evaluation procedures have been complied with pursuant to ~~division (A)~~ of section 3319.111 of the Revised Code and the employing board, acting upon the superintendent's written recommendation that the teacher not be reemployed, gives such teacher written notice of its intention not to reemploy such teacher on or before the thirtieth day of April. A teacher who does not have evaluation procedures applied in compliance with ~~division (A)~~ of section 3319.111 of the Revised Code or who does not receive notice of the intention of the board not to reemploy such teacher on or before the thirtieth day of April is presumed to have accepted such employment unless such teacher notifies the board in writing to the contrary on or before the first day of June, and a written contract for the succeeding school year shall be executed accordingly.

Any teacher receiving a written notice of the intention of a board not to reemploy such teacher pursuant to this division is entitled to the hearing provisions of division (G) of this section.

(F) The failure of a superintendent to make a recommendation to the board under any of the conditions set forth in divisions (B) to (E) of this section, or the failure of the board to give such teacher a written notice pursuant to divisions (C) to (E) of this section shall not prejudice or prevent a teacher from being deemed reemployed under either a limited or continuing contract as the case may be under the provisions of this section. A failure of the parties to execute a written contract shall not void any automatic reemployment provisions of this section.

(G)(1) Any teacher receiving written notice of the intention of a board of education not to reemploy such teacher pursuant to division (B), (C)(3), (D), or (E) of this section may, within ten days of the date of receipt of the notice, file with the treasurer of the board a written demand for a written statement describing the circumstances that led to the board's intention not to reemploy the teacher.

(2) The treasurer of a board, on behalf of the board, shall, within ten days of the date of receipt of a written demand for a written statement pursuant to division (G)(1) of this section, provide to the teacher a written statement describing the circumstances that led to the board's intention not to reemploy the teacher.

(3) Any teacher receiving a written statement describing the circumstances that led to the board's intention not to reemploy the teacher pursuant to division (G)(2) of this section may, within five days of the date of receipt of the statement, file with the treasurer of the board a written demand for a hearing before the board pursuant to divisions (G)(4) to (6) of this section.

(4) The treasurer of a board, on behalf of the board, shall, within ten days of the date of receipt of a written demand for a hearing pursuant to division (G)(3) of this section, provide to the teacher a written notice setting forth the time, date, and place of the hearing. The board shall schedule and conclude the hearing within forty days of the date on which the treasurer of the board receives a written demand for a hearing pursuant to division (G)(3) of this section.

(5) Any hearing conducted pursuant to this division shall be conducted by a majority of the members of the board. The hearing shall be held in executive session of the board unless the board and the teacher agree to hold the hearing in public. The superintendent, assistant superintendent, the teacher, and any person designated by either party to take a record of the hearing may be present at the hearing. The board may be represented by counsel and the teacher may be represented by counsel or a designee. A record of the hearing may be taken by either party at the expense of the party taking the record.

(6) Within ten days of the conclusion of a hearing conducted pursuant to this division, the board shall issue to the teacher a written decision containing an order affirming the intention of the board not to reemploy the teacher reported in the notice given to the teacher pursuant to division (B), (C)(3), (D), or (E) of this section or an order vacating the intention not to reemploy and expunging any record of the intention, notice of the intention, and the hearing conducted pursuant to this division.

(7) A teacher may appeal an order affirming the intention of the board not to reemploy the teacher to the court of common pleas of the county in which the largest portion of the territory of the school district or service center is located, within thirty days of the date on which the teacher receives the written decision, on the grounds that the board has not complied with this section or section 3319.111 of the Revised Code.

Notwithstanding section 2506.04 of the Revised Code, the court in an appeal under this division is limited to the determination of procedural errors and to ordering the correction of procedural errors and shall have no jurisdiction to order a board to reemploy a teacher, except that the court may order a board to reemploy a teacher in compliance with the requirements of division (B), (C)(3), (D), or (E) of this section when the court determines that evaluation procedures have not been complied with pursuant to ~~division (A)~~ of section 3319.111 of the Revised Code or the board has not given the teacher written notice on or before the thirtieth day of April of its intention not to reemploy the teacher pursuant to division (B), (C)(3), (D), or (E) of this section. Otherwise, the determination whether to reemploy or not

reemploy a teacher is solely a board's determination and not a proper subject of judicial review and, except as provided in this division, no decision of a board whether to reemploy or not reemploy a teacher shall be invalidated by the court on any basis, including that the decision was not warranted by the results of any evaluation or was not warranted by any statement given pursuant to division (G)(2) of this section.

No appeal of an order of a board may be made except as specified in this division.

(H)(1) In giving a teacher any notice required by division (B), (C), (D), or (E) of this section, the board or the superintendent shall do either of the following:

(a) Deliver the notice by personal service upon the teacher;

(b) Deliver the notice by certified mail, return receipt requested, addressed to the teacher at the teacher's place of employment and deliver a copy of the notice by certified mail, return receipt requested, addressed to the teacher at the teacher's place of residence.

(2) In giving a board any notice required by division (B), (C), (D), or (E) of this section, the teacher shall do either of the following:

(a) Deliver the notice by personal delivery to the office of the superintendent during regular business hours;

(b) Deliver the notice by certified mail, return receipt requested, addressed to the office of the superintendent and deliver a copy of the notice by certified mail, return receipt requested, addressed to the president of the board at the president's place of residence.

(3) When any notice and copy of the notice are mailed pursuant to division (H)(1)(b) or (2)(b) of this section, the notice or copy of the notice with the earlier date of receipt shall constitute the notice for the purposes of division (B), (C), (D), or (E) of this section.

(I) The provisions of this section shall not apply to any supplemental written contracts entered into pursuant to section 3319.08 of the Revised Code.

Sec. 3319.111. (A) ~~Any~~ Not later than July 1, 2013, the board of education that of each school district, in consultation with teachers employed by the board, shall adopt a standards-based teacher evaluation policy that conforms with the framework for evaluation of teachers developed under section 3319.112 of the Revised Code. The policy shall become operative at the expiration of any collective bargaining agreement covering teachers employed by the board that is in effect on the effective date of this section and shall be included in any renewal or extension of such an agreement.

(B) When using measures of student academic growth as a component of a teacher's evaluation, those measures shall include the value-added progress dimension prescribed by section 3302.021 of the Revised Code. For teachers of grade levels and subjects for which the value-added progress dimension is not applicable, the board shall administer assessments on the list developed under division (B)(2) of section 3319.112 of the Revised Code.

(C)(1) The board shall conduct an evaluation of each teacher employed by the board at least once each school year, except as provided in divisions (C)(2) and (3) of this section. The evaluation shall be completed by the first day of April and the teacher shall receive a written report of the results of the evaluation by the tenth day of April.

(2) If the board has entered into ~~any~~ a limited contract or extended limited contract with a ~~the~~ teacher pursuant to section 3319.11 of the Revised Code, the board shall evaluate ~~such a~~ the teacher ~~in compliance with the requirements of this section~~ at least twice in any school year in which the board may wish to declare its intention not to re-employ the teacher pursuant to division (B), (C)(3), (D), or (E) of ~~that~~ section ~~3319.11~~ of the Revised Code.

~~This evaluation shall be conducted at least twice in the school year in which the board may wish to declare its intention not to re-employ the teacher.~~ One evaluation shall be conducted and completed not later than the fifteenth day of January and the teacher being evaluated shall receive a written report of the results of this evaluation not later than the twenty-fifth day of January. One evaluation shall be conducted and completed between the tenth day of February and the first day of April and the teacher being evaluated shall receive a written report of the results of this evaluation not later than the tenth day of April.

(3) The board may elect, by adoption of a resolution, to evaluate each teacher who received a rating of accomplished on the teacher's most recent evaluation conducted under this section once every two school years. In that case, the biennial evaluation shall be completed by the first day of April of the applicable school year, and the teacher shall receive a written report of the results of the evaluation by the tenth day of April of that school year.

~~Any~~ (D) Each evaluation conducted pursuant to this section shall be conducted by one or more of the following:

(1) A person who is under contract with a ~~the~~ board of education pursuant to section 3319.01 or 3319.02 of the Revised Code and holds a license designated for being a superintendent, assistant superintendent, or principal issued under section 3319.22 of the Revised Code;

(2) A person who is under contract with a ~~the~~ board of education pursuant to section 3319.02 of the Revised Code and holds a license designated for being a vocational director or a supervisor in any educational area issued under section 3319.22 of the Revised Code;

(3) A person designated to conduct evaluations under an agreement providing for peer review entered into by a ~~the~~ board of education and representatives of teachers employed by ~~that~~ the board.

~~(B) Any board of education evaluating a teacher pursuant to this section shall adopt evaluation procedures that shall be applied each time a teacher is evaluated pursuant to this section. These evaluation procedures shall include, but not be limited to:~~

~~(1) Criteria of expected job performance in the areas of responsibility assigned to the teacher being evaluated;~~

~~(2) Observation of the teacher being evaluated by the person conducting the evaluation on at least two occasions for not less than thirty minutes on each occasion;~~

~~(3) A written report of the results of the evaluation that includes specific recommendations regarding any improvements needed in the performance of the teacher being evaluated and regarding the means by which the teacher may obtain assistance in making such improvements.~~

~~(C)(E) The board shall include in its evaluation policy procedures for using the evaluation results for retention and promotion decisions and for removal of poorly performing teachers. Seniority shall not be the basis for a decision to retain a teacher, except when making a decision between teachers who have comparable evaluations.~~

~~(F) This section does not apply to teachers superintendents and administrators subject to evaluation procedures under sections 3319.01 and 3319.02 of the Revised Code or to any teacher employed as a substitute for less than one hundred twenty days during a school year pursuant to section 3319.10 of the Revised Code.~~

Sec. 3319.112. (A) Not later than December 31, 2011, the state board of education shall develop a standards-based state framework for the evaluation of teachers. The framework shall establish an evaluation system that does the following:

(1) Provides for multiple evaluation factors, including student academic growth which shall account for fifty per cent of each evaluation;

(2) Is aligned with the standards for teachers adopted under section 3319.61 of the Revised Code;

(3) Requires observation of the teacher being evaluated, including at least two formal observations by the evaluator of at least thirty minutes each

and classroom walkthroughs;

(4) Assigns a rating on each evaluation in accordance with division (B) of this section;

(5) Requires each teacher to be provided with a written report of the results of the teacher's evaluation;

(6) Identifies measures of student academic growth for grade levels and subjects for which the value-added progress dimension prescribed by section 3302.021 of the Revised Code does not apply;

(7) Implements a classroom-level, value-added program developed by a nonprofit organization described in division (B) of section 3302.021 of the Revised Code;

(8) Provides for professional development to accelerate and continue teacher growth and provide support to poorly performing teachers;

(9) Provides for the allocation of financial resources to support professional development.

(B) For purposes of the framework developed under this section, the state board also shall do the following:

(1) Develop specific standards and criteria that distinguish between the following levels of performance for teachers and principals for the purpose of assigning ratings on the evaluations conducted under sections 3319.02 and 3319.111 of the Revised Code:

(a) Accomplished;

(b) Proficient;

(c) Developing;

(d) Ineffective.

(2) For grade levels and subjects for which the assessments prescribed under sections 3301.0710 and 3301.0712 of the Revised Code and the value-added progress dimension prescribed by section 3302.021 of the Revised Code do not apply, develop a list of student assessments that measure mastery of the course content for the appropriate grade level, which may include nationally normed standardized assessments, industry certification examinations, or end-of-course examinations.

(C) The state board shall consult with experts, teachers and principals employed in public schools, and representatives of stakeholder groups in developing the standards and criteria required by division (B)(1) of this section.

(D) To assist school districts in developing evaluation policies under sections 3319.02 and 3319.111 of the Revised Code, the department shall do both of the following:

(1) Serve as a clearinghouse of promising evaluation procedures and

evaluation models that districts may use:

(2) Provide technical assistance to districts in creating evaluation policies.

Sec. 3319.141. Each person who is employed by any board of education in this state, except for substitutes, adult education instructors who are scheduled to work the full-time equivalent of less than one hundred twenty days per school year, or persons who are employed on an as-needed, seasonal, or intermittent basis, shall be entitled to fifteen days sick leave with pay, for each year under contract, which shall be credited at the rate of one and one-fourth days per month. Teachers and regular nonteaching school employees, upon approval of the responsible administrative officer of the school district, may use sick leave for absence due to personal illness, pregnancy, injury, exposure to contagious disease which could be communicated to others, and for absence due to illness, injury, or death in the employee's immediate family. Unused sick leave shall be cumulative up to one hundred twenty work days, unless more than one hundred twenty days are approved by the employing board of education. The previously accumulated sick leave of a person who has been separated from public service, whether accumulated pursuant to section 124.38 of the Revised Code or pursuant to this section, shall be placed to ~~his~~ the person's credit upon ~~his~~ re-employment in the public service, provided that such re-employment takes place within ten years of the date of the last termination from public service. A teacher or nonteaching school employee who transfers from one public agency to another shall be credited with the unused balance of ~~his~~ the teacher's or nonteaching employee's accumulated sick leave up to the maximum of the sick leave accumulation permitted in the public agency to which the employee transfers. Teachers and nonteaching school employees who render regular part-time, ~~seasonal, intermittent,~~ per diem, or hourly service shall be entitled to sick leave for the time actually worked at the same rate as that granted like full-time employees, calculated in the same manner as the ratio of sick leave granted to hours of service established by section 124.38 of the Revised Code. Each board of education may establish regulations for the entitlement, crediting and use of sick leave by those substitute teachers employed by such board pursuant to section 3319.10 of the Revised Code who are not otherwise entitled to sick leave pursuant to such section. A board of education shall require a teacher or nonteaching school employee to furnish a written, signed statement on forms prescribed by such board to justify the use of sick leave. If medical attention is required, the employee's statement shall list the name and address of the attending physician and the dates when ~~he~~ the

physician was consulted. Nothing in this section shall be construed to waive the physician-patient privilege provided by section 2317.02 of the Revised Code. Falsification of a statement is grounds for suspension or termination of employment under sections 3319.081 and 3319.16 of the Revised Code. No sick leave shall be granted or credited to a teacher after ~~his~~ the teacher's retirement or termination of employment.

Except to the extent used as sick leave, leave granted under regulations adopted by a board of education pursuant to section 3319.08 of the Revised Code shall not be charged against sick leave earned or earnable under this section. Nothing in this section shall be construed to affect in any other way the granting of leave pursuant to section 3319.08 of the Revised Code and any granting of sick leave pursuant to such section shall be charged against sick leave accumulated pursuant to this section.

This section shall not be construed to interfere with any unused sick leave credit in any agency of government where attendance records are maintained and credit has been given for unused sick leave. Unused sick leave accumulated by teachers and nonteaching school employees under section 124.38 of the Revised Code shall continue to be credited toward the maximum accumulation permitted in accordance with this section. Each newly hired regular nonteaching and each regular nonteaching employee of any board of education who has exhausted ~~his~~ the employee's accumulated sick leave shall be entitled to an advancement of not less than five days of sick leave each year, as authorized by rules which each board shall adopt, to be charged against the sick leave ~~he~~ the employee subsequently accumulates under this section.

This section shall be uniformly administered.

Sec. 3319.17. (A) As used in this section, "interdistrict contract" means any contract or agreement entered into by an educational service center governing board and another board or other public entity pursuant to section 3313.17, 3313.841, 3313.842, 3313.843, 3313.844, 3313.845, 3313.91, or 3323.08 of the Revised Code, including any such contract or agreement for the provision of services funded under division ~~(F)~~(E) of section 3317.024 of the Revised Code or provided in any unit approved under section 3317.05 of the Revised Code.

(B) When, for any of the following reasons that apply to any city, exempted village, local, or joint vocational school district or any educational service center, the board decides that it will be necessary to reduce the number of teachers it employs, it may make a reasonable reduction:

(1) In the case of any district or service center, return to duty of regular teachers after leaves of absence including ~~leaves provided pursuant to~~

~~division (B) of section 3314.10 of the Revised Code~~, suspension of schools, territorial changes affecting the district or center, or financial reasons;

(2) In the case of any city, exempted village, local, or joint vocational school district, decreased enrollment of pupils in the district;

(3) In the case of any governing board of a service center providing any particular service directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total number of pupils the governing board is required to provide with the service under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts;

(4) In the case of any governing board providing any particular service that it does not provide directly to pupils pursuant to one or more interdistrict contracts requiring such service, reduction in the total level of the service the governing board is required to provide under all interdistrict contracts as a result of the termination or nonrenewal of one or more of these interdistrict contracts.

(C) In making any such reduction, any city, exempted village, local, or joint vocational school board shall proceed to suspend contracts in accordance with the recommendation of the superintendent of schools who shall, within each teaching field affected, give preference first to teachers on continuing contracts ~~and then to teachers who have greater seniority. In making any such reduction, any governing board of a service center shall proceed to suspend contracts in accordance with the recommendation of the superintendent who shall, within each teaching field or service area affected, give preference first to teachers on continuing contracts and then to teachers who have greater seniority. The board shall not give preference to any teacher based on seniority, except when making a decision between teachers who have comparable evaluations.~~

On a case-by-case basis, in lieu of suspending a contract in whole, a board may suspend a contract in part, so that an individual is required to work a percentage of the time the employee otherwise is required to work under the contract and receives a commensurate percentage of the full compensation the employee otherwise would receive under the contract.

The teachers whose continuing contracts are suspended by any board pursuant to this section shall have the right of restoration to continuing service status by that board ~~in the order of seniority of service in the district or service center~~ if and when teaching positions become vacant or are created for which any of such teachers are or become qualified. No teacher whose continuing contract has been suspended pursuant to this section shall lose that right of restoration to continuing service status by reason of having

declined recall to a position that is less than full-time or, if the teacher was not employed full-time just prior to suspension of the teacher's continuing contract, to a position requiring a lesser percentage of full-time employment than the position the teacher last held while employed in the district or service center. Seniority shall not be the basis for rehiring a teacher, except when making a decision between teachers who have comparable evaluations.

(D) Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, ~~the~~

(1) The requirements of this section, as it existed prior to the effective date of this amendment, prevail over any conflicting provisions of agreements between employee organizations and public employers entered into after between September 29, 2005, and that effective date;

(2) The requirements of this section, as it exists on and after the effective date of this amendment, prevail over any conflicting provisions of agreements between employee organizations and public employers entered into on or after that effective date.

Sec. 3319.18. If an entire school district or that part of a school district which comprises the territory in which a school is situated is transferred to any other district, or if a new school district is created, the teachers in such districts or schools employed on continuing contracts immediately prior to such transfer, or creation shall, subject to section 3319.17 or 3319.171 of the Revised Code, have continuing service status in the newly created district, or in the district to which the territory is transferred.

The limited contracts of the teachers employed in such districts or schools immediately prior to such transfer, or creation, shall become the legal obligations of the board of education in the newly created district, or in the district to which the territory is transferred, subject to section 3319.17 or 3319.171 of the Revised Code. The teaching experience of such teachers in such prior districts or schools shall be included in the three years of service required under section 3319.11 of the Revised Code for a teacher to become eligible for continuing service status.

Teachers employed on limited or continuing contracts in an entire school district or that part of a school district which comprises the territory in which a school is situated which is transferred to any other district or which is merged with other school territory to create a new school district, shall be placed, on the effective date of such transfer or merger, on the salary schedule of the district to which the territory is transferred or the newly created district, according to their training and experience. Such experience shall be the total sum of the years taught in the district whose

territory was transferred or merged to create a new district, plus the total number of years of teaching experience recognized by such previous district upon its first employment of such teachers.

The placement of the teachers on the salary schedule, pursuant to this section, shall not result, however, in the salary of any teacher being less than the teacher's current annual salary for regular duties, in existence immediately prior to the merger or transfer.

~~In making any reduction in the number of teachers under section 3319.17 of the Revised Code by reason of the transfer or consolidation of school territory, the years of teaching service of the teachers employed in the district or schools transferred to any other district or merged with any school territory to create a new district, shall be included as a part of the seniority on which the recommendation of the superintendent of schools shall be based, under section 3319.17 of the Revised Code. Such service shall have been continuous and shall include years of service in the previous district as well as the years of continuous service in any district which had been previously transferred to or consolidated to form such district. When suspending contracts in accordance with an administrative personnel suspension policy adopted under section 3319.171 of the Revised Code, a board may consider years of teaching service in the previous district in its decision if it is a part of the suspension policy.~~

Sec. 3319.19. (A) Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, upon request, the board of county commissioners shall provide and equip offices in the county for the use of the superintendent of an educational service center, and shall provide heat, light, water, and janitorial services for such offices. Such offices shall be the permanent headquarters of the superintendent and shall be used by the governing board of the service center when it is in session. Except as provided in division (B) of this section, such offices shall be located in the county seat or, upon the approval of the governing board, may be located outside of the county seat.

(B) In the case of a service center formed under section 3311.053 ~~or 3311.059~~ of the Revised Code, the governing board shall designate the site of its offices. Except as provided in division (D) of this section or division (A)(2) of section 3313.37 of the Revised Code, the board of county commissioners of the county in which the designated site is located shall provide and equip the offices as under division (A) of this section, but the costs of such offices and equipment shall be apportioned among the boards of county commissioners of all counties having any territory in the area under the control of the governing board, according to the proportion of

local school district pupils under the supervision of such board residing in the respective counties. Where there is a dispute as to the amount any board of county commissioners is required to pay, the probate judge of the county in which the greatest number of pupils under the supervision of the governing board reside shall apportion such costs among the boards of county commissioners and notify each such board of its share of the costs.

(C) As used in division (C) of this section, in the case of a building, facility, or office space that a board of county commissioners leases or rents, "actual cost per square foot" means all cost on a per square foot basis incurred by the board under the lease or rental agreement. In the case of a building, facility, or office space that the board owns in fee simple, "actual cost per square foot" means the fair rental value on a per square foot basis of the building, facility, or office space either as compared to a similarly situated building, facility, or office space in the general vicinity or as calculated under a formula that accounts for depreciation, amortization of improvements, and other reasonable factors, including, but not limited to, parking space and other amenities.

Not later than the thirty-first day of March of 2002, 2003, 2004, and 2005 a board of county commissioners required to provide or equip offices pursuant to division (A) or (B) of this section shall make a written estimate of the total cost it will incur for the ensuing fiscal year to provide and equip the offices and to provide heat, light, water, and janitorial services for such offices. The total estimate of cost shall include:

- (1) The total square feet of space to be utilized by the educational service center;
- (2) The total square feet of any common areas that should be reasonably allocated to the center and the methodology for making this allocation;
- (3) The actual cost per square foot for both the space utilized by and the common area allocated to the center;
- (4) An explanation of the methodology used to determine the actual cost per square foot;
- (5) The estimated cost of providing heat, light, and water, including an explanation of how these costs were determined;
- (6) The estimated cost of providing janitorial services including an explanation of the methodology used to determine this cost;
- (7) Any other estimated costs that the board anticipates it will ~~occur~~ incur and a detailed explanation of the costs and the rationale used to determine such costs.

A copy of the total estimate of costs under this division shall be sent to the superintendent of the educational service center not later than the fifth

day of April. The superintendent shall review the total estimate and shall notify the board of county commissioners not later than twenty days after receipt of the estimate of either agreement with the estimate or any specific objections to the estimates and the reasons for the objections. If the superintendent agrees with the estimate, it shall become the final total estimate of cost. Failure of the superintendent to make objections to the estimate by the twentieth day after receipt of it shall be deemed to mean that the superintendent is in agreement with the estimate.

If the superintendent provides specific objections to the board of county commissioners, the board shall review the objections and may modify the original estimate and shall send a revised total estimate to the superintendent within ten days after the receipt of the superintendent's objections. The superintendent shall respond to the revised estimate within ten days after its receipt. If the superintendent agrees with it, it shall become the final total estimated cost. If the superintendent fails to respond within the required time, the superintendent shall be deemed to have agreed with the revised estimate. If the superintendent disagrees with the revised estimate, the superintendent shall send specific objections to the county commissioners.

If a superintendent has sent specific objections to the revised estimate within the required time, the probate judge of the county which has the greatest number of resident local school district pupils under the supervision of the educational service center shall determine the final estimated cost and certify this amount to the superintendent and the board of county commissioners prior to the first day of July.

(D)(1) A board of county commissioners shall be responsible for the following percentages of the final total estimated cost established by division (C) of this section:

- (a) Eighty per cent for fiscal year 2003;
- (b) Sixty per cent for fiscal year 2004;
- (c) Forty per cent for fiscal year 2005;
- (d) Twenty per cent for fiscal year 2006.

In fiscal years 2003, 2004, 2005, and 2006 the educational service center shall be responsible for the remainder of any costs in excess of the amounts specified in division (D)(1)(a),(b), (c), or (d) of this section, as applicable, associated with the provision and equipment of offices for the educational service center and for provision of heat, light, water, and janitorial services for such offices, including any unanticipated or unexpected increases in the costs beyond the final estimated cost amount.

Beginning in fiscal year 2007, no board of county commissioners shall have any obligation to provide and equip offices for an educational service

center or to provide heat, light, water, or janitorial services for such offices.

(2) Nothing in this section shall prohibit the board of county commissioners and the governing board of an educational service center from entering into a contract for providing and equipping offices for the use of an educational service center and for providing heat, light, water, and janitorial services for such offices. The term of any such contract shall not exceed a period of four years and may be renewed for additional periods not to exceed four years. Any such contract shall supersede the provisions of division (D)(1) of this section and no educational service center may be charged, at any time, any additional amount for the county's provision of an office and equipment, heat, light, water, and janitorial services beyond the amount specified in such contract.

(3) No contract entered into under division (D)(2) of this section in any year prior to fiscal year 2007 between an educational service center formed under section 3311.053 ~~or 3311.059~~ of the Revised Code and the board of county commissioners required to provide and equip its office pursuant to division (B) of this section shall take effect unless the boards of county commissioners of all other counties required to participate in the funding for such offices pursuant to division (B) of this section adopt resolutions approving the contract.

Sec. 3319.227. (A) Notwithstanding any other provision of the Revised Code or any rule adopted by the state board of education to the contrary, the state board shall issue a resident educator license under section 3319.22 of the Revised Code to each person who is assigned to teach in this state as a participant in the teach for America program and who meets the following conditions:

(1) Holds a bachelor's degree from an accredited institution of higher education;

(2) Maintained a cumulative undergraduate grade point average of at least 2.5 out of 4.0, or its equivalent;

(3) Has passed an examination prescribed by the state board in the subject area to be taught;

(4) Has successfully completed the summer training institute operated by teach for America.

(B) The state board shall issue a resident educator license under this section for teaching in any grade level or subject area for which a person may obtain a resident educator license under section 3319.22 of the Revised Code. The state board shall not adopt rules establishing any additional qualifications for the license beyond those specified in this section.

(C) Notwithstanding any other provision of the Revised Code or any

rule adopted by the state board to the contrary, the state board shall issue a resident educator license under section 3319.22 of the Revised Code to any applicant who has completed at least two years of teaching in another state as a participant in the teach for America program and meets all of the conditions of divisions (A)(1) to (4) of this section. The state board shall credit an applicant under this division as having completed two years of the teacher residency program under section 3319.223 of the Revised Code.

(D) In order to place teachers in this state, the ~~Teach~~ teach for America program shall enter into an agreement with one or more accredited four-year public or private institutions of higher education in the state to provide optional training of ~~Teach~~ teach for America participants for the purpose of enabling those participants to complete an optional master's degree or an equivalent amount of coursework. Nothing in this division shall require any ~~Teach~~ teach for America participant to complete a master's degree as a condition of holding a license issued under this section.

Sec. 3319.228. (A) This section applies only to a person who meets the following conditions:

(1) Holds a minimum of a baccalaureate degree;

(2) Has been licensed and employed as a teacher in another state for each of the preceding five years;

(3) Was initially licensed as a teacher in any state within the preceding fifteen years;

(4) Has not had a teacher's license suspended or revoked in any state.

(B)(1) Not later than July 1, 2012, the superintendent of public instruction shall develop a list of states that the superintendent considers to have standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code.

(2) Following development of the list, the superintendent shall establish a panel of experts to evaluate the adequacy of the teacher licensure standards of each state on the list. Each person selected by the superintendent to be a member of the panel shall be approved by the state board of education. In evaluating the superintendent's list, the panel shall provide an opportunity for representatives of the department of education, or similar state-level agency, of each state on the list to provide evidence to refute the state's placement on the list.

Not later than April 1, 2013, the panel shall recommend to the state board that the list be approved without changes or that specified states be removed from the list prior to approval. Not later than July 1, 2013, the state

board shall approve a final list of states with standards for teacher licensure that are inadequate to ensure that a person to whom this section applies and who was most recently licensed to teach in that state is qualified for a professional educator license issued under section 3319.22 of the Revised Code.

(C) Except as otherwise provided in division (E)(1) of this section, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a one-year provisional educator license to any applicant to whom this section applies. On and after that date, neither the state board nor the department of education shall be party to any reciprocity agreement with a state on that list that requires the state board to issue a person to whom this section applies any type of professional educator license on the basis of the person's licensure and teaching experience in that state.

(D) Upon the expiration of a provisional license issued to a person under division (C) of this section, the state board shall issue the person a professional educator license, if the person satisfies either of the following conditions:

(1) The person was issued the provisional license prior to the development of the list by the state superintendent under division (B)(1) of this section and, prior to issuance of the provisional license, the person was most recently licensed to teach by a state not on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state not on that list.

(2) All of the following apply to the person:

(a) Prior to obtaining the provisional license, the person was most recently licensed to teach by a state on the superintendent's list or, if the final list of states with inadequate teacher licensure standards has been approved by the state board under division (B)(2) of this section, by a state on that list.

(b) The person was employed under the provisional license by a school district; community school established under Chapter 3314. of the Revised Code; science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code; or an entity contracted by such a district or school to provide internet- or computer-based instruction or distance learning programs to students.

(c) The district or school certifies to the state board that the person's teaching was satisfactory while employed or contracted by the district or

school.

(E)(1) From July 1, 2012, until the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on the list developed by the state superintendent under division (B)(1) of this section.

(2) Beginning on the date on which the state board approves a final list of states with inadequate teacher licensure standards under division (B)(2) of this section, the state board shall issue a professional educator license to any applicant to whom this section applies and who was most recently licensed to teach by a state that is not on that list.

Sec. 3319.229. The rules adopted under section 3319.22 of the Revised Code shall include requirements for the issuance and renewal of professional career-technical teaching licenses, including, but not limited to, requirements relating to life experience, professional certification, and practical ability. Nothing in sections 3319.22 to 3319.31 of the Revised Code requires, and the state board of education shall not adopt a rule requiring, an applicant for the issuance or renewal of a professional career-technical teaching license who meets the requirements relating to life experience, professional certification, and practical ability to complete a degree applicable to the career field, classroom teaching, or an area of licensure.

Sec. 3319.26. (A) The state board of education shall adopt rules establishing the standards and requirements for obtaining an alternative resident educator license for teaching in grades ~~four~~ kindergarten to twelve, or the equivalent, in a designated subject area. ~~However, an alternative resident educator license or~~ in the area of intervention specialist, as defined by rule of the state board, ~~shall be valid for teaching in grades kindergarten to twelve.~~

(B) The superintendent of public instruction and the chancellor of the Ohio board of regents jointly shall develop an intensive pedagogical training institute to provide instruction in the principles and practices of teaching for individuals seeking an alternative resident educator license. The instruction shall cover such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology.

(C) The rules adopted under this section shall require applicants for the alternative resident educator license to satisfy the following conditions prior to issuance of the license, but they shall not require applicants to have

completed a major in the subject area for which application is being made:

(1) Hold a minimum of a baccalaureate degree;

(2) Successfully complete the pedagogical training institute described in division (B) of this section; or a summer training institute provided to participants of a teacher preparation program that is operated by a nonprofit organization and has been approved by the chancellor. The chancellor shall approve any such program that requires participants to hold a bachelor's degree; have a cumulative undergraduate grade point average of at least 2.5 out of 4.0, or its equivalent; and successfully complete the program's summer training institute.

(3) Pass an examination in the subject area for which application is being made.

(D) An alternative resident educator license shall be valid for four years, except that the state board, on a case-by-case basis, may extend the license's duration as necessary to enable the license holder to complete the Ohio teacher residency program established under section 3319.223 of the Revised Code.

(E) The rules shall require the holder of an alternative resident educator license, as a condition of continuing to hold the license, to do all of the following:

(1) Participate in the Ohio teacher residency program;

(2) Show satisfactory progress in taking and successfully completing ~~at~~ one of the following:

(a) At least twelve additional semester hours, or the equivalent, of college coursework in the principles and practices of teaching in such topics as student development and learning, pupil assessment procedures, curriculum development, classroom management, and teaching methodology;

(b) Professional development provided by a teacher preparation program that has been approved by the chancellor under division (C)(2) of this section.

(3) Take an assessment of professional knowledge in the second year of teaching under the license.

(F) The rules shall provide for the granting of a professional educator license to a holder of an alternative resident educator license upon successfully completing all of the following:

(1) Four years of teaching under the alternative license;

(2) ~~The twelve semester hours, or the equivalent, of the~~ additional college coursework or professional development described in division (E)(2) of this section;

(3) The assessment of professional knowledge described in division (E)(3) of this section. The standards for successfully completing this assessment and the manner of conducting the assessment shall be the same as for any other individual who is required to take the assessment pursuant to rules adopted by the state board under section 3319.22 of the Revised Code.

(4) The Ohio teacher residency program;

(5) All other requirements for a professional educator license adopted by the state board under section 3319.22 of the Revised Code.

(G) A person who is assigned to teach in this state as a participant in the teach for America program or who has completed two years of teaching in another state as a participant in that program shall be eligible for a license only under section 3319.227 of the Revised Code and shall not be eligible for a license under this section.

Sec. 3319.31. (A) As used in this section and sections 3123.41 to 3123.50 and 3319.311 of the Revised Code, "license" means a certificate, license, or permit described in this chapter or in division (B) of section 3301.071 or in section 3301.074 of the Revised Code.

(B) For any of the following reasons, the state board of education, in accordance with Chapter 119. and section 3319.311 of the Revised Code, may refuse to issue a license to an applicant; may limit a license it issues to an applicant; may suspend, revoke, or limit a license that has been issued to any person; or may revoke a license that has been issued to any person and has expired:

(1) Engaging in an immoral act, incompetence, negligence, or conduct that is unbecoming to the applicant's or person's position;

(2) A plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the following:

(a) A felony other than a felony listed in division (C) of this section;

(b) An offense of violence other than an offense of violence listed in division (C) of this section;

(c) A theft offense, as defined in section 2913.01 of the Revised Code, other than a theft offense listed in division (C) of this section;

(d) A drug abuse offense, as defined in section 2925.01 of the Revised Code, that is not a minor misdemeanor, other than a drug abuse offense listed in division (C) of this section;

(e) A violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in divisions (B)(2)(a) to (d) of this section.

(3) A judicial finding of eligibility for intervention in lieu of conviction

under section 2951.041 of the Revised Code, or agreeing to participate in a pre-trial diversion program under section 2935.36 of the Revised Code, or a similar diversion program under rules of a court, for any offense listed in division (B)(2) or (C) of this section;

(4) Failure to comply with section 3314.40, 3319.313, 3326.24, 3328.19, or 5126.253 of the Revised Code.

(C) Upon learning of a plea of guilty to, a finding of guilt by a jury or court of, or a conviction of any of the offenses listed in this division by a person who holds a current or expired license or is an applicant for a license or renewal of a license, the state board or the superintendent of public instruction, if the state board has delegated the duty pursuant to division (D) of this section, shall by a written order revoke the person's license or deny issuance or renewal of the license to the person. The state board or the superintendent shall revoke a license that has been issued to a person to whom this division applies and has expired in the same manner as a license that has not expired.

Revocation of a license or denial of issuance or renewal of a license under this division is effective immediately at the time and date that the board or superintendent issues the written order and is not subject to appeal in accordance with Chapter 119. of the Revised Code. Revocation of a license or denial of issuance or renewal of license under this division remains in force during the pendency of an appeal by the person of the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under this division.

The state board or superintendent shall take the action required by this division for a violation of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code; a violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.15, 2905.01, 2905.02, 2905.05, 2905.11, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.21, 2907.22, 2907.23, 2907.24, 2907.241, 2907.25, 2907.31, 2907.311, 2907.32, 2907.321, 2907.322, 2907.323, 2907.33, 2907.34, 2909.02, 2909.22, 2909.23, 2909.24, 2911.01, 2911.02, 2911.11, 2911.12, 2913.44, 2917.01, 2917.02, 2917.03, 2917.31, 2917.33, 2919.12, 2919.121, 2919.13, 2921.02, 2921.03, 2921.04, 2921.05, 2921.11, 2921.34, 2921.41, 2923.122, 2923.123, 2923.161, 2923.17, 2923.21, 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.13, 2925.22, 2925.23, 2925.24, 2925.32, 2925.36, 2925.37, 2927.24, or 3716.11 of the Revised Code; a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996; a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the

violation been committed prior to that date; felonious sexual penetration in violation of former section 2907.12 of the Revised Code; or a violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed in this paragraph.

(D) The state board may delegate to the superintendent of public instruction the authority to revoke a person's license or to deny issuance or renewal of a license to a person under division (C) or (F) of this section.

(E)(1) If the plea of guilty, finding of guilt, or conviction that is the basis of the action taken under division (B)(2) or (C) of this section, or under the version of division (F) of section 3319.311 of the Revised Code in effect prior to ~~the effective date of this amendment~~ September 12, 2008, is overturned on appeal, upon exhaustion of the criminal appeal, the clerk of the court that overturned the plea, finding, or conviction or, if applicable, the clerk of the court that accepted an appeal from the court that overturned the plea, finding, or conviction, shall notify the state board that the plea, finding, or conviction has been overturned. Within thirty days after receiving the notification, the state board shall initiate proceedings to reconsider the revocation or denial of the person's license in accordance with division (E)(2) of this section. In addition, the person whose license was revoked or denied may file with the state board a petition for reconsideration of the revocation or denial along with appropriate court documents.

(2) Upon receipt of a court notification or a petition and supporting court documents under division (E)(1) of this section, the state board, after offering the person an opportunity for an adjudication hearing under Chapter 119. of the Revised Code, shall determine whether the person committed the act in question in the prior criminal action against the person that is the basis of the revocation or denial and may continue the revocation or denial, may reinstate the person's license, with or without limits, or may grant the person a new license, with or without limits. The decision of the board shall be based on grounds for revoking, denying, suspending, or limiting a license adopted by rule under division (G) of this section and in accordance with the evidentiary standards the board employs for all other licensure hearings. The decision of the board under this division is subject to appeal under Chapter 119. of the Revised Code.

(3) A person whose license is revoked or denied under division (C) of this section shall not apply for any license if the plea of guilty, finding of guilt, or conviction that is the basis of the revocation or denial, upon completion of the criminal appeal, either is upheld or is overturned but the state board continues the revocation or denial under division (E)(2) of this section and that continuation is upheld on final appeal.

(F) The state board may take action under division (B) of this section, and the state board or the superintendent shall take the action required under division (C) of this section, on the basis of substantially comparable conduct occurring in a jurisdiction outside this state or occurring before a person applies for or receives any license.

(G) The state board may adopt rules in accordance with Chapter 119. of the Revised Code to carry out this section and section 3319.311 of the Revised Code.

Sec. 3319.311. (A)(1) The state board of education, or the superintendent of public instruction on behalf of the board, may investigate any information received about a person that reasonably appears to be a basis for action under section 3319.31 of the Revised Code, including information received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code. Except as provided in division (A)(2) of this section, the board shall contract with the office of the Ohio attorney general to conduct any investigation of that nature. The board shall pay for the costs of the contract only from moneys in the state board of education licensure fund established under section 3319.51 of the Revised Code. Except as provided in division (A)(2) of this section, all information received pursuant to section 3314.40, 3319.291, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code, and all information obtained during an investigation is confidential and is not a public record under section 149.43 of the Revised Code. If an investigation is conducted under this division regarding information received about a person and no action is taken against the person under this section or section 3319.31 of the Revised Code within two years of the completion of the investigation, all records of the investigation shall be expunged.

(2) In the case of a person about whom the board has learned of a plea of guilty to, finding of guilt by a jury or court of, or a conviction of an offense listed in division (C) of section 3319.31 of the Revised Code, or substantially comparable conduct occurring in a jurisdiction outside this state, the board or the superintendent of public instruction need not conduct any further investigation and shall take the action required by division (C) or (F) of that section. Except as provided in division (G) of this section, all information obtained by the board or the superintendent of public instruction pertaining to the action is a public record under section 149.43 of the Revised Code.

(B) The superintendent of public instruction shall review the results of each investigation of a person conducted under division (A)(1) of this

section and shall determine, on behalf of the state board, whether the results warrant initiating action under division (B) of section 3319.31 of the Revised Code. The superintendent shall advise the board of such determination at a meeting of the board. Within fourteen days of the next meeting of the board, any member of the board may ask that the question of initiating action under section 3319.31 of the Revised Code be placed on the board's agenda for that next meeting. Prior to initiating that action against any person, the person's name and any other personally identifiable information shall remain confidential.

(C) The board shall take no action against a person under division (B) of section 3319.31 of the Revised Code without providing the person with written notice of the charges and with an opportunity for a hearing in accordance with Chapter 119. of the Revised Code.

(D) For purposes of an investigation under division (A)(1) of this section or a hearing under division (C) of this section or under division (E)(2) of section 3319.31 of the Revised Code, the board, or the superintendent on behalf of the board, may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony. The issuance of subpoenas under this division may be by certified mail or personal delivery to the person.

(E) The superintendent, on behalf of the board, may enter into a consent agreement with a person against whom action is being taken under division (B) of section 3319.31 of the Revised Code. The board may adopt rules governing the superintendent's action under this division.

(F) No surrender of a license shall be effective until the board takes action to accept the surrender unless the surrender is pursuant to a consent agreement entered into under division (E) of this section.

(G) The name of any person who is not required to report information under section 3314.40, 3319.313, 3326.24, 3328.19, 5126.253, or 5153.176 of the Revised Code, but who in good faith provides information to the state board or superintendent of public instruction about alleged misconduct committed by a person who holds a license or has applied for issuance or renewal of a license, shall be confidential and shall not be released. Any such person shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information.

(H)(1) No person shall knowingly make a false report to the superintendent of public instruction or the state board of education alleging misconduct by an employee of a public or chartered nonpublic school or an

employee of the operator of a community school established under Chapter 3314. or a college-preparatory boarding school established under Chapter 3328. of the Revised Code.

(2)(a) In any civil action brought against a person in which it is alleged and proved that the person violated division (H)(1) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation.

(b) If a person is convicted of or pleads guilty to a violation of division (H)(1) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (H)(1) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

Sec. 3319.39. (A)(1) Except as provided in division (F)(2)(b) of section 109.57 of the Revised Code, the appointing or hiring officer of the board of education of a school district, the governing board of an educational service center, or of a chartered nonpublic school shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any applicant who has applied to the school district, educational service center, or school for employment in any position. The appointing or hiring officer shall request that the superintendent include information from the federal bureau of investigation in the criminal records check, unless all of the following apply to the applicant:

(a) The applicant is applying to be an instructor of adult education.

(b) The duties of the position for which the applicant is applying do not involve routine interaction with a child or regular responsibility for the care, custody, or control of a child or, if the duties do involve such interaction or responsibility, during any period of time in which the applicant, if hired, has such interaction or responsibility, another employee of the school district, educational service center, or chartered nonpublic school will be present in the same room with the child or, if outdoors, will be within a thirty-yard radius of the child or have visual contact with the child.

(c) The applicant presents proof that the applicant has been a resident of this state for the five-year period immediately prior to the date upon which

the criminal records check is requested or provides 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.

(2) A person required by division (A)(1) of this section to request a criminal records check shall provide to each applicant a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code, provide to each applicant a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of section 109.572 of the Revised Code, obtain the completed form and impression sheet from each applicant, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation at the time the person requests a criminal records check pursuant to division (A)(1) of this section.

(3) An applicant who receives pursuant to division (A)(2) of this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a copy of an impression sheet prescribed pursuant to division (C)(2) of that section and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the applicant's fingerprints. If an applicant, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the applicant's fingerprints, the board of education of a school district, governing board of an educational service center, or governing authority of a chartered nonpublic school shall not employ that applicant for any position.

(4) Notwithstanding any provision of this section to the contrary, an applicant who meets the conditions prescribed in divisions (A)(1)(a) and (b) of this section and who, within the two-year period prior to the date of application, was the subject of a criminal records check under this section prior to being hired for short-term employment with the school district, educational service center, or chartered nonpublic school to which application is being made shall not be required to undergo a criminal records check prior to the applicant's rehiring by that district, service center, or school.

(B)(1) Except as provided in rules adopted by the department of education in accordance with division (E) of this section and as provided in division (B)(3) of this section, no board of education of a school district, no governing board of an educational service center, and no governing authority of a chartered nonpublic school shall employ a person if the person

previously has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, a violation of section 2919.23 of the Revised Code that would have been a violation of section 2905.04 of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section 2925.11 of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section 2907.12 of the Revised Code;

(b) A violation of an existing or former law of this state, another state, or the United States that is substantially equivalent to any of the offenses or violations described in division (B)(1)(a) of this section.

(2) A board, governing board of an educational service center, or a governing authority of a chartered nonpublic school may employ an applicant conditionally until the criminal records check required by this section is completed and the board or governing authority receives the results of the criminal records check. If the results of the criminal records check indicate that, pursuant to division (B)(1) of this section, the applicant does not qualify for employment, the board or governing authority shall release the applicant from employment.

(3) No board and no governing authority of a chartered nonpublic school shall employ a teacher who previously has been convicted of or pleaded guilty to any of the offenses listed in section 3319.31 of the Revised Code.

(C)(1) Each board and each governing authority of a chartered nonpublic school shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon the request pursuant to division (A)(1) of this section of the appointing or hiring officer of the board or governing authority.

(2) A board and the governing authority of a chartered nonpublic school may charge an applicant a fee for the costs it incurs in obtaining a criminal records check under this section. A fee charged under this division shall not

exceed the amount of fees the board or governing authority pays under division (C)(1) of this section. If a fee is charged under this division, the board or governing authority shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the board or governing authority will not consider the applicant for employment.

(D) The report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request under division (A)(1) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the applicant who is the subject of the criminal records check or the applicant's representative, the board or governing authority requesting the criminal records check or its representative, and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The department of education shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which the board or governing authority may hire a person who has been convicted of an offense listed in division (B)(1) or (3) of this section but who meets standards in regard to rehabilitation set by the department.

The department shall amend rule 3301-83-23 of the Ohio Administrative Code that took effect August 27, 2009, and that specifies the offenses that disqualify a person for employment as a school bus or school van driver and establishes rehabilitation standards for school bus and school van drivers.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, of the requirement to provide a set of fingerprint impressions and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for the school district, educational service center, or school for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment or employment in a position with a board of education, governing board of an educational service center, or a chartered nonpublic school, except that "applicant" does not include a person already employed

by a board or chartered nonpublic school who is under consideration for a different position with such board or school.

(2) "Teacher" means a person holding an educator license or permit issued under section 3319.22 or 3319.301 of the Revised Code and teachers in a chartered nonpublic school.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

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

(H) If the board of education of a local school district adopts a resolution requesting the assistance of the educational service center in which the local district has territory in conducting criminal records checks of substitute teachers and substitutes for other district employees under this section, the appointing or hiring officer of such educational service center shall serve for purposes of this section as the appointing or hiring officer of the local board in the case of hiring substitute teachers and other substitute employees for the local district.

Sec. 3319.57. (A) A grant program is hereby established under which the department of education shall award grants to assist certain schools in a city, exempted village, local, or joint vocational school district in implementing one of the following innovations:

(1) The use of instructional specialists to mentor and support classroom teachers;

(2) The use of building managers to supervise the administrative functions of school operation so that a school principal can focus on supporting instruction, providing instructional leadership, and engaging teachers as part of the instructional leadership team;

(3) The reconfiguration of school leadership structure in a manner that allows teachers to serve in leadership roles so that teachers may share the responsibility for making and implementing school decisions;

(4) The adoption of new models for restructuring the school day or school year, such as including teacher planning and collaboration time as part of the school day;

(5) The creation of smaller schools or smaller units within larger schools for the purpose of facilitating teacher collaboration to improve and advance the professional practice of teaching;

(6) The implementation of "grow your own" recruitment strategies that are designed to assist individuals who show a commitment to education become licensed teachers, to assist experienced teachers obtain licensure in subject areas for which there is need, and to assist teachers in becoming

principals;

(7) The provision of better conditions for new teachers, such as reduced teaching load and reduced class size;

(8) The provision of incentives to attract qualified mathematics, science, or special education teachers;

(9) The development and implementation of a partnership with teacher preparation programs at colleges and universities to help attract teachers qualified to teach in shortage areas;

(10) The implementation of a program to increase the cultural competency of both new and veteran teachers;

(11) The implementation of a program to increase the subject matter competency of veteran teachers.

(B) To qualify for a grant to implement one of the innovations described in division (A) of this section, a school must meet both of the following criteria:

(1) Be hard to staff, as defined by the department.

(2) Use existing school district funds for the implementation of the innovation in an amount equal to the grant amount multiplied by (1 - the district's state share percentage for the fiscal year in which the grant is awarded).

For purposes of division (B)(2) of this section, "state share percentage" has the same meaning as in section ~~3306.02~~ 3317.02 of the Revised Code.

(C) The amount and number of grants awarded under this section shall be determined by the department based on any appropriations made by the general assembly for grants under this section.

(D) The state board of education shall adopt rules for the administration of this grant program.

Sec. 3319.58. (A) As used in this section, "core subject area" has the same meaning as in section 3319.074 of the Revised Code.

(B) Each year, the board of education of each city, exempted village, and local school district, governing authority of each community school established under Chapter 3314. of the Revised Code, and governing body of each STEM school established under Chapter 3326. of the Revised Code with a building ranked in the lowest ten per cent of all public school buildings according to performance index score, under section 3302.21 of the Revised Code, shall require each classroom teacher teaching in a core subject area in such a building to register for and take all written examinations prescribed by the state board of education for licensure to teach that core subject area and the grade level to which the teacher is assigned under section 3319.22 of the Revised Code. However, if a teacher

who takes a prescribed examination under this division passes that examination and provides proof of that passage to the teacher's employer, the teacher shall not be required to take the examination again for three years, regardless of the performance index score ranking of the building in which the teacher teaches. No teacher shall be responsible for the cost of taking an examination under this division.

(C) Each district board of education, each community school governing authority, and each STEM school governing body may use the results of a teacher's examinations required under division (B) of this section in developing and revising professional development plans and in deciding whether or not to continue employing the teacher in accordance with the provisions of this chapter or Chapter 3314, or 3326. of the Revised Code. However, no decision to terminate or not to renew a teacher's employment contract shall be made solely on the basis of the results of a teacher's examination under this section until and unless the teacher has not attained a passing score on the same required examination for at least three consecutive administrations of that examination.

Sec. 3319.71. (A) The school health services advisory council shall make recommendations on the following topics:

(1) The content of the course of instruction required to obtain a school nurse license under section 3319.221 of the Revised Code;

(2) The content of the course of instruction required to obtain a school nurse wellness coordinator license under section 3319.221 of the Revised Code;

(3) Best practices for the use of school nurses and school nurse wellness coordinators in providing health and wellness programs for students and employees of school districts, community schools established under Chapter 3314. of the Revised Code, and STEM schools established under Chapter 3326. of the Revised Code.

(B) The council shall issue its initial recommendations not later than March 31, 2010, and may issue subsequent recommendations as it considers necessary. Copies of all recommendations shall be provided to the state board of education, the chancellor of the Ohio board of regents, and the board of nursing, ~~and the health care coverage and quality council.~~

Sec. 3323.052. Not later than sixty days after the effective date of this section, the department of education shall develop a document that compares a parent's and child's rights under this chapter and 20 U.S.C. 1400 et seq. with the parent's and child's rights under the Jon Peterson special needs scholarship program, established in sections 3310.51 to 3310.64 of the Revised Code, including the deadline for application for a scholarship or

renewal of a scholarship and notice of that application to the child's school district, prescribed in division (C) of section 3310.52 of the Revised Code, and the provisions of divisions (A) and (B) of section 3310.53 of the Revised Code. The department shall revise that document as necessary to reflect any pertinent changes in state or federal statutory law, rule, or regulation enacted or adopted after the initial document is developed. The department and each school district shall ensure that the document prescribed in this section is included in, appended to, or otherwise distributed in conjunction with the notice required under 20 U.S.C. 1415(d), and any provision of the Code of Federal Regulations implementing that requirement, in the manner and at all the times specified for such notice in federal law or regulation. As used in this section, a "child's school district" means the school district in which the child is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code.

Sec. 3323.09. (A) As used in this section:

(1) "Home" has the meaning given in section 3313.64 of the Revised Code.

(2) "Preschool child" means a child who is at least age three but under age six on the thirtieth day of September of an academic year.

(B) Each county DD board shall establish special education programs for all children with disabilities who in accordance with section 3323.04 of the Revised Code have been placed in special education programs operated by the county board and for preschool children who are developmentally delayed or at risk of being developmentally delayed. The board annually shall submit to the department of education a plan for the provision of these programs and, if applicable, a request for approval of units under section 3317.05 of the Revised Code. The superintendent of public instruction shall review the plan and approve or modify it in accordance with rules adopted by the state board of education under section 3301.07 of the Revised Code. The superintendent of public instruction shall compile the plans submitted by county boards and shall submit a comprehensive plan to the state board.

A county DD board may combine transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 with transportation for children and adults enrolled in programs and services offered by the board under ~~section 5126.12~~ Chapter 5126, of the Revised Code.

(C) A county DD board that during the school year provided special education pursuant to this section for any child with mental disabilities under twenty-two years of age shall prepare and submit the following reports and statements:

(1) The board shall prepare a statement for each child who at the time of receiving such special education was a resident of a home and was not in the legal or permanent custody of an Ohio resident or a government agency in this state, and whose natural or adoptive parents are not known to have been residents of this state subsequent to the child's birth. The statement shall contain the child's name, the name of the child's school district of residence, the name of the county board providing the special education, and the number of months, including any fraction of a month, it was provided. Not later than the thirtieth day of June, the board shall forward a certified copy of such statement to both the director of developmental disabilities and to the home.

Within thirty days after its receipt of a statement, the home shall pay tuition to the county board computed in the manner prescribed by section 3323.141 of the Revised Code.

(2) The board shall prepare a report for each school district that is the school district of residence of one or more of such children for whom statements are not required by division (C)(1) of this section. The report shall contain the name of the county board providing special education, the name of each child receiving special education, the number of months, including fractions of a month, that the child received it, and the name of the child's school district of residence. Not later than the thirtieth day of June, the board shall forward certified copies of each report to the school district named in the report, the superintendent of public instruction, and the director of developmental disabilities.

Sec. 3323.091. (A) The department of mental health, the department of developmental disabilities, the department of youth services, and the department of rehabilitation and correction shall establish and maintain special education programs for children with disabilities in institutions under their jurisdiction according to standards adopted by the state board of education.

(B) The superintendent of each state institution required to provide services under division (A) of this section, and each county DD board, providing special education for preschool children with disabilities under this chapter may apply to the state department of education for unit funding, which shall be paid in accordance with sections 3317.052 and 3317.053 of the Revised Code.

The superintendent of each state institution required to provide services under division (A) of this section may apply to the department of education for special education and related services weighted funding for children with disabilities other than preschool children with disabilities, calculated in

accordance with section 3317.201 of the Revised Code.

Each county DD board providing special education for children with disabilities other than preschool children with disabilities may apply to the department of education for base cost and special education and related services weighted funding calculated in accordance with section 3317.20 of the Revised Code.

(C) In addition to the authorization to apply for state funding described in division (B) of this section, each state institution required to provide services under division (A) of this section is entitled to tuition payments calculated in the manner described in division (C) of this section.

On or before the thirtieth day of June of each year, the superintendent of each institution that during the school year provided special education pursuant to this section shall prepare a statement for each child with a disability under twenty-two years of age who has received special education. The statement shall contain the child's data verification code assigned pursuant to division (D)(2) of section 3301.0714 of the Revised Code and the name of the child's school district of residence. Within sixty days after receipt of such statement, the department of education shall perform one of the following:

(1) For any child except a preschool child with a disability described in division (C)(2) of this section, pay to the institution submitting the statement an amount equal to the tuition calculated under division (A) of section 3317.08 of the Revised Code for the period covered by the statement, and deduct the same from the amount of state funds, if any, payable under ~~sections 3306.13 and 3317.023~~ Chapter 3317. of the Revised Code, to the child's school district of residence or, if the amount of such state funds is insufficient, require the child's school district of residence to pay the institution submitting the statement an amount equal to the amount determined under this division.

(2) For any preschool child with a disability not included in a unit approved under division (B) of section 3317.05 of the Revised Code, perform the following:

(a) Pay to the institution submitting the statement an amount equal to the tuition calculated under division (B) of section 3317.08 of the Revised Code for the period covered by the statement, except that in calculating the tuition under that section the operating expenses of the institution submitting the statement under this section shall be used instead of the operating expenses of the school district of residence;

(b) Deduct from the amount of state funds, if any, payable under ~~sections 3317.022 or 3306.13 and 3317.023~~ Chapter 3317. of the Revised

Code to the child's school district of residence an amount equal to the amount paid under division (C)(2)(a) of this section.

Sec. 3323.14. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

(A) Where a child who is a school resident of one school district receives special education from another district and the per capita cost to the educating district for that child exceeds the sum of the amount received by the educating district for that child under division (A) of section 3317.08 of the Revised Code and the amount received by the district from the state board of education for that child, then the board of education of the district of residence shall pay to the board of the school district that is providing the special education such excess cost as is determined by using a formula approved by the department of education and agreed upon in contracts entered into by the boards of the districts concerned at the time the district providing such special education accepts the child for enrollment. The department shall certify the amount of the payments under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code for such pupils with disabilities for each school year ending on the thirtieth day of July.

(B) In the case of a child described in division (A) of this section who has been placed in a home, as defined in section 3313.64 of the Revised Code, pursuant to the order of a court and who is not subject to section 3323.141 of the Revised Code, the district providing the child with special education and related services may charge to the child's district of residence the excess cost determined by formula approved by the department, regardless of whether the district of residence has entered into a contract with the district providing the services. If the district providing the services chooses to charge excess costs, the district may report the amount calculated under this division to the department.

(C) If a district providing special education for a child reports an amount for the excess cost of those services, as authorized and calculated under division (A) or (B) of this section, the department shall pay that amount of excess cost to the district providing the services and shall deduct that amount from the child's district of residence in accordance with division ~~(N)~~(K) of section 3317.023 of the Revised Code.

Sec. 3323.142. This section does not apply to any preschool child with a disability except if included in a unit approved under division (B) of section 3317.05 of the Revised Code.

As used in this section, "per pupil amount" for a preschool child with a disability included in such an approved unit means the amount determined

by dividing the amount received for the classroom unit in which the child has been placed by the number of children in the unit. For any other child, "per pupil amount" means the amount paid for the child under section 3317.20 of the Revised Code.

When a school district places or has placed a child with a county DD board for special education, but another district is responsible for tuition under section 3313.64 or 3313.65 of the Revised Code and the child is not a resident of the territory served by the county DD board, the board may charge the district responsible for tuition with the educational costs in excess of the per pupil amount received by the board under ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code. The amount of the excess cost shall be determined by the formula established by rule of the department of education under section 3323.14 of the Revised Code, and the payment for such excess cost shall be made by the school district directly to the county DD board.

A school district board of education and the county DD board that serves the school district may negotiate and contract, at or after the time of placement, for payments by the board of education to the county DD board for additional services provided to a child placed with the county DD board and whose individualized education program established pursuant to section 3323.08 of the Revised Code requires additional services that are not routinely provided children in the county DD board's program but are necessary to maintain the child's enrollment and participation in the program. Additional services may include, but are not limited to, specialized supplies and equipment for the benefit of the child and instruction, training, or assistance provided by staff members other than staff members for which funding is received under ~~Chapter 3306. or~~ Chapter 3317. of the Revised Code.

Sec. 3323.31. The Franklin county educational service center shall establish the Ohio ~~Center center~~ center for ~~Autism autism~~ autism and ~~Low Incidence low incidence~~ low incidence. The ~~Center center~~ center shall administer programs and coordinate services for infants, preschool and school-age children, and adults with autism and low incidence disabilities. The ~~Center's center's~~ center's principal focus shall be programs and services for persons with autism. The ~~Center center~~ center shall be under the direction of an executive director, appointed by the superintendent of the service center in consultation with the advisory board established under section 3323.33 of the Revised Code.

In addition to its other duties, the Ohio ~~Center center~~ center for ~~Autism autism~~ autism and ~~Low Incidence low incidence~~ low incidence shall participate as a member of ~~an~~ the interagency workgroup on autism, as it is established by the ~~department~~ director of developmental disabilities ~~and~~ under section 5123.0419 of the

Revised Code. The center shall provide technical assistance and support to the department of developmental disabilities in the department's leadership role to develop and implement the initiatives identified by projects and activities of the workgroup.

Sec. 3324.05. (A) Each school district shall submit an annual report to the department of education specifying the number of students in each of grades kindergarten through ~~twelfth~~ twelve screened, the number assessed, and the number identified as gifted in each category specified in section 3324.03 of the Revised Code.

(B) The department of education shall audit each school district's identification numbers at least once every three years and may select any district at random or upon complaint or suspicion of noncompliance for a further audit to determine compliance with sections 3324.03 to 3324.06 of the Revised Code.

(C) The department shall provide technical assistance to any district found in noncompliance under division (B) of this section. The department may reduce funds received by the district under ~~Chapters 3306. and Chapter~~ 3317. of the Revised Code by any amount if the district continues to be noncompliant.

Sec. 3324.08. Any person employed by a school district and assigned to a school as a principal or any other position may also serve as the district's gifted education coordinator, if qualified to do so pursuant to the rules adopted by the state board of education under this chapter.

Sec. 3325.08. (A) A diploma shall be granted by the superintendent of the state school for the blind and the superintendent of the state school for the deaf to any student enrolled in one of these state schools to whom all of the following apply:

(1) The student has successfully completed the individualized education program developed for the student for the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board of education under division ~~(E)(D)~~(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised Code~~, except to the extent that division (L) of section 3313.61 of the Revised Code applies to the student.

(3) The student is not eligible to receive an honors diploma granted pursuant to division (B) of this section.

No diploma shall be granted under this division to anyone except as provided under this division.

(B) In lieu of a diploma granted under division (A) of this section, the superintendent of the state school for the blind and the superintendent of the state school for the deaf shall grant an honors diploma, in the same manner that the boards of education of school districts grant such diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in one of these state schools who accomplishes all of the following:

(1) Successfully completes the individualized education program developed for the student for the student's high school education pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the student entered the ninth grade prior to the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the student entered the ninth grade on or after the date prescribed by rule of the state board under division ~~(E)~~(D)(2) of section 3301.0712 of the Revised Code, the student has ~~attained on~~ met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code ~~at least the required passing composite score, designated under division (C)(1) of section 3301.0712 of the Revised~~

Code.

(3) Has met additional criteria for granting an honors diploma.

These additional criteria shall be the same as those prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of such diplomas by school districts. No honors diploma shall be granted to anyone failing to comply with this division and not more than one honors diploma shall be granted to any student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the superintendent of public instruction and the superintendent of the state school for the blind or the superintendent of the state school for the deaf, as applicable. Each diploma shall bear the date of its issue and be in such form as the school superintendent prescribes.

(D) Upon granting a diploma to a student under this section, the superintendent of the state school in which the student is enrolled shall provide notice of receipt of the diploma to the board of education of the school district where the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code when not residing at the state school for the blind or the state school for the deaf. The notice shall indicate the type of diploma granted.

Sec. 3326.11. Each science, technology, engineering, and mathematics school established under this chapter and its governing body shall comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 2921.42, 2921.43, 3301.0714, 3301.0715, 3313.14, 3313.15, 3313.16, 3313.18, 3313.201, 3313.26, 3313.472, 3313.48, 3313.481, 3313.482, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.6013, 3313.6014, 3313.6015, 3313.61, 3313.611, 3313.614, 3313.615, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.666, 3313.667, 3313.67, 3313.671, 3313.672, 3313.673, ~~3313.674~~, 3313.69, 3313.71, 3313.716, 3313.718, 3313.719, 3313.80, 3313.801, 3313.814, 3313.816, 3313.817, 3313.86, ~~3313.88~~, 3313.96, 3319.073, 3319.21, 3319.32, 3319.321, 3319.35, 3319.39, 3319.391, 3319.41, 3319.45, 3321.01, 3321.041, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 102., 117., 1347., 2744., 3307., 3309., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district.

Sec. 3326.111. If a science, technology, engineering, and mathematics school is the recipient of moneys from a grant awarded under the federal race to the top program, Division (A), Title XIV, Sections 14005 and 14006 of the "American Recovery and Reinvestment Act of 2009," Pub. L. No. 111-5, 123 Stat. 115, the governing body of the school shall pay teachers based upon performance in accordance with section 3317.141 and shall

comply with section 3319.111 of the Revised Code as if it were a school district board of education.

Sec. 3326.33. Payments and deductions under this section for fiscal years ~~2010~~ 2012 and ~~2011~~ 2013 shall be made in accordance with section 3326.39 of the Revised Code.

For each student enrolled in a science, technology, engineering, and mathematics school established under this chapter, the department of education annually shall deduct from the state education aid of a student's resident school district and, if necessary, from the payment made to the district under sections 321.24 and 323.156 of the Revised Code and pay to the school the sum of the following:

(A) The sum of the formula amount 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.

(B) If the student is receiving special education and related services pursuant to an IEP, the product of the applicable special education weight times the formula amount;

(C) If the student is enrolled in vocational education programs or classes that are described in section 3317.014 of the Revised Code, are provided by the school, and are comparable as determined by the superintendent of public instruction to school district vocational education programs and classes eligible for state weighted funding under section 3317.014 of the Revised Code, the product of the applicable vocational education weight times the formula amount times the percentage of time the student spends in the vocational education programs or classes;

(D) If the student is included in the poverty student count of the student's resident district, the per pupil amount of the district's payment under division (C) of section 3317.029 of the Revised Code;

(E) If the student is identified as limited English proficient and the student's resident district receives a payment for services to limited English proficient students under division (F) of section 3317.029 of the Revised Code, the per pupil amount of the district's payment under that division, calculated in the same manner as per pupil payments are calculated under division (C)(6) of section 3314.08 of the Revised Code;

(F) If the student's resident district receives a payment under division (G), (H), or (I) of section 3317.029 of the Revised Code, the per pupil amount of the district's payments under each division, calculated in the same manner as per pupil payments are calculated under divisions (C)(7) and (8) of section 3314.08 of the Revised Code;

(G) If the student's resident district receives a parity aid payment under

section 3317.0217 of the Revised Code, the per pupil amount calculated for the district under division (C) or (D) of that section.

Sec. 3326.39. For purposes of applying sections 3326.31 to 3326.37 of the Revised Code to fiscal years ~~2010~~ 2012 and ~~2011~~ 2013:

(A) The formula amount for STEM schools for each of fiscal year 2010 is ~~\$5,718~~, and for fiscal year ~~2011~~ is ~~\$5,703~~. ~~These respective amounts~~ years 2012 and 2013 is \$5,653. That amount shall be applied wherein sections 3326.31 to 3326.37 of the Revised Code the formula amount is specified, except for deducting and paying amounts for special education weighted funding and vocational education weighted funding.

(B) The base funding supplements under section 3317.012 of the Revised Code shall be deemed in each year to be the amounts specified in that section for fiscal year 2009. Accordingly, when computing the per-pupil base funding supplements for a STEM school under that section for fiscal years 2012 and 2013, the department of education shall substitute \$5,732 for the "formula amount" as used in divisions (C)(2), (3), and (4) of that section.

(C) Special education additional weighted funding shall be calculated by first grouping children with disabilities into the appropriate disability categories prescribed by section 3317.013 of the Revised Code as that section existed for fiscal year 2009, and then by multiplying the applicable weight ~~respective multiple~~ specified for that same fiscal year in that same version of that section 3317.013 of the Revised Code for fiscal year 2009, times \$5,732.

(D) Vocational education additional weighted funding shall be calculated by multiplying the applicable weight specified in section 3317.014 of the Revised Code for fiscal year 2009 times \$5,732.

(E) The per pupil amounts paid to a school district under sections 3317.029 and 3317.0217 of the Revised Code shall be deemed to be the respective per pupil amounts paid under those sections to that district for fiscal year 2009.

Sec. 3327.02. (A) After considering each of the following factors, the board of education of a city, exempted village, or local school district may determine that it is impractical to transport a pupil who is eligible for transportation to and from a school under section 3327.01 of the Revised Code:

- (1) The time and distance required to provide the transportation;
- (2) The number of pupils to be transported;
- (3) The cost of providing transportation in terms of equipment, maintenance, personnel, and administration;
- (4) Whether similar or equivalent service is provided to other pupils

eligible for transportation;

(5) Whether and to what extent the additional service unavoidably disrupts current transportation schedules;

(6) Whether other reimbursable types of transportation are available.

(B)(1) Based on its consideration of the factors established in division (A) of this section, the board may pass a resolution declaring the impracticality of transportation. The resolution shall include each pupil's name and the reason for impracticality.

(2) The board shall report its determination to the state board of education in a manner determined by the state board.

(3) The board of education of a local school district additionally shall submit the resolution for concurrence to the educational service center that contains the local district's territory. If the educational service center governing board considers transportation by school conveyance practicable, it shall so inform the local board and transportation shall be provided by such local board. If the educational service center board agrees with the view of the local board, the local board may offer payment in lieu of transportation as provided in this section.

(C) After passing the resolution declaring the impracticality of transportation, the district board shall offer to provide payment in lieu of transportation by doing the following:

(1) In accordance with guidelines established by the department of education, informing the pupil's parent, guardian, or other person in charge of the pupil of both of the following:

(a) The board's resolution;

(b) The right of the pupil's parent, guardian, or other person in charge of the pupil to accept the offer of payment in lieu of transportation or to reject the offer and instead request the department to initiate mediation procedures.

(2) Issuing the pupil's parent, guardian, or other person in charge of the pupil a contract or other form on which the parent, guardian, or other person in charge of the pupil is given the option to accept or reject the board's offer of payment in lieu of transportation.

(D) If the parent, guardian, or other person in charge of the pupil accepts the offer of payment in lieu of providing transportation, the board shall pay the parent, guardian, or other person in charge of the ~~child~~ pupil an amount that shall be not less than the amount determined by the department of education as the minimum for payment in lieu of transportation, and not more than the amount determined by the department as the average cost of pupil transportation for the previous school year. Payment may be prorated if the time period involved is only a part of the school year.

(E)(1)(a) Upon the request of a parent, guardian, or other person in charge of the pupil who rejected the payment in lieu of transportation, the department shall conduct mediation procedures.

(b) If the mediation does not resolve the dispute, the state board of education shall conduct a hearing in accordance with Chapter 119. of the Revised Code. The state board may approve the payment in lieu of transportation or may order the board of education to provide transportation. The decision of the state board is binding in subsequent years and on future parties in interest provided the facts of the determination remain comparable.

(2) The school district shall provide transportation for the pupil from the time the parent, guardian, or other person in charge of the pupil requests mediation until the matter is resolved under division (E)(1)(a) or (b) of this section.

(F)(1) If the department determines that a school district board has failed or is failing to provide transportation as required by division (E)(2) of this section or as ordered by the state board under division (E)(1)(b) of this section, the department shall order the school district board to pay to the pupil's parent, guardian, or other person in charge of the pupil, an amount equal to the state average daily cost of transportation as determined by the state board of education for the previous year. The school district board shall make payments on a schedule ordered by the department.

(2) If the department subsequently finds that a school district board is not in compliance with an order issued under division (F)(1) of this section and the affected pupils are enrolled in a nonpublic or community school, the department shall deduct the amount that the board is required to pay under that order from any pupil transportation payments the department makes to the school district board under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. The department shall use the moneys so deducted to make payments to the nonpublic or community school attended by the pupil. The department shall continue to make the deductions and payments required under this division until the school district board either complies with the department's order issued under division (F)(1) of this section or begins providing transportation.

(G) A nonpublic or community school that receives payments from the department under division (F)(2) of this section shall do either of the following:

(1) Disburse the entire amount of the payments to the parent, guardian, or other person in ~~control~~ charge of the pupil affected by the failure of the school district of residence to provide transportation;

(2) Use the entire amount of the payments to provide acceptable transportation for the affected pupil.

Sec. 3327.04. (A) The board of education of any city, exempted village, or local school district may contract with the board of another district for the admission or transportation, or both, of pupils into any school in such other district, on terms agreed upon by such boards.

(B) The boards of two school districts may enter into a contract under this section to share the provision of transportation to a child who resides in one school district and attends school in the other district. Under such an agreement, one district may claim the total transportation subsidy available for such child under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law and may agree to pay any portion of such subsidy to the other district sharing the provision of transportation to that child. The contract shall delineate the transportation responsibilities of each district.

A school district that enters into a contract under this section is not liable for any injury, death, or loss to the person or property of a student that may occur while the student is being furnished transportation by the other school district that is a party to the contract.

(C) Whenever a board not maintaining a high school enters into an agreement with one or more boards maintaining such school for the schooling of all its high school pupils, the board making such agreement is exempt from the payment of tuition at other high schools of pupils living within three miles of the school designated in the agreement. In case no such agreement is entered into, the high school to be attended can be selected by the pupil holding an eighth grade diploma, and the tuition shall be paid by the board of the district of school residence.

Sec. 3327.05. (A) Except as provided in division (B) of this section, no board of education of any school district shall provide transportation for any pupil who is a school resident of another school district unless the pupil is enrolled pursuant to section 3313.98 of the Revised Code or the board of the other district has given its written consent thereto. If the board of any school district files with the state board of education a written complaint that transportation for resident pupils is being provided by the board of another school district contrary to this division, the state board of education shall make an investigation of such complaint. If the state board of education finds that transportation is being provided contrary to this section, it may withdraw from state funds due the offending district any part of the amount that has been approved for transportation pursuant to section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law.

(B) Notwithstanding division (D) of section 3311.19 and division (D) of

section 3311.52 of the Revised Code, this division does not apply to any joint vocational or cooperative education school district.

A board of education may provide transportation to and from the nonpublic school of attendance if both of the following apply:

(1) The parent, guardian, or other person in charge of the pupil agrees to pay the board for all costs incurred in providing the transportation that are not reimbursed pursuant to Chapter ~~3306.~~ or 3317. of the Revised Code;

(2) The pupil's school district of residence does not provide transportation for public school pupils of the same grade as the pupil being transported under this division, or that district is not required under section 3327.01 of the Revised Code to transport the pupil to and from the nonpublic school because the direct travel time to the nonpublic school is more than thirty minutes.

Upon receipt of the request to provide transportation, the board shall review the request and determine whether the board will accommodate the request. If the board agrees to transport the pupil, the board may transport the pupil to and from the nonpublic school and a collection point in the district, as determined by the board. If the board transports the pupil, the board may include the pupil in the district's transportation ADM reported to the department of education under section 3317.03 of the Revised Code and, accordingly, may receive a state payment under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law for transporting the pupil.

If the board declines to transport the pupil, the board, in a written communication to the parent, guardian, or other person in charge of the pupil, shall state the reasons for declining the request.

Sec. 3328.01. As used in this chapter:

(A) "Child with a disability," "IEP," and "school district of residence" have the same meanings as in section 3323.01 of the Revised Code.

(B) "Eligible student" means a student who is entitled to attend school in a participating school district; is at risk of academic failure; is from a family whose income is below two hundred per cent of the federal poverty guidelines, as defined in section 5101.46 of the Revised Code; meets any additional criteria prescribed by agreement between the state board of education and the operator of the college-preparatory boarding school in which the student seeks enrollment; and meets at least two of the following additional conditions:

(1) The student has a record of in-school disciplinary actions, suspensions, expulsions, or truancy.

(2) The student has not attained at least a proficient score on the state achievement assessments in English language arts, reading, or mathematics

prescribed under section 3301.0710 of the Revised Code, after those assessments have been administered to the student at least once, or the student has not attained at least a score designated by the board of trustees of the college-preparatory boarding school in which the student seeks enrollment under this chapter on an end-of-course examination in English language arts or mathematics prescribed under section 3301.0712 of the Revised Code.

(3) The student is a child with a disability.

(4) The student has been referred for academic intervention services.

(5) The student's head of household is a single parent. As used in this division and in division (B)(6) of this section, "head of household" means a person who occupies the same household as the student and who is financially responsible for the student.

(6) The student's head of household is not the student's custodial parent.

(7) A member of the student's family has been imprisoned, as defined in section 1.05 of the Revised Code.

(C) "Entitled to attend school" means entitled to attend school in a school district under section 3313.64 or 3313.65 of the Revised Code.

(D) "Formula ADM" and "category one through six special education ADM" have the same meanings as in section 3306.02 of the Revised Code.

(E) "Operator" means the operator of a college-preparatory boarding school selected under section 3328.11 of the Revised Code.

(F) "Participating school district" means either of the following:

(1) The school district in which a college-preparatory boarding school established under this chapter is located;

(2) A school district other than one described in division (F)(1) of this section that, pursuant to procedures adopted by the state board of education under section 3328.04 of the Revised Code, agrees to be a participating school district so that eligible students entitled to attend school in that district may enroll in a college-preparatory boarding school established under this chapter.

(G) "State education aid" has the same meaning as in section 3317.02 of the Revised Code.

Sec. 3328.02. Each college-preparatory boarding school established under this chapter is a public school and is part of the state's program of education, subject to a charter granted by the state board of education under section 3301.16 of the Revised Code.

Sec. 3328.03. In accordance with Section 22 of Article II, Ohio Constitution, no agreement or contract entered into under this chapter shall create an obligation of state funds for a period longer than two years;

however, the general assembly, every two years, may authorize renewal of any such obligation.

Sec. 3328.04. The city, exempted village, or local school district in which a college-preparatory boarding school established under this chapter is located is a participating school district under this chapter. Any other city, exempted village, or local school district may agree to be a participating school district. The state board of education shall adopt procedures for districts to agree to be participating school districts.

Sec. 3328.11. (A) In accordance with the procedures prescribed in division (B) of this section, the state board of education shall select a private nonprofit corporation that meets the following qualifications to operate each college-preparatory boarding school established under this chapter:

(1) The corporation has experience operating a school or program similar to the schools authorized under this chapter.

(2) The school or program described in division (A)(1) of this section has demonstrated to the satisfaction of the state board success in improving the academic performance of students.

(3) The corporation has demonstrated to the satisfaction of the state board that the corporation has the capacity to secure private funds for the development of the school authorized under this chapter.

(B)(1) Not later than sixty days after the effective date of this section, the state board shall issue a request for proposals from private nonprofit corporations qualified to operate a college-preparatory boarding school established under this chapter. If the state board subsequently determines that the establishment of one or more additional college-preparatory boarding schools is advisable, the state board shall issue requests for proposals from private nonprofit corporations qualified to operate those additional schools.

In all cases, the state board shall select the school's operator from among the qualified responders within one hundred eighty days after the issuance of the request for proposals. If no qualified responder submits a proposal, the state board may issue another request for proposals.

(2) Each proposal submitted to the state board shall contain the following information:

(a) The proposed location of the college-preparatory boarding school, which may differ from any location recommended by the state board in the request for proposals;

(b) A plan for offering grade six in the school's initial year of operation and a plan for increasing the grade levels offered by the school in subsequent years;

(c) Any other information about the proposed educational program, facilities, or operations of the school considered necessary by the state board.

(C) No college-preparatory boarding school established under this chapter shall open for operation prior to the 2013-2014 school year.

Sec. 3328.12. The state board of education shall enter into a contract with the operator of each college-preparatory boarding school established under this chapter. The contract shall stipulate the following:

(A) The school may operate only if and to the extent the school holds a valid charter granted by the state board under section 3301.16 of the Revised Code.

(B) The operator shall oversee the acquisition of a facility for the school.

(C) The operator shall operate the school in accordance with the terms of the proposal accepted by the state board under section 3328.11 of the Revised Code, including the plan for increasing the grade levels offered by the school.

(D) The school shall comply with the provisions of this chapter.

(E) The school shall comply with any other provisions of law specified in the contract, the charter granted by the state board, and the rules adopted by the state board under section 3328.50 of the Revised Code.

(F) The school shall comply with the bylaws adopted by the operator under section 3328.13 of the Revised Code.

(G) The school shall meet the academic goals and other performance standards specified in the contract.

(H) The state board or the operator may terminate the contract in accordance with the procedures specified in the contract, which shall include at least a requirement that the party seeking termination give prior notice of the intent to terminate the contract and a requirement that the party receiving such notice be granted an opportunity to redress any grievances cited in the notice prior to the termination.

(I) If the school closes for any reason, the school's board of trustees shall execute the closing in the manner specified in the contract.

Sec. 3328.13. Each operator of a college-preparatory boarding school established under this chapter shall adopt bylaws for the oversight and operation of the school that are consistent with the provisions of this chapter, the rules adopted under section 3328.50 of the Revised Code, the contract between the operator and the state board of education, and the charter granted to the school by the state board. The bylaws shall include procedures for the appointment of members of the school's board of trustees,

whose terms of office shall be as prescribed in section 3328.15 of the Revised Code. The bylaws also shall include standards for the admission of students to the school and their dismissal from the school. The bylaws shall be subject to the approval of the state board.

Sec. 3328.14. Each operator of a college-preparatory boarding school established under this chapter shall adopt a program of outreach to inform every city, local, and exempted village school district about the school and the procedures for admission to the school and for becoming a participating school district.

Sec. 3328.15. (A) Each college-preparatory boarding school established under this chapter shall be governed by a board of trustees consisting of up to twenty-five members. Five of those members shall be appointed by the governor, with the advice and consent of the senate. The governor's appointments may be based on nonbinding recommendations made by the superintendent of public instruction. The remaining members shall be appointed pursuant to the bylaws adopted under section 3328.13 of the Revised Code.

(B) The terms of office of the initial members shall be as follows:

(1) Two members appointed by the governor shall serve for an initial term of three years.

(2) Two members appointed by the governor shall serve for an initial term of two years.

(3) One member appointed by the governor shall serve for an initial term of one year.

(4) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of three years.

(5) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of two years.

(6) One-third of the members appointed pursuant to the bylaws, rounded down to the nearest whole number, shall serve for an initial term of one year.

(7) Any remaining members appointed pursuant to the bylaws shall serve for an initial term of one year.

Thereafter the terms of office of all members shall be for three years.

The beginning date and ending date of terms of office shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code.

(C) Vacancies on the board shall be filled in the same manner as the

initial appointments. A member appointed to an unexpired term shall serve for the remainder of that term and may be reappointed subject to division (D) of this section.

(D) No member may serve for more than three consecutive three-year terms.

(E) The officers of the board shall be selected by and from among the members of the board.

(F) Compensation for the members of the board, if any, shall be as prescribed in the bylaws adopted under section 3328.13 of the Revised Code.

Sec. 3328.17. Employees of a college-preparatory boarding school established under this chapter may organize and collectively bargain pursuant to Chapter 4117. of the Revised Code. Notwithstanding division (D)(1) of section 4117.06 of the Revised Code, a unit containing teaching and nonteaching employees employed under this section may be considered an appropriate unit.

Sec. 3328.18. (A) As used in this section, "license" has the same meaning as in section 3319.31 of the Revised Code.

(B) If a person who is employed by a college-preparatory boarding school established under this chapter or its operator is arrested, summoned, or indicted for an alleged violation of an offense listed in division (C) of section 3319.31 of the Revised Code, if the person holds a license, or an offense listed in division (B)(1) of section 3319.39 of the Revised Code, if the person does not hold a license, the chief administrator of the school in which that person works shall suspend that person from all duties that require the care, custody, or control of a child during the pendency of the criminal action against the person. If the person who is arrested, summoned, or indicted for an alleged violation of an offense listed in division (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code is the chief administrator of the school, the board of trustees of the school shall suspend the chief administrator from all duties that require the care, custody, or control of a child.

(C) When a person who holds a license is suspended in accordance with this section, the chief administrator or board that imposed the suspension promptly shall report the person's suspension to the department of education. The report shall include the offense for which the person was arrested, summoned, or indicted.

Sec. 3328.19. (A) As used in this section:

(1) "Conduct unbecoming to the teaching profession" shall be as described in rules adopted by the state board of education.

(2) "Intervention in lieu of conviction" means intervention in lieu of conviction under section 2951.041 of the Revised Code.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(4) "Pre-trial diversion program" means a pre-trial diversion program under section 2935.36 of the Revised Code or a similar diversion program under rules of a court.

(B) The chief administrator of each college-preparatory boarding school established under this chapter, or the president or chairperson of the board of trustees of the school if division (C) of this section applies, shall promptly submit to the superintendent of public instruction the information prescribed in division (D) of this section when any of the following conditions applies to a person employed to work in the school who holds a license issued by the state board of education:

(1) The chief administrator, or president or chairperson, knows that the employee has pleaded guilty to, has been found guilty by a jury or court of, has been convicted of, has been found to be eligible for intervention in lieu of conviction for, or has agreed to participate in a pre-trial diversion program for an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(2) The board of trustees of the school, or the operator, has initiated termination or nonrenewal proceedings against, has terminated, or has not renewed the contract of the employee because the board or operator has reasonably determined that the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(3) The employee has resigned under threat of termination or nonrenewal as described in division (B)(2) of this section.

(4) The employee has resigned because of or in the course of an investigation by the board or operator regarding whether the employee has committed an act that is unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(C) If the employee to whom any of the conditions prescribed in divisions (B)(1) to (4) of this section applies is the chief administrator of the school, the president or chairperson of the board of trustees of the school shall make the report required under this section.

(D) If a report is required under this section, the chief administrator, or president or chairperson, shall submit to the superintendent of public

instruction the name and social security number of the employee about whom the information is required and a factual statement regarding any of the conditions prescribed in divisions (B)(1) to (4) of this section that apply to the employee.

(E) A determination made by the board or operator as described in division (B)(2) of this section or a termination, nonrenewal, resignation, or other separation described in divisions (B)(2) to (4) of this section does not create a presumption of the commission or lack of the commission by the employee of an act unbecoming to the teaching profession or an offense described in division (B)(2) or (C) of section 3319.31 or division (B)(1) of section 3319.39 of the Revised Code.

(F) No individual required to submit a report under division (B) of this section shall knowingly fail to comply with that division.

(G) An individual who provides information to the superintendent of public instruction in accordance with this section in good faith shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the provision of that information.

Sec. 3328.191. The board of trustees of each college-preparatory boarding school established under this chapter shall require that the reports of any investigation by the board or by the school's operator of an employee who works in the school, regarding whether the employee has committed an act or offense for which the chief administrator of the school or the president or chairperson of the board is required to make a report to the superintendent of public instruction under section 3328.19 of the Revised Code, be kept in the employee's personnel file. If, after an investigation under division (A) of section 3319.311 of the Revised Code, the superintendent of public instruction determines that the results of that investigation do not warrant initiating action under section 3319.31 of the Revised Code, the board shall require the reports of the investigation to be moved from the employee's personnel file to a separate public file.

Sec. 3328.192. Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, the provisions of sections 3328.19 and 3328.191 of the Revised Code prevail over any conflicting provisions of a collective bargaining agreement or contract for employment entered into on or after the effective date of this section.

Sec. 3328.193. (A) As used in this section, "license" has the same meaning as in section 3319.31 of the Revised Code.

(B) No employee of a college-preparatory boarding school established under this chapter or its operator shall do either of the following:

(1) Knowingly make a false report to the chief administrator of the school, or the chief administrator's designee, alleging misconduct by another employee of the school or its operator;

(2) Knowingly cause the chief administrator, or the chief administrator's designee, to make a false report of the alleged misconduct to the superintendent of public instruction or the state board of education.

(C) Any employee of a college-preparatory boarding school established under this chapter or its operator who in good faith reports to the chief administrator of the school, or the chief administrator's designee, information about alleged misconduct committed by another employee of the school or operator shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information.

If the alleged misconduct involves a person who holds a license but the chief administrator is not required to submit a report to the superintendent of public instruction under section 3328.19 of the Revised Code and the chief administrator, or the chief administrator's designee, in good faith reports the alleged misconduct to the superintendent of public instruction or the state board, the chief administrator, or the chief administrator's designee, shall be immune from any civil liability that otherwise might be incurred or imposed for injury, death, or loss to person or property as a result of the reporting of that information.

(D)(1) In any civil action brought against a person in which it is alleged and proved that the person violated division (B) of this section, the court shall award the prevailing party reasonable attorney's fees and costs that the prevailing party incurred in the civil action or as a result of the false report that was the basis of the violation.

(2) If a person is convicted of or pleads guilty to a violation of division (B) of this section, if the subject of the false report that was the basis of the violation was charged with any violation of a law or ordinance as a result of the false report, and if the subject of the false report is found not to be guilty of the charges brought against the subject as a result of the false report or those charges are dismissed, the court that sentences the person for the violation of division (B) of this section, as part of the sentence, shall order the person to pay restitution to the subject of the false report, in an amount equal to reasonable attorney's fees and costs that the subject of the false report incurred as a result of or in relation to the charges.

Sec. 3328.20. (A) As used in this section:

(1) "Designated official" means the chief administrator of a college-preparatory boarding school established under this chapter, or the

chief administrator's designee.

(2) "Essential school services" means services provided by a private company under contract with a college-preparatory boarding school established under this chapter that the chief administrator of the school has determined are necessary for the operation of the school and that would need to be provided by persons employed by the school or its operator if the services were not provided by the private company.

(3) "License" has the same meaning as in section 3319.31 of the Revised Code.

(B) This section applies to any person who is an employee of a private company under contract with a college-preparatory boarding school established under this chapter to provide essential school services and who will work in the school in a position that does not require a license issued by the state board of education, is not for the operation of a vehicle for pupil transportation, and that involves routine interaction with a child or regular responsibility for the care, custody, or control of a child.

(C) No college-preparatory boarding school established under this chapter shall permit a person to whom this section applies to work in the school, unless one of the following applies to the person:

(1) The person's employer presents proof of both of the following to the designated official:

(a) That the person has been the subject of a criminal records check conducted in accordance with division (D) of this section within the five-year period immediately prior to the date on which the person will begin working in the school;

(b) That the criminal records check indicates that the person has not been convicted of or pleaded guilty to any offense described in division (B)(1) of section 3319.39 of the Revised Code.

(2) During any period of time in which the person will have routine interaction with a child or regular responsibility for the care, custody, or control of a child, the designated official has arranged for an employee of the school to be present in the same room with the child or, if outdoors, to be within a thirty-yard radius of the child or to have visual contact with the child.

(D) Any private company that has been hired or seeks to be hired by a college-preparatory boarding school established under this chapter to provide essential school services may request the bureau of criminal identification and investigation to conduct a criminal records check of any of its employees for the purpose of complying with division (C)(1) of this section. Each request for a criminal records check under this division shall

be made to the superintendent of the bureau in the manner prescribed in section 3319.39 of the Revised Code. Upon receipt of a request, the bureau shall conduct the criminal records check in accordance with section 109.572 of the Revised Code as if the request had been made under section 3319.39 of the Revised Code.

Notwithstanding division (H) of section 109.57 of the Revised Code, the private company may share the results of any criminal records check conducted under this division with the designated official for the purpose of complying with division (C)(1) of this section, but in no case shall the designated official release that information to any other person.

Sec. 3328.21. (A) Any eligible student may apply for admission to a college-preparatory boarding school established under this chapter in a grade level offered by the school that is appropriate for the student and shall be admitted to the school in that grade level to the extent the student's admission is within the capacity of the school as established by the school's board of trustees, subject to division (B) of this section. If more eligible students apply for admission than the number of students permitted by the capacity established by the board of trustees, admission shall be by lot.

(B) In the first year of operation, each school established under this chapter shall offer only grade six and shall not admit more than eighty students to the school. In each subsequent year of operation, the school may add additional grade levels as specified in the contract under section 3328.12 of the Revised Code, but at no time shall the school's total student population exceed four hundred students.

Sec. 3328.22. The educational program of a college-preparatory boarding school established under this chapter shall include at least all of the following:

(A) A remedial curriculum for students in grades lower than grade nine;

(B) A college-preparatory curriculum for high school students that, at a minimum, shall comply with section 3313.603 of the Revised Code as that section applies to school districts;

(C) Extracurricular activities, including athletic and cultural activities;

(D) College admission counseling;

(E) Health and mental health services;

(F) Tutoring services;

(G) Community services opportunities;

(H) A residential student life program.

Sec. 3328.23. (A) A college-preparatory boarding school established under this chapter and the school's operator shall comply with Chapter 3323. of the Revised Code as if the school were a school district. For each child

with a disability enrolled in the school for whom an IEP has been developed, the school and its operator shall verify in the manner prescribed by the department of education that the school is providing the services required under the child's IEP.

(B) The school district in which a child with a disability enrolled in the college-preparatory boarding school is entitled to attend school and the child's school district of residence, if different, are not obligated to provide the student with a free appropriate public education under Chapter 3323. of the Revised Code for as long as the child is enrolled in the college-preparatory boarding school.

Sec. 3328.24. A college-preparatory boarding school established under this chapter, its operator, and its board of trustees shall comply with sections 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3319.39, and 3319.391 of the Revised Code as if the school and the operator were a school district and the school's board of trustees were a district board of education.

Sec. 3328.25. (A) The board of trustees of a college-preparatory boarding school established under this chapter shall grant a diploma to any student enrolled in the school to whom all of the following apply:

(1) The student has successfully completed the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code or has qualified under division (D) or (F) of section 3313.603 of the Revised Code, provided that the school shall not require a student to remain in school for any specific number of semesters or other terms if the student completes the required curriculum early.

(2) Subject to section 3313.614 of the Revised Code, the student has met the assessment requirements of division (A)(2)(a) or (b) of this section, as applicable.

(a) If the student entered ninth grade prior to the date prescribed by rule of the state board of education under division (D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed by that division unless division (L) of section 3313.61 of the Revised Code applies to the student;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment

system prescribed under division (B)(2) of section 3301.0710 of the Revised Code, except to the extent that the student is excused from some portion of that assessment system pursuant to division (L) of section 3313.61 of the Revised Code.

(3) The student is not eligible to receive an honors diploma granted under division (B) of this section.

No diploma shall be granted under this division to anyone except as provided in this division.

(B) In lieu of a diploma granted under division (A) of this section, the board of trustees shall grant an honors diploma, in the same manner that boards of education of school districts grant honors diplomas under division (B) of section 3313.61 of the Revised Code, to any student enrolled in the school who accomplishes all of the following:

(1) Successfully completes the school's high school curriculum or the IEP developed for the student by the school pursuant to section 3323.08 of the Revised Code;

(2) Subject to section 3313.614 of the Revised Code, has met the assessment requirements of division (B)(2)(a) or (b) of this section, as applicable.

(a) If the student entered ninth grade prior to the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student either:

(i) Has attained at least the applicable scores designated under division (B)(1) of section 3301.0710 of the Revised Code on all the assessments prescribed under that division;

(ii) Has satisfied the alternative conditions prescribed in section 3313.615 of the Revised Code.

(b) If the person entered ninth grade on or after the date prescribed by rule of the state board under division (D)(2) of section 3301.0712 of the Revised Code, the student has met the requirements of the entire assessment system prescribed under division (B)(2) of section 3301.0710 of the Revised Code.

(3) Has met the additional criteria for granting an honors diploma prescribed by the state board under division (B) of section 3313.61 of the Revised Code for the granting of honors diplomas by school districts.

An honors diploma shall not be granted to a student who is subject to the Ohio core curriculum prescribed in division (C) of section 3313.603 of the Revised Code but elects the option of division (D) or (F) of that section. No honors diploma shall be granted to anyone failing to comply with this division, and not more than one honors diploma shall be granted to any

student under this division.

(C) A diploma or honors diploma awarded under this section shall be signed by the presiding officer of the board of trustees. Each diploma shall bear the date of its issue and be in such form as the board of trustees prescribes.

(D) Upon granting a diploma to a student under this section, the presiding officer of the board of trustees shall provide notice of receipt of the diploma to the board of education of the city, exempted village, or local school district where the student is entitled to attend school when not residing at the college-preparatory boarding school. The notice shall indicate the type of diploma granted.

Sec. 3328.26. (A) The department of education shall issue an annual report card for each college-preparatory boarding school established under this chapter that includes all information applicable to school buildings under section 3302.03 of the Revised Code.

(B) For each student enrolled in the school, the department shall combine data regarding the academic performance of that student with comparable data from the school district in which the student is entitled to attend school for the purpose of calculating the performance of the district as a whole on the report card issued for the district under section 3302.03 of the Revised Code.

(C) Each college-preparatory boarding school and its operator shall comply with sections 3302.04 and 3302.041 of the Revised Code, except that any action required to be taken by a school district pursuant to those sections shall be taken by the school.

Sec. 3328.31. Each college-preparatory boarding school established under this chapter shall report to the department of education, in the form and manner prescribed by the department, the following information:

(A) The total number of students enrolled in the school;

(B) The number of students enrolled in the school who are receiving special education and related services pursuant to an IEP;

(C) The city, exempted village, or local school district in which each student reported under division (A) of this section is entitled to attend school;

(D) Any additional information the department determines necessary to make payments to the school under this chapter.

Sec. 3328.32. The city, exempted village, or local school district in which each child enrolled in a college-preparatory boarding school established under this chapter is entitled to attend school shall count that child in the district's average daily membership and in the district's category

one through six special education ADM, as appropriate, as reported under divisions (A) and (B)(5) to (10) of section 3317.03 of the Revised Code.

The department of education shall count that child in the district's formula ADM.

Sec. 3328.33. (A) For each child enrolled in a college-preparatory boarding school, as reported under section 3328.31 of the Revised Code, the department of education shall deduct from the state education aid and, if necessary, from the payment under sections 321.24 and 323.156 of the Revised Code, for the city, exempted village, or local school district in which the child is entitled to attend school the amount calculated under division (B) of this section, as set forth in the agreement filed with the department under division (C) of this section.

(B) Each participating school district, in consultation with the college-preparatory boarding school's board of trustees, shall calculate the amount of funds per student to be deducted from the district's account under division (A) of this section, which shall be set forth in the agreement required by division (C) of this section. The amount to be deducted for each student shall equal eighty-five per cent of the operating expenditure per pupil of that district.

As used in this division, a district's "operating expenditure per pupil" is the total amount of state payments and other nonfederal revenue spent by the district for operating expenses during the previous fiscal year, divided by the district's average daily membership, as reported under division (A) of section 3317.03 of the Revised Code, for the previous fiscal year.

(C) Each participating school district and the college-preparatory boarding school's board of trustees shall execute an agreement setting forth the amount per student to be deducted from the district's account, as calculated under division (B) of this section, and shall file a copy of that agreement with the department.

Sec. 3328.34. (A) For each child enrolled in a college-preparatory boarding school, as reported under section 3328.31 of the Revised Code, the department of education shall pay to the school the sum of the amount deducted from a participating school district's account for that child under section 3328.33 of the Revised Code plus the per-pupil boarding amount specified in division (B) of this section.

(B) For the first fiscal year in which a college-preparatory boarding school may be established under this chapter, the "per-pupil boarding amount" is twenty-five thousand dollars. For each fiscal year thereafter, that amount shall be adjusted by the rate of inflation, as measured by the consumer price index (all urban consumers, all items) prepared by the

bureau of labor statistics of the United States department of labor, for the previous twelve-month period.

(C) The state board of education may accept funds from federal and state noneducation support services programs for the purpose of funding the per pupil boarding amount prescribed in division (B) of this section. Notwithstanding any other provision of the Revised Code, the state board shall coordinate and streamline any noneducation program requirements in order to eliminate redundant or conflicting requirements, licensing provisions, and oversight by government programs or agencies. The applicable regulatory entities shall, to the maximum extent possible, use independent reports and financial audits provided by the operator and coordinated by the department of education to eliminate or reduce contract and administrative reviews. Regulatory entities other than the state board may suggest reasonable additional items to be included in such independent reports and financial audits to meet any requirements of federal law. Reporting paperwork prepared for the state board shall be shared with and accepted by other state and local entities to the maximum extent feasible.

(D)(1) Notwithstanding division (A) of this section, if, in any fiscal year, the operator of a college-preparatory boarding school receives federal funds for the purpose of supporting the school's operations, the amount of those federal funds shall be deducted from the total per-pupil boarding amount for all enrolled students paid by the department to the school for that fiscal year, unless the operator and the department determine otherwise in a written agreement. Any portion of the total per-pupil boarding amount for all enrolled students remaining after the deduction of the federal funds shall be paid by the department to the school from state funds appropriated to the department.

(2) Notwithstanding division (A) of this section, if, in any fiscal year, the department receives federal funds for the purpose of supporting the operations of a college-preparatory boarding school, the department shall use those federal funds first to pay the school the total per-pupil boarding amount for all enrolled students for that fiscal year. Any portion of the total per-pupil boarding amount for all enrolled students remaining after the use of the federal funds shall be paid by the department to the school from state funds appropriated to the department.

(3) If any federal funds are used for the purpose prescribed in division (D)(1) or (2) of this section, the department shall comply with all requirements upon which the acceptance of the federal funds is conditioned, including any requirements set forth in the funding application submitted by the operator or the department and, to the extent sufficient funds are

appropriated by the general assembly, any requirements regarding maintenance of effort in expenditures.

Sec. 3328.35. To the extent permitted by federal law, the department of education shall include college-preparatory boarding schools established under this chapter in its annual allocation of federal moneys under Title I of the "Elementary and Secondary Education Act of 1965," 20 U.S.C. 6301, et seq. The department may apply for any other federal moneys that may be used to support the operations of college-preparatory boarding schools established under this chapter.

Sec. 3328.36. A college-preparatory boarding school established under this chapter shall be considered a school district and its board of trustees, on behalf of the school's operator, shall be considered a board of education for the purpose of applying to any state or federal agency for grants that a school district or public school may receive under federal or state law or any appropriations act of the general assembly. The college-preparatory boarding school and its operator may apply to any private entity to receive and accept funds.

Sec. 3328.41. Each participating school district shall be responsible for providing transportation on a weekly basis for each student enrolled in a college-preparatory boarding school established under this chapter who is entitled to attend school in the district to and from that college-preparatory boarding school.

Sec. 3328.45. (A) If the state board of education determines that a college-preparatory boarding school established under this chapter is not in compliance with any provision of this chapter or the terms of the contract entered into under section 3328.12 of the Revised Code, or that the school has failed to meet the academic goals or performance standards specified in that contract, the state board may initiate the termination procedures specified in the contract. No termination shall take effect prior to the end of a school year. Upon the effective date of a termination, the school shall close.

(B) If a college-preparatory boarding school is required to close under division (A) of this section or closes for any other reason, the school's board of trustees shall execute the closing as provided in the contract under section 3328.12 of the Revised Code.

Sec. 3328.50. The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures necessary for the implementation of this chapter.

Sec. 3328.99. (A) Whoever violates division (F) of section 3328.19 of the Revised Code shall be punished as follows:

(1) Except as otherwise provided in division (A)(2) of this section, the person is guilty of a misdemeanor of the fourth degree.

(2) The person is guilty of a misdemeanor of the first degree if both of the following conditions apply:

(a) The employee who is the subject of the report that the person fails to submit was required to be reported for the commission or alleged commission of an act or offense involving the infliction on a child of any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child.

(b) During the period between the violation of division (F) of section 3328.19 of the Revised Code and the conviction of or plea of guilty by the person for that violation, the employee who is the subject of the report that the person fails to submit inflicts on any child attending a school district, educational service center, public or nonpublic school, or county board of developmental disabilities where the employee works any physical or mental wound, injury, disability, or condition of a nature that constitutes abuse or neglect of the child.

(B) Whoever violates division (B) of section 3328.193 of the Revised Code is guilty of a misdemeanor of the first degree.

Sec. 3329.08. At any regular meeting, the board of education of each local school district, ~~from lists adopted by the educational service center governing board, and the board of education of each~~ city, and exempted village school district shall determine by a majority vote of all members elected or appointed under division (B) or (F) of section 3311.71 of the Revised Code which of such textbooks or electronic textbooks so filed shall be used in the schools under its control.

Sec. 3331.01. (A) As used in this chapter:

(1) "Superintendent" or "superintendent of schools" of a school district means the person employed as the superintendent or that person's designee. ~~In the case of a local school district, such designee may be the superintendent of the educational service center to which the school district belongs.~~

(2) "Chief administrative officer" means the chief administrative officer of a nonpublic or community school or that person's designee.

(B)(1) Except as provided in division (B)(2) of this section, an age and schooling certificate may be issued only by the superintendent of the city, local, joint vocational, or exempted village school district in which the child in whose name such certificate is issued resides or by the chief administrative officer of the nonpublic or community school the child attends, and only upon satisfactory proof that the child to whom the

certificate is issued is at least fourteen years of age.

(2) A child who resides in this state shall apply for an age and schooling certificate to the superintendent of the school district in which the child resides, or to the chief administrative officer of the school that the child attends. Residents of other states who work in Ohio shall apply to the superintendent of the school district in which the place of employment is located, as a condition of employment or service.

(C) Any such age and schooling certificate may be issued only upon satisfactory proof that the employment contemplated by the child is not prohibited by any law regulating the employment of such children. Section 4113.08 of the Revised Code does not apply to such employer in respect to such child while engaged in an employment legal for a child of the age stated therein.

(D) Age and schooling certificate forms shall be approved by the state board of education, including forms submitted electronically. Forms shall not display the social security number of the child. Except as otherwise provided in this section, every application for an age and schooling certificate must be signed in the presence of the officer issuing it by the child in whose name it is issued.

(E) A child shall furnish the superintendent or chief administrative officer all information required by this chapter in support of the issuance of a certificate.

(F) On and after September 1, 2002, each superintendent and chief administrative officer who issues an age and schooling certificate shall file electronically the certificate with the director of commerce in accordance with rules adopted by the director of administrative services pursuant to section 1306.21 of the Revised Code. On and after September 1, 2002, only electronically filed certificates are valid to satisfy the requirements of Chapter 4109. of the Revised Code.

Sec. 3333.03. (A) The governor, with the advice and consent of the senate, shall appoint the chancellor of the Ohio board of regents. ~~The governor may remove the chancellor in accordance with section 3.04 of the Revised Code, except that the removal shall not require the advice and consent of the senate. The chancellor shall serve at the pleasure of the governor, and the~~ governor shall prescribe the chancellor's duties in addition to the chancellor's duties prescribed by law. ~~In no case shall the chancellor assume any duties prescribed by the governor or law until the senate has consented to the chancellor's appointment.~~ The governor shall fix the compensation for the chancellor. The chancellor shall be a member of the governor's cabinet.

~~(B) The term of office of the chancellor shall be five years. Any person appointed chancellor to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall hold office for the remainder of that term. Any vacancy in the office shall be filled within sixty days after the vacancy occurs. Each chancellor shall continue in office subsequent to the expiration date of the term for which the chancellor was appointed until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. The chancellor may be reappointed. The term of the chancellor in office on the effective date of this amendment shall coincide with the term of that chancellor's appointing governor. Subsequent appointments to the office of chancellor shall be made pursuant to division (A) of this section.~~

(C) The chancellor is responsible for appointing and fixing the compensation of all professional, administrative, and clerical employees and staff members necessary to assist in the performance of the chancellor's duties. All employees and staff shall serve at the chancellor's pleasure.

(D) The chancellor shall be a person qualified by training and experience to understand the problems and needs of the state in the field of higher education and to devise programs, plans, and methods of solving the problems and meeting the needs.

(E) Neither the chancellor nor any staff member or employee of the chancellor shall be a trustee, officer, or employee of any public or private college or university while serving as chancellor, staff member, or employee.

Sec. 3333.043. (A) As used in this section:

(1) "Institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, municipal educational institutions established under Chapter 3349. of the Revised Code, community colleges established under Chapter 3354. of the Revised Code, university branches established under Chapter 3355. of the Revised Code, technical colleges established under Chapter 3357. of the Revised Code, state community colleges established under Chapter 3358. of the Revised Code, any institution of higher education with a certificate of registration from the state board of career colleges and schools, and any institution for which the chancellor of the Ohio board of regents receives a notice pursuant to division (C) of this section.

(2) "Community service" has the same meaning as in section 3313.605 of the Revised Code.

(B)(1) The board of trustees or other governing entity of each institution of higher education shall encourage and promote participation of students in

community service through a program appropriate to the mission, student population, and environment of each institution. The program may include, but not be limited to, providing information about community service opportunities during student orientation or in student publications; providing awards for exemplary community service; encouraging faculty members to incorporate community service into students' academic experiences wherever appropriate to the curriculum; encouraging recognized student organizations to undertake community service projects as part of their purposes; and establishing advisory committees of students, faculty members, and community and business leaders to develop cooperative programs that benefit the community and enhance student experience. The program shall be flexible in design so as to permit participation by the greatest possible number of students, including part-time students and students for whom participation may be difficult due to financial, academic, personal, or other considerations. The program shall emphasize community service opportunities that can most effectively use the skills of students, such as tutoring or literacy programs. The programs shall encourage students to perform services that will not supplant the hiring of, result in the displacement of, or impair any existing employment contracts of any particular employee of any private or governmental entity for which services are performed.

(2) The chancellor of the Ohio board of regents shall encourage all institutions of higher education in the development of community service programs. With the assistance of the Ohio ~~community commission on service council~~ community commission on service council and volunteerism created in section 121.40 of the Revised Code, the chancellor shall make available information about higher education community service programs to institutions of higher education and to statewide organizations involved with or promoting volunteerism, including information about model community service programs, teacher training courses, and community service curricula and teaching materials for possible use by institutions of higher education in their programs. The chancellor shall encourage institutions of higher education to jointly coordinate higher education community service programs through consortia of institutions or other appropriate means of coordination.

(C) The board of trustees of any nonprofit institution with a certificate of authorization issued pursuant to Chapter 1713. of the Revised Code or the governing authority of a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code may notify the chancellor that it is making itself subject to divisions (A) and (B) of this section. Upon receipt of such a notice, these

divisions shall apply to that institution.

Sec. 3333.0411. Not later than December 31, 2012, and annually thereafter, the chancellor of the Ohio board of regents shall report aggregate academic growth data for students assigned to graduates of teacher preparation programs approved under section 3333.048 of the Revised Code who teach English language arts or mathematics in any of grades four to eight in a public school in Ohio. For this purpose, the chancellor shall use the value-added progress dimension prescribed by section 3302.021 of the Revised Code. The chancellor shall aggregate the data by graduating class for each approved teacher preparation program, except that if a particular class has ten or fewer graduates to which this section applies, the chancellor shall report the data for a group of classes over a three-year period. In no case shall the report identify any individual graduate. The department of education shall share any data necessary for the report with the chancellor.

Sec. 3333.31. (A) For state subsidy and tuition surcharge purposes, status as a resident of Ohio shall be defined by the chancellor of the Ohio board of regents by rule promulgated pursuant to Chapter 119. of the Revised Code. No adjudication as to the status of any person under such rule, however, shall be required to be made pursuant to Chapter 119. of the Revised Code. The term "resident" for these purposes shall not be equated with the definition of that term as it is employed elsewhere under the laws of this state and other states, and shall not carry with it any of the legal connotations appurtenant thereto. Rather, except as provided in ~~division~~ divisions (B) and (D) of this section, for such purposes, the rule promulgated under this section shall have the objective of excluding from treatment as residents those who are present in the state primarily for the purpose of attending a state-supported or state-assisted institution of higher education, and may prescribe presumptive rules, rebuttable or conclusive, as to such purpose based upon the source or sources of support of the student, residence prior to first enrollment, evidence of intention to remain in the state after completion of studies, or such other factors as the chancellor deems relevant.

(B) The rules of the chancellor for determining student residency shall grant residency status to a veteran and to the veteran's spouse and any dependent of the veteran, if both of the following conditions are met:

(1) The veteran either:

(a) Served one or more years on active military duty and was honorably discharged or received a medical discharge that was related to the military service;

(b) Was killed while serving on active military duty or has been

declared to be missing in action or a prisoner of war.

(2) If the veteran seeks residency status for tuition surcharge purposes, the veteran has established domicile in this state as of the first day of a term of enrollment in an institution of higher education. If the spouse or a dependent of the veteran seeks residency status for tuition surcharge purposes, the veteran and the spouse or dependent seeking residency status have established domicile in this state as of the first day of a term of enrollment in an institution of higher education, except that if the veteran was killed while serving on active military duty or has been declared to be missing in action or a prisoner of war, only the spouse or dependent seeking residency status shall be required to have established domicile in accordance with this division.

(C) The rules of the chancellor for determining student residency shall not deny residency status to a student who is either a dependent child of a parent, or the spouse of a person who, as of the first day of a term of enrollment in an institution of higher education, has accepted full-time employment and established domicile in this state for reasons other than gaining the benefit of favorable tuition rates.

Documentation of full-time employment and domicile shall include both of the following documents:

(1) A sworn statement from the employer or the employer's representative on the letterhead of the employer or the employer's representative certifying that the parent or spouse of the student is employed full-time in Ohio;

(2) A copy of the lease under which the parent or spouse is the lessee and occupant of rented residential property in the state, a copy of the closing statement on residential real property of which the parent or spouse is the owner and occupant in this state or, if the parent or spouse is not the lessee or owner of the residence in which the parent or spouse has established domicile, a letter from the owner of the residence certifying that the parent or spouse resides at that residence.

Residency officers may also evaluate, in accordance with the chancellor's rule, requests for immediate residency status from dependent students whose parents are not living and whose domicile follows that of a legal guardian who has accepted full-time employment and established domicile in the state for reasons other than gaining the benefit of favorable tuition rates.

(D)(1) The rules of the chancellor for determining student residency shall grant residency status to a person who, while a resident of this state for state subsidy and tuition surcharge purposes, graduated from a high school in this state, if the person enrolls in an institution of higher education and

establishes domicile in this state, regardless of the student's residence prior to that enrollment.

(2) The rules of the chancellor for determining student residency shall not grant residency status to an alien if the alien is not also an immigrant or a nonimmigrant.

(E) As used in this section:

(1) "Dependent," "domicile," "institution of higher education," and "residency officer" have the meanings ascribed in the chancellor's rules adopted under this section.

(2) "Alien" means a person who is not a United States citizen or a United States national.

(3) "Immigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside permanently in the United States and to work without restrictions in the United States.

(4) "Nonimmigrant" means an alien who has been granted the right by the United States bureau of citizenship and immigration services to reside temporarily in the United States.

Sec. 3333.43. This section does not apply to any baccalaureate degree program that is a cooperative education program, as defined in section 3333.71 of the Revised Code.

(A) The chancellor of the Ohio board of regents shall require all state institutions of higher education that offer baccalaureate degrees, as a condition of reauthorization for certification of each baccalaureate program offered by the institution, to submit a statement describing how each major for which the school offers a baccalaureate degree may be completed within three academic years. The chronology of the statement shall begin with the fall semester of a student's first year of the baccalaureate program.

(B) The statement required under this section may include, but not be limited to, any of the following methods to contribute to earning a baccalaureate degree in three years:

(1) Advanced placement credit;

(2) International baccalaureate program credit;

(3) A waiver of degree and credit-hour requirements by completion of courses that are widely available at community colleges in the state or through online programs offered by state institutions of higher education or private nonprofit institutions of higher education holding certificates of authorization under Chapter 1713. of the Revised Code, and through courses taken by the student through the post-secondary enrollment options program under Chapter 3365. of the Revised Code;

(4) Completion of coursework during summer sessions:

(5) A waiver of foreign-language degree requirements based on a proficiency examination specified by the institution.

(C)(1) Not later than October 15, 2012, each state institution of higher education shall provide statements required under this section for ten per cent of all baccalaureate degree programs offered by the institution.

(2) Not later than June 30, 2014, each state institution of higher education shall provide statements required under this section for sixty per cent of all baccalaureate degree programs offered by the institution.

(D) Each state institution of higher education required to submit statements under this section shall post its three-year option on its web site and also provide that information to the department of education. The department shall distribute that information to the superintendent, high school principal, and guidance counselor, or equivalents, of each school district, community school established under Chapter 3314. of the Revised Code, and STEM school established under Chapter 3326. of the Revised Code.

(E) Nothing in this section requires an institution to take any action that would violate the requirements of any independent association accrediting baccalaureate degree programs.

Sec. 3333.66. (A)(1) Except as provided in division (A)(2) of this section, in each academic year, no student who receives a choose Ohio first scholarship shall receive less than one thousand five hundred dollars or more than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities. For this purpose, if Miami university is implementing the pilot tuition restructuring plan originally recognized in Am. Sub. H.B. 95 of the 125th general assembly, that university's instructional and general fees shall be considered to be the average full-time in-state undergraduate instructional and general fee amount after taking into account the Ohio resident and Ohio leader scholarships and any other credit provided to all Ohio residents.

(2) The chancellor of the Ohio board of regents may authorize a state university or college or a nonpublic Ohio institution of higher education to award a choose Ohio first scholarship in an amount greater than one-half of the highest in-state undergraduate instructional and general fees charged by all state universities to either of the following:

(a) Any undergraduate student who qualifies for a scholarship and is enrolled in a program leading to a teaching profession in science, technology, engineering, mathematics, or medicine;

(b) Any graduate student who qualifies for a scholarship, if any

initiatives are selected for award under division (B) of this section.

(B) The chancellor shall encourage state universities and colleges, alone or in collaboration with other state institutions of higher education, nonpublic Ohio universities and colleges, or other public or private Ohio entities, to submit proposals under the choose Ohio first scholarship program for initiatives that recruit either of the following:

(1) Ohio residents who enrolled in colleges and universities in other states or other countries to return to Ohio and enroll in state universities or colleges as graduate students in the fields of science, technology, engineering, mathematics, and medicine, or in the fields of science, technology, engineering, mathematics, or medical education. If such proposals are submitted and meet the chancellor's competitive criteria for awards, the chancellor, subject to approval by the controlling board, shall give at least one of the proposals preference for an award.

(2) Graduates, or undergraduates who will graduate in time to participate in the program described in this division by the subsequent school year, from an Ohio college or university who received, or will receive, a degree in science, technology, engineering, mathematics, or medicine to participate in a graduate-level teacher education masters program in one of those fields that requires the student to establish a domicile in the state and to commit to teach for a minimum of three years in a hard-to-staff school district in the state upon completion of the master's degree program. The chancellor may require a college or university to give priority to qualified candidates who graduated from a high school in this state.

"Hard-to-staff" shall be as defined by the department of education.

(C) The general assembly intends that money appropriated for the choose Ohio first scholarship program in each fiscal year be used for scholarships in the following academic year.

Sec. 3333.81. As used in sections 3333.81 to 3333.88 of the Revised Code:

(A) "Clearinghouse" means the clearinghouse established under section 3333.82 of the Revised Code.

(B) "Community school" means a community school established under Chapter 3314. of the Revised Code.

(C) "Common statewide platform" means a software program that facilitates the delivery of courses via computers from multiple course providers to multiple end users, tracks the progress of the end user, and includes an integrated searchable database of standards-based course content.

(D) "Course provider" means a school district, community school, STEM school, state institution of higher education, private college or university, or nonprofit or for-profit private entity that creates or is an agent of the creator of original course content for a course offered through the clearinghouse.

(E) "Instructor" means an individual who holds a license issued by the state board of education, as defined in section 3319.31 of the Revised Code, or an individual employed as an instructor or professor by a state institution of higher education or a private college or university.

(F) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

(G) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

(H) A "student's community school" means the community school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(I) A "student's school district" means the school district operating the school in which the student is lawfully enrolled.

(J) "A student's STEM school" means the STEM school in which the student is enrolled instead of being enrolled in a school operated by a school district.

(K) "School district" means a city, exempted village, local, or joint vocational school district.

Sec. 3333.82. (A) The chancellor of the Ohio board of regents shall establish a clearinghouse of interactive distance learning courses and other distance learning courses delivered via a computer-based method offered by school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and other nonprofit and for-profit course providers for sharing with other school districts, community schools, STEM schools, state institutions of higher education, private colleges and universities, and individuals for the fee set pursuant to section 3333.84 of the Revised Code. The chancellor shall not be responsible for the content of courses offered through the clearinghouse; however, all such courses shall be delivered only in accordance with technical specifications approved by the chancellor and on a common statewide platform administered by the chancellor.

The clearinghouse's distance learning program for students in grades kindergarten to twelve shall be based on the following principles:

(1) All Ohio students shall have access to high quality distance learning courses at any point in their educational careers.

(2) All students shall be able to customize their education using distance learning courses offered through the clearinghouse and no student shall be denied access to any course in the clearinghouse in which the student is eligible to enroll.

(3) Students may take distance learning courses for all or any portion of their curriculum requirements and may utilize a combination of distance learning courses and courses taught in a traditional classroom setting.

(4) Students may earn an unlimited number of academic credits through distance learning courses.

(5) Students may take distance learning courses at any time of the calendar year.

(6) Student advancement to higher coursework shall be based on a demonstration of subject area competency instead of completion of any particular number of hours of instruction.

(B) To offer a course through the clearinghouse, a course provider shall apply to the chancellor in a form and manner prescribed by the chancellor. The application for each course shall describe the course of study in as much detail as required by the chancellor, whether an instructor is provided, the qualification and credentials of the instructor, the number of hours of instruction, and any other information required by the chancellor. The chancellor may require course providers to include in their applications information recommended by the state board of education under former section 3353.30 of the Revised Code.

(C) The chancellor shall review the technical specifications of each application submitted under division (B) of this section. In reviewing applications, the chancellor may consult with the department of education; however, the responsibility to either approve or not approve a course for the clearinghouse belongs to the chancellor. The chancellor may request additional information from a course provider that submits an application under division (B) of this section, if the chancellor determines that such information is necessary. The chancellor may negotiate changes in the proposal to offer a course, if the chancellor determines that changes are necessary in order to approve the course.

(D) The chancellor shall catalog each course approved for the clearinghouse, through a print or electronic medium, displaying the following:

(1) Information necessary for a student and the student's parent, guardian, or custodian and the student's school district, community school, STEM school, college, or university to decide whether to enroll in or subscribe to the course;

(2) Instructions for enrolling in that course, including deadlines for enrollment.

(E) Any expenses related to the installation of a course into the common statewide platform shall be borne by the course provider.

~~(F) The chancellor may contract with an entity to perform any or all of the chancellor's duties under sections 3333.81 to 3333.88 of the Revised Code. The eTech Ohio commission, in consultation with the chancellor and the state board, shall distribute information to students and parents describing the clearinghouse. The information shall be provided in an easily understandable format.~~

~~Sec. 3333.83. (A) A student who is enrolled in a school operated by a school district or in a community school or STEM school may enroll in a course through the clearinghouse only if both of the following conditions are satisfied:~~

~~(1) The student's enrollment in the course is approved by the student's school district, community school, or STEM school.~~

~~(2) The student's school district, community school, or STEM school agrees to accept for credit the grade assigned by the course provider, if that provider is another school district, community school, or STEM school. Each school district, community school, and STEM school shall encourage students to take advantage of the distance learning opportunities offered through the clearinghouse and shall assist any student electing to participate in the clearinghouse with the selection and scheduling of courses that satisfy the district's or school's curriculum requirements and promote the student's post-secondary college or career plans.~~

(B) For each student enrolled in a school operated by a school district or in a community school or STEM school who is enrolling in a course provided through the clearinghouse by another school district, community school, or STEM school, the student's school district, community school, or STEM school shall transmit the student's name to the course provider.

The course provider may request from the student's school district, community school, or STEM school other information from the student's school record. The district or school shall provide the requested information only in accordance with section 3319.321 of the Revised Code.

(C) The student's school district, community school, or STEM school shall determine the manner in which and facilities at which the student shall participate in the course consistent with specifications for technology and connectivity adopted by the chancellor of the Ohio board of regents.

(D) A student may withdraw from a course prior to the end of the course only by a date and in a manner prescribed by the student's school district,

community school, or STEM school.

(E) A student who is enrolled in a school operated by a school district or in a community school or STEM school and who takes a course through the clearinghouse shall be counted in the formula ADM of a school district under section 3317.03 of the Revised Code as if the student were taking the course from the student's school district, community school, or STEM school.

Sec. 3333.84. (A) The fee charged for any course offered through the clearinghouse shall be set by the course provider.

(B) The chancellor of the Ohio board of regents shall prescribe the manner in which the fee for a course shall be collected or deducted from the school district, school, college or university, or individual subscribing to the course and in which manner the fee shall be paid to the course provider.

(C) The chancellor may retain a percentage of the fee charged for a course to offset the cost of maintaining and operating the clearinghouse, including the payment of compensation for an entity or a private entity that is under contract with the chancellor under division (F) of section 3333.82 of the Revised Code. The percentage retained shall be determined by the chancellor.

(D) Nothing in this section shall be construed to require the school district, community school, or STEM school in which a student is enrolled to pay the fee charged for a course taken by the student.

Sec. 3333.85. (A) The grade for a student enrolled in a school operated by a school district or in a community school or STEM school for a course provided through the clearinghouse by another school district, community school, or STEM school shall be assigned by the course provider and shall be transmitted to the student's school district, community school, or STEM school.

(B) The district or school enrolling the student shall award the student credit for successful completion of the course. The credit awarded shall be equivalent to any credit that would be granted for successful completion of a similar course offered by the district or school.

(C) No district or school shall prohibit or otherwise limit any student's access to or participation in courses offered through the clearinghouse, or refuse to recognize such courses as fulfilling curriculum requirements, including the requirements for a high school diploma under section 3313.603 of the Revised Code.

Sec. 3333.87. The chancellor of the Ohio board of regents and the state board of education jointly, and in consultation with the director of the governor's office of 21st century education, shall adopt rules in accordance

with Chapter 119. of the Revised Code prescribing procedures for the implementation of sections 3333.81 to 3333.86 of the Revised Code.

Sec. 3333.90. (A) As used in this section:

(1) "Allocated state share of instruction" means, for any fiscal year, the amount of the state share of instruction appropriated to the Ohio board of regents by the general assembly that is allocated to a community or technical college or community or technical college district for such fiscal year.

(2) "Authority Issuing authority" ~~means the Ohio building authority has the same meaning as in section 154.01 of the Revised Code.~~

(3) "Bond service charges" has the same meaning as in section ~~152.09~~ 154.01 of the Revised Code.

(4) "Chancellor" means the chancellor of the Ohio board of regents.

(5) "Community or technical college" or "college" means any of the following state-supported or state-assisted institutions of higher education:

(a) A community college as defined in section 3354.01 of the Revised Code;

(b) A technical college as defined in section 3357.01 of the Revised Code;

(c) A state community college as defined in section 3358.01 of the Revised Code.

(6) "Community or technical college district" or "district" means any of the following institutions of higher education that are state-supported or state-assisted:

(a) A community college district as defined in section 3354.01 of the Revised Code;

(b) A technical college district as defined in section 3357.01 of the Revised Code;

(c) A state community college district as defined in section 3358.01 of the Revised Code.

(7) "Credit enhancement facilities" has the same meaning as in section 133.01 of the Revised Code.

(8) "Obligations" has the meaning as in section ~~152.09~~ 154.01 or 3345.12 of the Revised Code, as the context requires.

(B) The board of trustees of any community or technical college district authorizing the issuance of obligations under section 3354.12, 3354.121, 3357.11, 3357.112, or 3358.10 of the Revised Code, or for whose benefit and on whose behalf the issuing authority proposes to issue obligations under ~~division (G) of section 152.09~~ 154.25 of the Revised Code, may adopt a resolution requesting the chancellor to enter into an agreement with the

community or technical college district and the primary paying agent or fiscal agent for such obligations, providing for the withholding and deposit of funds otherwise due the district or the community or technical college it operates in respect of its allocated state share of instruction, for the payment of bond service charges on such obligations.

The board of trustees shall deliver to the chancellor a copy of the resolution and any additional pertinent information the chancellor may require.

The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, shall evaluate each request received from a community or technical college district under this section. The chancellor, with the advice and consent of the director of budget and management and the issuing authority in the case of obligations to be issued by the issuing authority, shall approve each request if all of the following conditions are met:

(1) Approval of the request will enhance the marketability of the obligations for which the request is made;

(2) The chancellor and the office of budget and management, and the issuing authority in the case of obligations to be issued by the issuing authority, have no reason to believe the requesting community or technical college district or the community or technical college it operates will be unable to pay when due the bond service charges on the obligations for which the request is made, and bond service charges on those obligations are therefore not anticipated to be paid pursuant to this section from the allocated state share of instruction for purposes of Section 17 of Article VIII, Ohio Constitution.

(3) Any other pertinent conditions established in rules adopted under division (H) of this section.

(C) If the chancellor approves the request of a community or technical college district to withhold and deposit funds pursuant to this section, the chancellor shall enter into a written agreement with the district and the primary paying agent or fiscal agent for the obligations, which agreement shall provide for the withholding of funds pursuant to this section for the payment of bond service charges on those obligations. The agreement may also include both of the following:

(1) Provisions for certification by the district to the chancellor, prior to the deadline for payment of the applicable bond service charges, whether the district and the community or technical college it operates are able to pay those bond service charges when due;

(2) Requirements that the district or the community or technical college

it operates deposits amounts for the payment of those bond service charges with the primary paying agent or fiscal agent for the obligations prior to the date on which the bond service charges are due to the owners or holders of the obligations.

(D) Whenever a district or the community or technical college it operates notifies the chancellor that it will not be able to pay the bond service charges when they are due, subject to the withholding provisions of this section, or whenever the applicable paying agent or fiscal agent notifies the chancellor that it has not timely received from a district or from the college it operates the full amount needed for payment of the bond service charges when due to the holders or owners of such obligations, the chancellor shall immediately contact the district or college and the paying agent or fiscal agent to confirm that the district and the college are not able to make the required payment by the date on which it is due.

If the chancellor confirms that the district and the college are not able to make the payment and the payment will not be made pursuant to a credit enhancement facility, the chancellor shall promptly pay to the applicable primary paying agent or fiscal agent the lesser of the amount due for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or to the college in respect of its allocated state share of instruction. If this amount is insufficient to pay the total amount then due the agent for the payment of bond service charges, the chancellor shall continue to pay to the agent from each periodic distribution thereafter, and until the full amount due the agent for unpaid bond service charges is paid in full, the lesser of the remaining amount due the agent for bond service charges or the amount of the next periodic distribution scheduled to be made to the district or college in respect of its allocated state share of instruction.

(E) The chancellor may make any payments under this section by direct deposit of funds by electronic transfer.

Any amount received by a paying agent or fiscal agent under this section shall be applied only to the payment of bond service charges on the obligations of the community or technical college district or community or technical college subject to this section or to the reimbursement of the provider of a credit enhancement facility that has paid the bond service charges.

(F) The chancellor may make payments under this section to paying agents or fiscal agents during any fiscal biennium of the state only from and to the extent that money is appropriated to the board of regents by the general assembly for distribution during such biennium for the state share of instruction and only to the extent that a portion of the state share of

instruction has been allocated to the community or technical college district or community or technical college. Obligations of the issuing authority or of a community or technical college district to which this section is made applicable do not constitute an obligation or a debt or a pledge of the faith, credit, or taxing power of the state, and the holders or owners of those obligations have no right to have excises or taxes levied or appropriations made by the general assembly for the payment of bond service charges on the obligations, and the obligations shall contain a statement to that effect. The agreement for or the actual withholding and payment of money under this section does not constitute the assumption by the state of any debt of a community or technical college district or a community or technical college, and bond service charges on the related obligations are not anticipated to be paid from the state general revenue fund for purposes of Section 17 of Article VIII, Ohio Constitution.

(G) In the case of obligations subject to the withholding provisions of this section, the issuing community or technical college district, or the issuing authority in the case of obligations issued by the issuing authority, shall appoint a paying agent or fiscal agent who is not an officer or employee of the district or college.

(H) The chancellor, with the advice and consent of the office of budget and management, may adopt reasonable rules not inconsistent with this section for the implementation of this section to secure payment of bond service charges on obligations issued by a community or technical college district or by the issuing authority for the benefit of a community or technical college district or the community or technical college it operates. Those rules shall include criteria for the evaluation and approval or denial of community or technical college district requests for withholding under this section.

(I) The authority granted by this section is in addition to and not a limitation on any other authorizations granted by or pursuant to law for the same or similar purposes.

Sec. 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 and investment options offered by the authority. The investment options shall include a default option to benefit contributors who are first-time investors or have low to moderate incomes. 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. These funds are hereby created in 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. 3345.023. (A) No state institution of higher education shall take any action or enforce any policy that would deny a religious student group any benefit available to any other student group based on the religious student group's requirement that its leaders or members adhere to its sincerely held religious beliefs or standards of conduct.

(B) As used in this section:

(1) "Benefits" include, without limitation:

(a) Recognition;

(b) Registration;

(c) The use of facilities of the state institution of higher education for meetings or speaking purposes, subject to section 3345.021 of the Revised Code;

(d) The use of channels of communication of the state institution of higher education;

(e) Funding sources that are otherwise available to any other student group in the state institution of higher education.

(2) "State institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.061. (A) Ohio's two-year institutions of higher education are respected points of entry for students embarking on post-secondary careers and courses completed at those institutions are transferable to state universities in accordance with articulation and transfer agreements developed under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(B) Beginning with undergraduate students who commence undergraduate studies in the 2014-2015 academic year, no state university listed in section 3345.011 of the Revised Code, except Central state university, Shawnee state university, and Youngstown state university, shall

receive any state operating subsidies for any academic remedial or developmental courses for undergraduate students, including courses prescribed in the Ohio core curriculum for high school graduation under division (C) of section 3313.603 of the Revised Code, offered at its main campus, except as provided in divisions (B)(1) to (4) of this section.

(1) In the 2014-2015 and 2015-2016 academic years, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than three per cent of the total undergraduate credit hours provided by the university at its main campus.

(2) In the 2016-2017 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than fifteen per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

(3) In the 2017-2018 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than ten per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

(4) In the 2018-2019 academic year, a state university may receive state operating subsidies for academic remedial or developmental courses for not more than five per cent of the first-year students who have graduated from high school within the previous twelve months and who are enrolled in the university at its main campus, as calculated on a full-time-equivalent basis.

Each state university may continue to offer academic remedial and developmental courses at its main campus beyond the extent for which state operating subsidies may be paid under this division and may continue to offer such courses beyond the 2018-2019 academic year. However, the university shall not receive any state operating subsidies for such courses above the maximum amounts permitted in this division.

(C) Except as otherwise provided in division (B) of this section, beginning with students who commence undergraduate studies in the 2014-2015 academic year, state operating subsidies for academic remedial or developmental courses offered by state institutions of higher education may be paid only to Central state university, Shawnee state university, Youngstown state university, any university branch, any community college, any state community college, or any technical college.

(D) Each state university shall grant credit for academic remedial or developmental courses successfully completed at an institution described in

division (C) of this section pursuant to any applicable articulation and transfer agreements the university has entered into in accordance with policies and procedures adopted under section 3333.16, 3333.161, or 3333.162 of the Revised Code.

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

(1) Withhold state operating subsidies for academic remedial or developmental courses provided by a state university as required in order to conform to divisions (B) and (C) of this section;

(2) Adopt uniform statewide standards for academic remedial and developmental courses offered by all state institutions of higher education; ~~as defined in section 3345.011 of the Revised Code;~~

(3) Encourage and assist in the design and establishment of academic remedial and developmental courses by institutions of higher education;

(4) Define "academic year" for purposes of this section and section 3345.06 of the Revised Code;

(5) Encourage and assist in the development of articulation and transfer agreements between state universities and other institutions of higher education in accordance with policies and procedures adopted under sections 3333.16, 3333.161, and 3333.162 of the Revised Code.

(F) Not later than December 31, 2012, the presidents, or equivalent position, of all state institutions of higher education, or their designees, jointly shall establish uniform statewide standards in mathematics, science, reading, and writing each student enrolled in a state institution of higher education must meet to be considered in remediation-free status. The presidents also shall establish assessments, if they deem necessary, to determine if a student meets the standards adopted under this division. Each institution is responsible for assessing the needs of its enrolled students in the manner adopted by the presidents. The board of trustees or managing authority of each state institution of higher education shall adopt the remediation-free status standard, and any related assessments, into the institution's policies.

The chancellor shall assist in coordinating the work of the presidents under this division.

(G) Each year, not later than a date established by the chancellor, each state institution of higher education shall report to the governor, the general assembly, the chancellor, and the superintendent of public instruction all of the following for the prior academic year:

(1) The institution's aggregate costs for providing academic remedial or developmental courses;

(2) The amount of those costs disaggregated according to the city, local, or exempted village school districts from which the students taking those courses received their high school diplomas;

(3) Any other information with respect to academic remedial and developmental courses that the chancellor considers appropriate.

(H) Not later than December 31, 2011, and the thirty-first day of each December thereafter, the chancellor and the superintendent of public instruction shall issue a report recommending policies and strategies for reducing the need for academic remediation and developmental courses at state institutions of higher education.

(I) As used in this section, "state institution of higher education" has the same meaning as in section 3345.011 of the Revised Code.

Sec. 3345.14. (A) As used in this section, "state college or university" means any state university or college defined in division (A)(1) of section 3345.12 of the Revised Code, and any other institution of higher education defined in division (A)(2) of that section.

(B) All rights to and interests in discoveries, inventions, or patents which result from research or investigation conducted in any experiment station, bureau, laboratory, research facility, or other facility of any state college or university, or by employees of any state college or university acting within the scope of their employment or with funding, equipment, or infrastructure provided by or through any state college or university, shall be the sole property of that college or university. No person, firm, association, corporation, or governmental agency which uses the facilities of such college or university in connection with such research or investigation and no faculty member, employee, or student of such college or university participating in or making such discoveries or inventions, shall have any rights to or interests in such discoveries or inventions, including income therefrom, except as may, by determination of the board of trustees of such college or university, be assigned, licensed, transferred, or paid to such persons or entities in accordance with division (C) of this section or in accordance with rules adopted under division (D) of this section.

(C) As may be determined from time to time by the board of trustees of any state college or university, the college or university may retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon such terms as the board of trustees may direct, any and all rights to, interests in, or income from any such discoveries, inventions, or patents which the college or university owns or may acquire. Such dispositions may be to any individual, firm, association, corporation, or governmental agency, or to any faculty member, employee, or student of the college or university as the

board of trustees may direct. Any and all income or proceeds derived or retained from such dispositions shall be applied to the general or special use of the college or university as determined by the board of trustees of such college or university.

(D)(1) Notwithstanding any provision of the Revised Code to the contrary, including but not limited to sections 102.03, 102.04, 2921.42, and 2921.43 of the Revised Code, the board of trustees of any state college or university may adopt rules in accordance with section 111.15 of the Revised Code that set forth circumstances under which an employee of the college or university may solicit or accept, and under which a person may give or promise to give to such an employee, a financial interest in any firm, corporation, or other association to which the board has assigned, licensed, transferred, or sold the college or university's interests in its intellectual property, including discoveries or inventions made or created by that employee or in patents issued to that employee.

(2) Rules established under division (D)(1) of this section shall include the following:

(a) A requirement that each college or university employee disclose to the college or university board of trustees any financial interest the employee holds in a firm, corporation, or other association as described in division (D)(1) of this section;

(b) A requirement that all disclosures made under division (D)(2)(a) of this section are reviewed by officials designated by the college or university board of trustees. The officials designated under this division shall determine the information that shall be disclosed and safeguards that shall be applied in order to manage, reduce, or eliminate any actual or potential conflict of interest.

(c) A requirement that in implementing division (D) of this section all members of the college or university board of trustees shall be governed by Chapter 102. and sections 2921.42 and 2921.43 of the Revised Code.

(d) Guidelines to ensure that any financial interest held by any employee of the college or university does not result in misuse of the students, employees, or resources of the college or university for the benefit of the firm, corporation, or other association in which such interest is held or does not otherwise interfere with the duties and responsibilities of the employee who holds such an interest.

(3) Rules established under division (D)(1) of this section may include other provisions at the discretion of the college or university board of trustees.

(E) Notwithstanding division (D) of this section, the Ohio ethics

commission retains authority to provide assistance to a college or university board of trustees in the implementation of division (D)(2) of this section and to address any matter that is outside the scope of the exception to division (B) of this section as set forth in division (D) of this section or as set forth in rules established under division (D) of this section.

Sec. 3345.54. (A) As used in this section:

(1) "Auxiliary facilities" has the same meaning as in section 3345.12 of the Revised Code.

(2) "Conduit entity" means an organization described in section 501(c)(3) of the Internal Revenue Code qualified as a public charity under section 509(a)(2) or 509(a)(3) of the Internal Revenue Code, whose corporate purpose allows it to perform the functions and obligations of a conduit entity pursuant to the terms of a financing agreement.

(3) "Conveyed property" means auxiliary facilities conveyed by a state institution to a conduit entity pursuant to a financing agreement.

(4) "Financing agreement" means a contract described in division (C) of this section.

(5) "Independent funding source" means a private entity that enters into a financing agreement with a conduit entity and a state institution.

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

(B) The board of trustees of a state institution, with the approval of the chancellor of the Ohio board of regents and the controlling board, may enter into a financing agreement with a conduit entity and an independent funding source selected either through a competitive selection process or by direct negotiations, and may convey to the conduit entity title to any auxiliary facilities owned by the state institution pursuant to the terms of a financing agreement.

(C) A financing agreement under this section is a written contract entered into among a state institution, a conduit entity, and an independent funding source that provides for:

(1) The conveyance of auxiliary facilities owned by a state institution to the conduit entity for consideration deemed adequate by the state institution;

(2) The lease of the conveyed property by the conduit entity to the independent funding source and leaseback of the conveyed property to the conduit entity for a term not to exceed ninety-nine years;

(3) Such other terms and conditions that may be negotiated and agreed upon by the parties, including, but not limited to, terms regarding:

(a) Payment to the state institution by the conduit entity of revenues received by it from the operations of the conveyed property in excess of the

payments it is required to make to the independent funding source under the lease-leaseback arrangement described in division (C)(2) of this section;

(b) Pledge, assignment, or creation of a lien in favor of the independent funding source by the conduit entity of any revenues derived from the conveyed property;

(c) Reverter or conveyance of title to the conveyed property to the state institution when the conveyed property is no longer subject to a lease with the independent funding source.

(4) Terms and conditions required by the chancellor or the controlling board as a condition of approval of the financing agreement.

(D) The state institution and the conduit entity may enter into such other management agreements or other contracts regarding the conveyed property the parties deem appropriate, including agreements pursuant to which the state institution may maintain or administer the conveyed property and collect and disburse revenues from the conveyed property on behalf of the conduit entity.

(E) The parties may modify or extend the term of the financing agreement with the approval of the chancellor and the controlling board.

(F) The conveyed property shall retain its exemption from property taxes and assessments as though title to the conveyed property were held by the state institution during any part of a tax year that title is held by the state institution or the conduit entity and, if held by the conduit entity, remains subject to the lease-leaseback arrangement described in division (C)(2) of this section. However, as a condition of the continued exemption of the conveyed property during the term of the lease-leaseback arrangement the conduit entity shall apply for and maintain the exemption as provided by law.

(G) Nothing in this section is intended to abrogate, amend, limit, or replace any existing authority state institutions may have with respect to the conveyance, lease, lease-leaseback, finance, or acquisition of auxiliary facilities including, but not limited to, authority granted under sections 3345.07, 3345.11, and 3345.12 of the Revised Code.

Sec. 3345.55. (A) For purposes of this section, "university" includes a state institution of higher education as defined in section 3345.011 of the Revised Code and a university housing commission created under section 3347.01 of the Revised Code.

(B) Each university may enter into a lease agreement with a nonpublic vendor to provide housing services in campus housing facilities to students of the university. The lease agreement may require the vendor to construct new campus housing facilities to serve students. The vendor with whom the

university enters into an agreement shall be responsible for the operation and maintenance of the housing facilities. The lease shall be for a term of at least twenty years but shall not exceed thirty years. The lease agreement shall specify that the vendor is required to lease housing units to students of the university. Any university housing policies shall extend to and be enforced by the vendors with whom the university contracts.

(C) If the vendors with whom the university has entered into a lease agreement violate the terms of the lease, the university may revoke the lease and regain operational control over the dormitory.

Sec. 3345.81. (A) The chancellor of the Ohio board of regents shall develop a plan for designating public institutions of higher education as charter universities. In developing the plan, the chancellor shall:

(1) Study the administrative and financial relationships between the state and its public institutions of higher education to determine the extent to which public colleges and universities can manage their operations more effectively when accorded flexibility through selected delegation of authority;

(2) Examine legal and other issues related to the feasibility and practicability of restructuring the administrative and financial relationships between the state and its public institutions of higher education;

(3) Consult with the presidents of the institutions of higher education of the university system of Ohio.

(B) The office of budget and management, the department of administrative services, and each state institution of higher education shall provide the chancellor, upon the chancellor's request, with research assistance, fiscal and policy analysis, and other services in conducting the study and developing the plan under this section. Each state agency shall provide the chancellor with any other assistance requested by the chancellor in conducting the study and developing the plan.

(C) The chancellor shall specify in the plan:

(1) The manner in which a state institution of higher education may become eligible for restructured financial and operational authority, and performance measures and criteria to determine eligibility. The performance measures and criteria shall address the institution's ability to manage successfully its administrative and financial operations without jeopardizing the financial integrity and stability of the institution.

(2) Specific areas of financial and operational authority that are subject to increased flexibility;

(3) The nature and term of the management agreement required between the state and an institution.

(D) Not later than August 15, 2011, the chancellor shall submit to the general assembly and the governor a report of findings and recommendations for use in developing policy, statutory, and administrative rule changes necessary to implement the plan. No institution shall be designated a charter university until the general assembly, after considering the chancellor's plan, has enacted legislation establishing a procedure for making the designation. The chancellor shall not adopt, amend, or rescind any rules with respect to designating institutions as charter universities until that legislation is enacted. The general assembly intends that the general assembly, governor, and chancellor will take actions necessary for implementation of the plan for charter universities to commence July 1, 2012.

Sec. 3349.29. An agreement made pursuant to sections 3349.27 and 3349.28 of the Revised Code is not effective unless it has been approved by the legislative authority of the municipal corporation with which the municipal university is identified, upon such legislative authority's determination that such agreement will be beneficial to the municipal corporation, and also approved by the Ohio board of regents, and, if required by any applicable appropriation measure, by the state controlling board, and any payment from state tax moneys provided for in the agreement will be subject to appropriations made by the general assembly. If provision is to be made under such agreement for the transfer of, or grant of the right to use, all or a substantial part of the assets of the municipal university to the state university and assumption by the state university of educational functions of the municipal university, such agreement shall not become effective, under sections 3349.27 to 3349.30 of the Revised Code until the electors of the municipal corporation have approved such transfer or grant.

The legislative authority of the municipal corporation shall, by ordinance, submit the question to the electors at a general, primary, or a special election to be held on the date specified in the ordinance. The ordinance shall be certified to the board of elections not later than the forty-fifth day preceding the date of the election. Notice of the election shall be published in one ~~or more newspapers~~ newspaper of general circulation in the municipal corporation once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, prior to the election ~~and, if~~ and, if the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The form of the ballot to be used at the election shall be substantially as follows, with such variations as may be appropriate to reflect the general nature of the transfer or grant of use of assets and the

transfer of educational functions contemplated:

"Shall assets of the municipal university known as be transferred to (make available for use by) a state university known as and the state university assume educational functions of the municipal university and provide higher education in (or in close proximity to) the city of to the residents of the city of and of the state of Ohio and such others as shall be admitted?"

The favorable vote of a majority of those voting on the proposition constitutes such approval as is required by this section.

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

(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 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;

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

(7) Enter into agreements with noncommercial educational television or radio broadcasting stations or radio reading services for the operation of the interconnection;

(8) Enter into agreements with noncommercial educational television or radio broadcasting stations 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;

(9) Execute contracts and other agreements necessary and desirable to carry out the purposes of 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;

(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 equipment for educational broadcasting or radio reading services;

(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;

(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~~ to 9.335 of the Revised Code do not apply to contracts, programs, projects, or activities of the commission.

Sec. 3353.15. There is hereby created in the state treasury the information technology service fund. The fund shall consist of money received by the eTech Ohio commission pursuant to agreements with educational entities for the provision of information technology services to support initiatives to align education from preschool through college, and

any other money deposited into the fund by the commission. Money in the fund shall be used to provide the services specified in the agreements, including implementation and maintenance of an electronic clearinghouse for student transcript transfers and development of the education data repository described in section 3301.94 of the Revised Code. Investment earnings of the fund shall be credited to the fund.

Sec. 3354.12. (A) Upon the request by resolution approved by the board of trustees of a community college district, and upon certification to the board of elections not less than ninety days prior to the election, the boards of elections of the county or counties comprising such district shall place upon the ballot in their respective counties the question of levying a tax on all the taxable property in the community college district outside the ten-mill limitation, for a specified period of years or for a continuing period of time, to provide funds for any one or more of the following purposes: the acquisition of sites, the erection, furnishing, and equipment of buildings, the acquisition, construction, or improvement of any property which the board of trustees of a community college district is authorized to acquire, construct, or improve and which has an estimated life of usefulness of five years or more as certified by the fiscal officer, and the payment of operating costs. Not more than two special elections shall be held in any one calendar year. Levies for a continuing period of time adopted under this section may be reduced in accordance with section 5705.261 of the Revised Code.

If such proposal is to be or include the renewal of an existing levy at the expiration thereof, the ballot for such election shall state whether it is a renewal of a tax; a renewal of a stated number of mills and an increase of a stated number of mills, or a renewal of a part of an existing levy with a reduction of a stated number of mills; the year of the tax duplicate on which such renewal will first be made; and if earlier, the year of the tax duplicate on which such additional levy will first be made, which may include the tax duplicate for the current year unless the election is to be held after the first Tuesday after the first Monday in November of the current tax year. The ballot shall also state the period of years for such levy or that it is for a continuing period of time. If a levy for a continuing period of time provides for but is not limited to current expenses, the resolution of the board of trustees providing for the election on such levy shall apportion the annual rate of the levy between current expenses and the other purpose or purposes. Such apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for current expenses and the other purpose or purposes shall be limited by such apportionment. The portion of the rate apportioned to the other purpose or purposes shall be

reduced as provided in division (B) of this section.

If a majority of the electors in such district voting on such question approve thereof, the county auditor or auditors of the county or counties comprising such district shall annually, for the applicable years, place such levy on the tax duplicate in such district, in an amount determined by the board of trustees, but not to exceed the amount set forth in the proposition approved by the electors.

The boards of trustees of a community college district shall establish a special fund for all revenue derived from any tax levied pursuant to this section.

The boards of elections of the county or counties comprising the district shall cause to be published in a newspaper of general circulation in each such county an advertisement of the proposed tax levy question once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot; ~~and, if~~ If a board of elections operates and maintains a web site, that board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to that election.

After the approval of such levy by vote, the board of trustees of a community college district may anticipate a fraction of the proceeds of such levy and from time to time issue anticipation notes having such maturity or maturities that the aggregate principal amount of all such notes maturing in any calendar year shall not exceed seventy-five per cent of the anticipated proceeds from such levy for such year, and that no note shall mature later than the thirty-first day of December of the tenth calendar year following the calendar year in which such note is issued. Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code.

The amount of bonds or anticipatory notes authorized pursuant to Chapter 3354. of the Revised Code, may include sums to repay moneys previously borrowed, advanced, or granted and expended for the purposes of such bond or anticipatory note issues, whether such moneys were advanced from the available funds of the community college district or by other persons, and the community college district may restore and repay to such funds or persons from the proceeds of such issues the moneys so borrowed, advanced or granted.

All operating costs of such community college may be paid out of any gift or grant from the state, pursuant to division (K) of section 3354.09 of the Revised Code; out of student fees and tuition collected pursuant to division (G) of section 3354.09 of the Revised Code; or out of unencumbered funds from any other source of the community college

income not prohibited by law.

(B) Prior to the application of section 319.301 of the Revised Code, the rate of a levy that is limited to, or to the extent that it is apportioned to, purposes other than current expenses shall be reduced in the same proportion in which the district's total valuation increases during the life of the levy because of additions to such valuation that have resulted from improvements added to the tax list and duplicate.

Sec. 3354.16. (A) When the board of trustees of a community college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty two hundred~~ thousand dollars, shall be advertised after notices calling for bids have been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of general circulation within the community college district wherein the work is to be done. Subject to section 3354.10 of the Revised Code, the board of trustees of the district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty two hundred~~ thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of economic analysis implicit price deflator for gross domestic product, nonresidential structures, or an alternative if the federal government ceases to publish this metric, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, and except for contracts made with a construction manager at risk, a design-build firm, or a general contracting firm, as those terms are defined in section 153.50 of the Revised Code, the board of trustees of a community

college district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The board of trustees also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. ~~The board of trustees need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.~~

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. ~~The board of trustees need not award separate contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~

Sec. 3355.09. Upon receipt of a request from the university branch district managing authority, the boards of elections of the county or counties comprising such district shall place upon the ballot in the district at the next primary or general election occurring not less than ninety days after submission of such request by such managing authority, the question of levying a tax outside the ten-mill limitation, for a specified period of years, to provide funds for any of the following purposes:

- (A) Purchasing a site or enlargement thereof;
- (B) The erection and equipment of buildings;
- (C) Enlarging, improving, or rebuilding buildings;

(D) The acquisition, construction, or improvement of any property which the university branch district managing authority is authorized to acquire, construct, or improve and which has been certified by the fiscal officer to have an estimated useful life of five or more years.

If a majority of the electors in such district voting on such question approve, the county auditor of the county or counties comprising such district shall annually place such levy on the tax duplicate in such district, in the amount set forth in the proposition approved by the electors.

The managing authority of the university branch district shall establish a special fund pursuant to section 3355.07 of the Revised Code for all revenue derived from any tax levied pursuant to provisions of this section.

The boards of election of the county or counties comprising the district shall cause to be published in a newspaper of general circulation in each such county an advertisement of the proposed tax levy question once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election at which the question is to appear on the ballot; ~~and, if~~ If a board of elections operates and maintains a web site, that board also shall post ~~a similar~~ the advertisement on its web site for thirty days prior to the election.

After the approval of such levy by vote, the managing authority of the university branch district may anticipate a fraction of the proceeds of such levy and from time to time, during the life of such levy, issue anticipation notes in an amount not to exceed seventy-five per cent of the estimated proceeds of such levy to be collected in each year over a period of five years after the date of the issuance of such notes, less an amount equal to the proceeds of such levy previously obligated for such year by the issuance of anticipation notes, provided, that the total amount maturing in any one year shall not exceed seventy-five per cent of the anticipated proceeds of such levy for that year.

Each issue of notes shall be sold as provided in Chapter 133. of the Revised Code and shall mature serially in substantially equal amounts, during each remaining year of the levy, not to exceed five, after their issuance.

Sec. 3357.16. (A) When the board of trustees of a technical college district has by resolution determined to let by contract the work of improvements pursuant to the official plan of such district, contracts in amounts exceeding a dollar amount set by the board, which dollar amount shall not exceed ~~fifty two hundred~~ thousand dollars, shall be advertised after notice calling for bids has been published once a week for three consecutive weeks or as provided in section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of general circulation within the technical college district where the work is to be done. The board of trustees of the technical college district may let such contract to the lowest responsive and responsible bidder, in accordance with section 9.312 of the Revised Code, who meets the requirements of section 153.54 of the Revised Code. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done. Such contract shall be approved by the board of trustees and signed by the president of the board and by the contractor.

(B) On the first day of January of every even-numbered year, the chancellor of the board of regents shall adjust the ~~fifty two hundred~~

thousand dollar contract limit set forth in division (A) of this section, as adjusted in any previous year pursuant to this division. The chancellor shall adjust the limit according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of economic analysis implicit price deflator for gross domestic product, nonresidential structures, or an alternative if the federal government ceases to publish this metric, provided that no increase or decrease for any year shall exceed three per cent of the contract limit in existence at the time of the adjustment. Notwithstanding division (A) of this section, the limit adjusted under this division shall be used thereafter in lieu of the limit in division (A) of this section.

(C) Before entering into an improvement pursuant to division (A) of this section, and except for contracts made with a construction manager at risk, a design-build firm, or a general contracting firm, as those terms are defined in section 153.50 of the Revised Code, the board of trustees of a technical college district shall require separate and distinct proposals to be made for furnishing materials or doing work on the improvement, or both, in the board's discretion, for each separate and distinct branch or class of work entering into the improvement. The board of trustees also may require a single, combined proposal for the entire project for materials or doing work, or both, in the board's discretion, that includes each separate and distinct branch or class of work entering into the improvement. ~~The board of trustees need not solicit separate proposals for a branch or class of work for an improvement if the estimate cost for that branch or class of work is less than five thousand dollars.~~

(D) When more than one branch or class of work is required, no contract for the entire job, or for a greater portion thereof than is embraced in one such branch or class of work shall be awarded, unless the separate bids do not cover all the work and materials required or the bids for the whole or for two or more kinds of work or materials are lower than the separate bids in the aggregate. ~~The board of trustees need not award separate contracts for a branch or class of work entering into an improvement if the estimated cost for that branch or class of work is less than five thousand dollars.~~

Sec. 3365.01. As used in 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 ~~Chapters 3306.~~ and Chapter 3317. of the Revised Code.

(G) "Tuition base" means, with respect to a participant's school district, the sum of the formula amount 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 for fiscal year 2009.

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) "STEM school" means a science, technology, engineering, and mathematics school established under Chapter 3326. of the Revised Code.

Sec. 3365.08. (A) A college that expects to receive or receives reimbursement under section 3365.07 of the Revised Code or through alternative funding agreements entered into under rules adopted under section 3365.12 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 for pupil transportation under section ~~3306.12~~ 3317.0212 of the Revised Code or other provisions of law. 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. 3375.41. When a 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 determines to construct, demolish, alter, repair, or reconstruct a library or make any improvements or repairs, the cost of which will exceed twenty-five thousand dollars, except in cases of urgent necessity or for the security and protection of library property, it shall proceed as follows:

(A) The board shall advertise for a period of two weeks for sealed bids in ~~some a~~ a newspaper of general circulation in the district, ~~and, if there are two such newspapers, the board shall advertise in both of them~~ or as provided in section 7.16 of the Revised Code. If no newspaper has a general circulation in the district, the board shall post the advertisement in three

public places in the district. The advertisement shall be entered in full by the fiscal officer on the record of proceedings of the board.

(B) The sealed bids shall be filed with the fiscal officer by twelve noon of the last day stated in the advertisement.

(C) The sealed bids shall be opened at the next meeting of the board, shall be publicly read by the fiscal officer, and shall be entered in full on the records of the board; provided that the board, by resolution, may provide for the public opening and reading of the bids by the fiscal officer, immediately after the time for their filing has expired, at the usual place of meeting of the board, and for the tabulation of the bids and a report of the tabulation to the board at its next meeting.

(D) Each sealed bid shall contain the name of every person interested in it and shall meet the requirements of section 153.54 of the Revised Code.

(E) When both labor and materials are embraced in the work bid for, the board may require that each be separately stated in the sealed bid, with their price, or may require that bids be submitted without the separation.

(F) None but the lowest responsible bid shall be accepted. The board may reject all the bids or accept any bid for both labor and material for the improvement or repair which is the lowest in the aggregate.

(G) The contract shall be between the board and the bidders. The board shall pay the contract price for the work in cash at the times and in the amounts as provided by sections 153.12, 153.13, and 153.14 of the Revised Code.

(H) When two or more bids are equal, in whole or in part, and are lower than any others, either may be accepted, but in no case shall the work be divided between these bidders.

(I) When there is reason to believe there is collusion or combination among the bidders, the bids of those concerned in the collusion or combination shall be rejected.

Sec. 3381.11. The board of trustees of a regional arts and cultural district or any officer or employee designated by such board may make any contract for the purchase of supplies or material or for labor for any work, under the supervision of the board, the cost of which shall not exceed ten thousand dollars. When an expenditure, other than for the acquisition of real estate, the discharge of noncontractual claims, personal services, or for the product or services of public utilities, exceeds ten thousand dollars, such expenditure shall be made only after a notice calling for bids has been published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation within the territory of the district or as provided in section 7.16 of the Revised Code. The board may then let said contract to

the lowest and best bidder, who shall give a good and approved bond with ample security conditioned on the carrying out of the contract. Such contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done, approved by the board. The plans and specifications shall at all times be made and considered part of the contract. The contract shall be approved by the board and signed on behalf of the district and by the contractor. No sale of any real or personal property or a lease thereof having a term thereof in excess of five years shall be made except with the highest and best bidder after publication of notice for bids in the manner above provided.

Competitive bidding under this section is not required when:

(A) The board, by a two-thirds affirmative vote of its members, determines that a real and present emergency exists and such determination and the reasons therefor are entered in the proceedings of the board, when:

- (1) The estimated cost is less than fifteen thousand dollars; or
- (2) There is actual physical damage to structures or equipment.

(B) Such purchase consists of supplies or a replacement or supplemental part or parts for a product or equipment owned or leased by the district and the only source of supply for such supplies, part, or parts is limited to a single supplier;

(C) The lease is a renewal of a lease for electronic data processing equipment, services, or systems;

(D) Services or supplies are available from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;

(E) With respect to any contract, agreement, or lease by a district with any arts or cultural organization or any governmental body or agency.

Sec. 3501.03. At least ten days before the time for holding an election the board of elections shall give public notice by a proclamation, posted in a conspicuous place in the courthouse and city hall, or by one insertion in a newspaper published of general circulation in the county, ~~but if no newspaper is published in such county, then in a newspaper of general circulation therein.~~

The board shall have authority to publicize information relative to registration or elections.

Sec. 3501.17. (A) The expenses of the board of elections shall be paid from the county treasury, in pursuance of appropriations by the board of county commissioners, in the same manner as other county expenses are paid. If the board of county commissioners fails to appropriate an amount sufficient to provide for the necessary and proper expenses of the board of elections pertaining to the conduct of elections, the board of elections may

apply to the court of common pleas within the county, which shall fix the amount necessary to be appropriated and the amount shall be appropriated. Payments shall be made upon vouchers of the board of elections certified to by its chairperson or acting chairperson and the director or deputy director, upon warrants of the county auditor.

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

A board of township trustees may, by resolution, request that the county auditor withhold expenses charged to the township from a specified township fund that is to be credited with revenue at a tax settlement. The resolution shall specify the tax levy ballot issue, the date of the election on the levy issue, and the township fund from which the expenses the board of elections incurs related to that ballot issue shall be withheld.

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

(C) The compensation of judges of elections and intermittent employees in the board's offices; the cost of renting, moving, heating, and lighting

polling places and of placing and removing ballot boxes and other fixtures and equipment thereof, including voting machines, marking devices, and automatic tabulating equipment; the cost of printing and delivering ballots, cards of instructions, registration lists required under section 3503.23 of the Revised Code, and other election supplies, including the supplies required to comply with division (H) of section 3506.01 of the Revised Code; the cost of contractors engaged by the board to prepare, program, test, and operate voting machines, marking devices, and automatic tabulating equipment; and all other expenses of conducting primaries and elections in the odd-numbered years shall be charged to the subdivisions in and for which such primaries or elections are held. The charge for each primary or general election in odd-numbered years for each subdivision shall be determined in the following manner: first, the total cost of all chargeable items used in conducting such elections shall be ascertained; second, the total charge shall be divided by the number of precincts participating in such election, in order to fix the cost per precinct; third, the cost per precinct shall be prorated by the board of elections to the subdivisions conducting elections for the nomination or election of offices in such precinct; fourth, the total cost for each subdivision shall be determined by adding the charges prorated to it in each precinct within the subdivision.

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

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

funds are available for such purpose from amounts appropriated by the general assembly to the secretary of state. If a primary election is also being conducted in the subdivision, the costs shall be apportioned as otherwise provided in this section.

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

(G)(1) The state shall bear the entire cost of advertising in newspapers statewide ballot issues, explanations of those issues, and arguments for or against those issues, as required by Section 1g of Article II and Section 1 of Article XVI, Ohio Constitution, and any other section of law. Appropriations made to the controlling board shall be used to reimburse the secretary of state for all expenses the secretary of state incurs for such advertising under division (G) of section 3505.062 of the Revised Code.

(2) There is hereby created in the state treasury the statewide ballot advertising fund. The fund shall receive transfers approved by the controlling board, and shall be used by the secretary of state to pay the costs of advertising state ballot issues as required under division (G)(1) of this section. Any such transfers may be requested from and approved by the controlling board prior to placing the advertising, in order to facilitate timely provision of the required advertising.

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

(I) At the request of a majority of the members of the board of elections, the board of county commissioners may, by resolution, establish an elections revenue fund. Except as otherwise provided in this division, the purpose of the fund shall be to accumulate revenue withheld by or paid to the county under this section for the payment of any expense related to the duties of the board of elections specified in section 3501.11 of the Revised Code, upon approval of a majority of the members of the board of elections. The fund shall not accumulate any revenue withheld by or paid to the county under this section for the compensation of the members of the board of elections or of the director, deputy director, or other regular employees in the board's offices, other than compensation for overtime worked.

Notwithstanding sections 5705.14, 5705.15, and 5705.16 of the Revised Code, the board of county commissioners may, by resolution, transfer money to the elections revenue fund from any other fund of the political

subdivision from which such payments lawfully may be made. Following an affirmative vote of a majority of the members of the board of elections, the board of county commissioners may, by resolution, rescind an elections revenue fund established under this division. If an elections revenue fund is rescinded, money that has accumulated in the fund shall be transferred to the county general fund.

(J) As used in this section:

(1) "Political subdivision" and "subdivision" mean any board of county commissioners, board of township trustees, legislative authority of a municipal corporation, board of education, or any other board, commission, district, or authority that is empowered to levy taxes or permitted to receive the proceeds of a tax levy, regardless of whether the entity receives tax settlement moneys as described in division (A) of this section;

(2) "Statewide ballot issue" means any ballot issue, whether proposed by the general assembly or by initiative or referendum, that is submitted to the voters throughout the state.

Sec. 3505.13. A contract for the printing of ballots involving a cost in excess of ten thousand dollars shall not be let until after five days' notice published once in a ~~leading~~ newspaper ~~published of general circulation~~ in the county or upon notice given by mail by the board of elections, addressed to the responsible printing offices within the state. Except as otherwise provided in this section, each bid for such printing must be accompanied by a bond with at least two sureties, or a surety company, satisfactory to the board, in a sum double the amount of the bid, conditioned upon the faithful performance of the contract for such printing as is awarded and for the payment as damages by such bidder to the board of any excess of cost over the bid which it may be obliged to pay for such work by reason of the failure of the bidder to complete the contract. No bid unaccompanied by such bond shall be considered by the board. The board may, however, waive the requirement that each bid be accompanied by a bond if the cost of the contract is ten thousand dollars or less. The contract shall be let to the lowest responsible bidder in the state. All ballots shall be printed within the state.

Sec. 3506.05. (A) As used in this section, except when used as part of the phrase "tabulating equipment" or "automatic tabulating equipment":

(1) "Equipment" means a voting machine, marking device, automatic tabulating equipment, or software.

(2) "Vendor" means the person that owns, manufactures, distributes, or has the legal right to control the use of equipment, or the person's agent.

(B) No voting machine, marking device, automatic tabulating equipment, or software for the purpose of casting or tabulating votes or for

communications among systems involved in the tabulation, storage, or casting of votes shall be purchased, leased, put in use, or continued to be used, except for experimental use as provided in division (B) of section 3506.04 of the Revised Code, unless it, a manual of procedures governing its use, and training materials, service, and other support arrangements have been certified by the secretary of state and unless the board of elections of each county where the equipment will be used has assured that a demonstration of the use of the equipment has been made available to all interested electors. The secretary of state shall appoint a board of voting machine examiners to examine and approve equipment and its related manuals and support arrangements. The board shall consist of four members, who shall be appointed as follows:

(1) Two members appointed by the secretary of state.

(2) One member appointed by either the speaker of the house of representatives or the minority leader of the house of representatives, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

(3) One member appointed by either the president of the senate or the minority leader of the senate, whichever is a member of the opposite political party from the one to which the secretary of state belongs.

In all cases of a tie vote or a disagreement in the board, if no decision can be arrived at, the board shall submit the matter in controversy to the secretary of state, who shall summarily decide the question, and the secretary of state's decision shall be final. Each member of the board shall be a competent and experienced election officer or a person who is knowledgeable about the operation of voting equipment and shall serve during the secretary of state's term. Any vacancy on the board shall be filled in the same manner as the original appointment. The secretary of state shall provide staffing assistance to the board, at the board's request.

For the member's service, each member of the board shall receive three hundred dollars per day for each combination of marking device, tabulating equipment, and voting machine examined and reported, but in no event shall a member receive more than six hundred dollars to examine and report on any one marking device, item of tabulating equipment, or voting machine. Each member of the board shall be reimbursed for expenses the member incurs during an examination or during the performance of any related duties that may be required by the secretary of state. Reimbursement of these expenses shall be made in accordance with, and shall not exceed, the rates provided for under section 126.31 of the Revised Code.

Neither the secretary of state nor the board, nor any public officer who

participates in the authorization, examination, testing, or purchase of equipment, shall have any pecuniary interest in the equipment or any affiliation with the vendor.

(C)(1) A vendor who desires to have the secretary of state certify equipment shall first submit the equipment, all current related procedural manuals, and a current description of all related support arrangements to the board of voting machine examiners for examination, testing, and approval. The submission shall be accompanied by a fee of ~~eighteen~~ two thousand four hundred dollars and a detailed explanation of the construction and method of operation of the equipment, a full statement of its advantages, and a list of the patents and copyrights used in operations essential to the processes of vote recording and tabulating, vote storage, system security, and other crucial operations of the equipment as may be determined by the board. An additional fee, in an amount to be set by rules promulgated by the board, may be imposed to pay for the costs of alternative testing or testing by persons other than board members, record-keeping, and other extraordinary costs incurred in the examination process. Moneys not used shall be returned to the person or entity submitting the equipment for examination.

(2) Fees collected by the secretary of state under this section shall be deposited into the state treasury to the credit of the board of voting machine examiners fund, which is hereby created. All moneys credited to this fund shall be used solely for the purpose of paying for the services and expenses of each member of the board or for other expenses incurred relating to the examination, testing, reporting, or certification of voting machine devices, the performance of any related duties as required by the secretary of state, or the reimbursement of any person submitting an examination fee as provided in this chapter.

(D) Within sixty days after the submission of the equipment and payment of the fee, or as soon thereafter as is reasonably practicable, but in any event within not more than ninety days after the submission and payment, the board of voting machine examiners shall examine the equipment and file with the secretary of state a written report on the equipment with its recommendations and its determination or condition of approval regarding whether the equipment, manual, and other related materials or arrangements meet the criteria set forth in sections 3506.07 and 3506.10 of the Revised Code and can be safely used by the voters at elections under the conditions prescribed in Title XXXV of the Revised Code, or a written statement of reasons for which testing requires a longer period. The board may grant temporary approval for the purpose of allowing

experimental use of equipment. If the board finds that the equipment meets the criteria set forth in sections 3506.06, 3506.07, and 3506.10 of the Revised Code, can be used safely and can be depended upon to record and count accurately and continuously the votes of electors, and has the capacity to be warranted, maintained, and serviced, it shall approve the equipment and recommend that the secretary of state certify the equipment. The secretary of state shall notify all boards of elections of any such certification. Equipment of the same model and make, if it provides for recording of voter intent, system security, voter privacy, retention of vote, and communication of voting records in an identical manner, may then be adopted for use at elections.

(E) The vendor shall notify the secretary of state, who shall then notify the board of voting machine examiners, of any enhancement and any significant adjustment to the hardware or software that could result in a patent or copyright change or that significantly alters the methods of recording voter intent, system security, voter privacy, retention of the vote, communication of voting records, and connections between the system and other systems. The vendor shall provide the secretary of state with an updated operations manual for the equipment, and the secretary of state shall forward the manual to the board. Upon receiving such a notification and manual, the board may require the vendor to submit the equipment to an examination and test in order for the equipment to remain certified. The board or the secretary of state shall periodically examine, test, and inspect certified equipment to determine continued compliance with the requirements of this chapter and the initial certification. Any examination, test, or inspection conducted for the purpose of continuing certification of any equipment in which a significant problem has been uncovered or in which a record of continuing problems exists shall be performed pursuant to divisions (C) and (D) of this section, in the same manner as the examination, test, or inspection is performed for initial approval and certification.

(F) If, at any time after the certification of equipment, the board of voting machine examiners or the secretary of state is notified by a board of elections of any significant problem with the equipment or determines that the equipment fails to meet the requirements necessary for approval or continued compliance with the requirements of this chapter, or if the board of voting machine examiners determines that there are significant enhancements or adjustments to the hardware or software, or if notice of such enhancements or adjustments has not been given as required by division (E) of this section, the secretary of state shall notify the users and vendors of that equipment that certification of the equipment may be

withdrawn.

(G)(1) The notice given by the secretary of state under division (F) of this section shall be in writing and shall specify both of the following:

(a) The reasons why the certification may be withdrawn;

(b) The date on which certification will be withdrawn unless the vendor takes satisfactory corrective measures or explains why there are no problems with the equipment or why the enhancements or adjustments to the equipment are not significant.

(2) A vendor who receives a notice under division (F) of this section shall, within thirty days after receiving it, submit to the board of voting machine examiners in writing a description of the corrective measures taken and the date on which they were taken, or the explanation required under division (G)(1)(b) of this section.

(3) Not later than fifteen days after receiving a written description or explanation under division (G)(2) of this section from a vendor, the board shall determine whether the corrective measures taken or the explanation is satisfactory to allow continued certification of the equipment, and the secretary of state shall send the vendor a written notice of the board's determination, specifying the reasons for it. If the board has determined that the measures taken or the explanation given is unsatisfactory, the notice shall include the effective date of withdrawal of the certification. This date may be different from the date originally specified in division (G)(1)(b) of this section.

(4) A vendor who receives a notice under division (G)(3) of this section indicating a decision to withdraw certification may, within thirty days after receiving it, request in writing that the board hold a hearing to reconsider its decision. Any interested party shall be given the opportunity to submit testimony or documentation in support of or in opposition to the board's recommendation to withdraw certification. Failure of the vendor to take appropriate steps as described in division (G)(1)(b) or to comply with division (G)(2) of this section results in a waiver of the vendor's rights under division (G)(4) of this section.

(H)(1) The secretary of state, in consultation with the board of voting machine examiners, shall establish, by rule, guidelines for the approval, certification, and continued certification of the voting machines, marking devices, and tabulating equipment to be used under Title XXXV of the Revised Code. The guidelines shall establish procedures requiring vendors or computer software developers to place in escrow with an independent escrow agent approved by the secretary of state a copy of all source code and related documentation, together with periodic updates as they become

known or available. The secretary of state shall require that the documentation include a system configuration and that the source code include all relevant program statements in low- or high-level languages. As used in this division, "source code" does not include variable codes created for specific elections.

(2) Nothing in any rule adopted under division (H) of this section shall be construed to limit the ability of the secretary of state to follow or adopt, or to preclude the secretary of state from following or adopting, any guidelines proposed by the federal election commission, any entity authorized by the federal election commission to propose guidelines, the election assistance commission, or any entity authorized by the election assistance commission to propose guidelines.

(3)(a) Before the initial certification of any direct recording electronic voting machine with a voter verified paper audit trail, and as a condition for the continued certification and use of those machines, the secretary of state shall establish, by rule, standards for the certification of those machines. Those standards shall include, but are not limited to, all of the following:

(i) A definition of a voter verified paper audit trail as a paper record of the voter's choices that is verified by the voter prior to the casting of the voter's ballot and that is securely retained by the board of elections;

(ii) Requirements that the voter verified paper audit trail shall not be retained by any voter and shall not contain individual voter information;

(iii) A prohibition against the production by any direct recording electronic voting machine of anything that legally could be removed by the voter from the polling place, such as a receipt or voter confirmation;

(iv) A requirement that paper used in producing a voter verified paper audit trail be sturdy, clean, and resistant to degradation;

(v) A requirement that the voter verified paper audit trail shall be capable of being optically scanned for the purpose of conducting a recount or other audit of the voting machine and shall be readable in a manner that makes the voter's ballot choices obvious to the voter without the use of computer or electronic codes;

(vi) A requirement, for office-type ballots, that the voter verified paper audit trail include the name of each candidate selected by the voter;

(vii) A requirement, for questions and issues ballots, that the voter verified paper audit trail include the title of the question or issue, the name of the entity that placed the question or issue on the ballot, and the voter's ballot selection on that question or issue, but not the entire text of the question or issue.

(b) The secretary of state, by rule adopted under Chapter 119. of the

Revised Code, may waive the requirement under division (H)(3)(a)(v) of this section, if the secretary of state determines that the requirement is cost prohibitive.

(4)(a) Except as otherwise provided in division (H)(4)(c) of this section, any voting machine, marking device, or automatic tabulating equipment initially certified or acquired on or after December 1, 2008, shall have the most recent federal certification number issued by the election assistance commission.

(b) Any voting machine, marking device, or automatic tabulating equipment certified for use in this state on ~~the effective date of this amendment~~ September 12, 2008, shall meet, as a condition of continued certification and use, the voting system standards adopted by the federal election commission in 2002.

(c) A county that acquires additional voting machines, marking devices, or automatic tabulating equipment on or after December 1, 2008, shall not be considered to have acquired those machines, devices, or equipment on or after December 1, 2008, for the purpose of division (H)(4)(a) of this section if all of the following apply:

(i) The voting machines, marking devices, or automatic tabulating equipment acquired are the same as the machines, devices, or equipment currently used in that county.

(ii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment does not replace or change the primary voting system used in that county.

(iii) The acquisition of the voting machines, marking devices, or automatic tabulating equipment is for the purpose of replacing inoperable machines, devices, or equipment or for the purpose providing additional machines, devices, or equipment required to meet the allocation requirements established pursuant to division (I) of section 3501.11 of the Revised Code.

Sec. 3701.021. (A) The public health council shall adopt, in accordance with Chapter 119. of the Revised Code, such rules as are necessary to carry out sections 3701.021 to 3701.0210 of the Revised Code, including, but not limited to, rules to establish the following:

(1) Medical and financial eligibility requirements for the program for medically handicapped children;

(2) Eligibility requirements for providers of services for medically handicapped children;

(3) Procedures to be followed by the department of health in disqualifying providers for violating requirements adopted under division

(A)(2) of this section;

(4) Procedures to be used by the department regarding application for diagnostic services under division (B) of section 3701.023 of the Revised Code and payment for those services under division (E) of that section;

(5) Standards for the provision of service coordination by the department of health and city and general health districts;

(6) Procedures for the department to use to determine the amount to be paid annually by each county for services for medically handicapped children and to allow counties to retain funds under divisions (A)(2) and (3) of section 3701.024 of the Revised Code;

(7) Financial eligibility requirements for services for Ohio residents twenty-one years of age or older who have cystic fibrosis;

(8) Criteria for payment of approved providers who provide services for medically handicapped children;

(9) Criteria for the department to use in determining whether the payment of health insurance premiums of participants in the program for medically handicapped children is cost-effective;

(10) Procedures for appeal of denials of applications under divisions (A) and (D) of section 3701.023 of the Revised Code, disqualification of providers, and amounts paid for services;

(11) Terms of appointment for members of the medically handicapped children's medical advisory council created in section 3701.025 of the Revised Code;

(12) Eligibility requirements for the hemophilia program, including income and hardship requirements;

(13) If a manufacturer discount program is established under division (J)(1) of section 3701.023 of the Revised Code, procedures for administering the program, including criteria and other requirements for participation in the program by manufacturers of drugs and nutritional formulas.

(B) The department of health shall develop a manual of operational procedures and guidelines for the program for medically handicapped children to implement sections 3701.021 to 3701.0210 of the Revised Code.

Sec. 3701.023. (A) The department of health shall review applications for eligibility for the program for medically handicapped children that are submitted to the department by city and general health districts and physician providers approved in accordance with division (C) of this section. The department shall determine whether the applicants meet the medical and financial eligibility requirements established by the 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 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 to providers by the department of health pursuant to this division for inpatient hospital care, outpatient care, and all other medical assistance furnished to eligible recipients shall be made in accordance with rules adopted by the 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) At the time of applying for participation in the program for medically handicapped children, a medically handicapped child or the child's parent or guardian shall disclose the identity of any third party against whom the child or the child's parent or guardian has or may have a right of recovery for goods and services provided under division (B) or (D) of this section. The department of health shall require a medically handicapped child who receives services from the program or the child's parent or guardian to apply for all third-party benefits for which the child may be eligible and require the child, parent, or guardian to apply all third-party benefits received to the amount determined under division (E) of this section as the amount payable for goods and services authorized under division (B) or (D) of this section. The department is the payer of last resort and shall pay for authorized goods or services, up to the amount determined

under division (E) of this section for the authorized goods or services, only to the extent that payment for the authorized goods or services is not made through third-party benefits. When a third party fails to act on an application or claim for benefits by a medically handicapped child or the child's parent or guardian, the department shall pay for the goods or services only after ninety days have elapsed since the date the child, parents, or guardians made an application or claim for all third-party benefits. Third-party benefits received shall be applied to the amount determined under division (E) of this section. Third-party payments for goods and services not authorized under division (B) or (D) of this section shall not be applied to payment amounts determined under division (E) of this section. Payment made by the department shall be considered payment in full of the amount determined under division (E) of this section. Medicaid payments for persons eligible for the 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.

(G) The department of health shall administer a program to provide services to Ohio residents who are twenty-one or more years of age who have cystic fibrosis and who meet the eligibility requirements established 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.

(J)(1) The department of health may establish a manufacturer discount program under which a manufacturer of a drug or nutritional formula is permitted to enter into an agreement with the department to provide a discount on the price of the drug or nutritional formula distributed to medically handicapped children participating in the program for medically handicapped children. The program shall be administered in accordance with rules adopted under section 3701.021 of the Revised Code.

(2) If a manufacturer enters into an agreement with the department as described in division (J)(1) of this section, the manufacturer and the department may negotiate the amount and terms of the discount.

(3) In lieu of establishing a discount program as described in division (J)(1) of this section, the department and a manufacturer of a drug or nutritional formula may discuss a donation of drugs, nutritional formulas, or money by the manufacturer to the department.

Sec. 3701.0211. For each year that federal funds are made available to states under Title V of the "Social Security Act," 124 Stat. 352 (2010), 42 U.S.C. 710, as amended, for use in providing abstinence education, the director of health shall submit to the United States secretary of health and human services an application for the allotment of those funds that is available to this state. The director shall use the funds received in accordance with any conditions under which the application was approved.

Sec. 3701.032. The director of health may adopt rules defining what constitutes a "health home" for the purpose of any entity that is authorized to provide care coordination services. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 3701.07. (A) The public health council shall adopt rules in accordance with Chapter 119. of the Revised Code defining and classifying hospitals and dispensaries and providing for the reporting of information by hospitals and dispensaries. Except as otherwise provided in the Revised Code, the rules providing for the reporting of information shall not require inclusion of any confidential patient data or any information concerning the financial condition, income, expenses, or net worth of the facilities other than that financial information already contained in those portions of the medicare or medicaid cost report that is necessary for the department of health to certify the per diem cost under section 3701.62 of the Revised Code. The rules may require the reporting of information in the following categories:

- (1) Information needed to identify and classify the institution;
- (2) Information on facilities and type and volume of services provided by the institution;
- (3) The number of beds listed by category of care provided;
- (4) The number of licensed or certified professional employees by classification;
- (5) The number of births that occurred at the institution the previous calendar year;
- (6) Any other information that the council considers relevant to the safety of patients served by the institution.

Every hospital and dispensary, public or private, annually shall register with and report to the department of health. Reports shall be submitted in the manner prescribed in rules adopted under this division.

(B) Every governmental entity or private nonprofit corporation or association whose employees or representatives are defined as residents' rights advocates under divisions (E)(1) and (2) of section 3721.10 ~~or division (A)(10) of section 3722.01~~ of the Revised Code shall register with the department of health on forms furnished by the director of health and shall provide such reasonable identifying information as the director may prescribe.

The department shall compile a list of the governmental entities, corporations, or associations registering under this division and shall update the list annually. Copies of the list shall be made available to nursing home administrators as defined in division (C) of section 3721.10 of the Revised Code and to adult care facility managers as defined in section ~~3722.01~~ 5119.70 of the Revised Code.

Sec. 3701.61. (A) The department of health shall establish the help me grow program ~~for the purpose of encouraging to encourage~~ early prenatal and well-baby care, provide parenting education to promote the comprehensive health and development of children, and provide early intervention services in accordance with part C of the "Individuals with Disabilities Education Act," 118 Stat. 2744 (2004), 20 U.S.C. 1431 et seq. The program shall include ~~distributing subsidies to counties to provide~~ the following services:

(1) ~~Home visiting~~ Home visiting services to ~~newborn infants and their families with a pregnant woman or an infant or toddler under three years of age who meet the eligibility requirements established in rules adopted under this section;~~

(2) ~~Services~~ Part C early intervention services to infants and toddlers under three years of age who ~~are at risk for, or who have, a developmental~~

delay or disability and their families meet the eligibility requirements established in rules adopted under this section.

(B) The department shall not provide home visiting services under the help me grow program unless requested in writing by a parent of the infant or toddler director of health may enter into an interagency agreement with one or more state agencies to implement the help me grow program and ensure coordination of early childhood programs.

(C) The director may distribute help me grow program funds through contracts, grants, or subsidies to entities providing services under the program.

(D) To the extent funds are available, the department shall establish a system of payment to providers of home visiting and part C early intervention services.

(E) As a condition of receiving payments for home visiting services, providers shall report to the director data on the program performance indicators that are used to assess progress toward achieving the goals of the program. The report shall include data on the performance indicator of birth outcomes, including risk indicators of low birth weight and preterm births, and data on all other performance indicators specified in rules adopted under this section. The providers shall report the data in the format and within the time frames specified in the rules.

The director shall prepare an annual report on the data received from the providers.

(F) Pursuant to Chapter 119. of the Revised Code, the department director shall adopt rules that are necessary and proper to implement this section. The rules shall specify all of the following:

(1) Eligibility requirements for home visiting services and part C early intervention services;

(2) Eligibility requirements for providers of home visiting services and providers of part C early intervention services;

(3) Standards and procedures for the provision of program services, including data collection, program monitoring, and program evaluation;

(4) Procedures for appealing the denial of an application for program services or the termination of services;

(5) Procedures for appealing the denial of an application to become a provider of program services or the termination of the department's approval of a provider;

(6) Procedures for addressing complaints;

(7) The program performance indicators on which data must be reported by providers of home visiting services under division (E) of this section.

which, to the extent possible, shall be consistent with federal reporting requirements for federally funded home visiting services;

(8) The format in which reports must be submitted under division (E) of this section and the time frames within which the reports must be submitted;

(9) Criteria for payment of approved providers of program services;

(10) Any other rules necessary to implement the program.

(G) A family enrolled in the help me grow at-risk program on the effective date of this amendment shall be eligible for at-risk services until December 31, 2013, or until the eligible child reaches three years of age, whichever occurs first.

Sec. 3701.74. (A) As used in this section and section 3701.741 of the Revised Code:

(1) "Ambulatory care facility" means a facility that provides medical, diagnostic, or surgical treatment to patients who do not require hospitalization, including a dialysis center, ambulatory surgical facility, cardiac catheterization facility, diagnostic imaging center, extracorporeal shock wave lithotripsy center, home health agency, inpatient hospice, birthing center, radiation therapy center, emergency facility, and an urgent care center. "Ambulatory care facility" does not include the private office of a physician or dentist, whether the office is for an individual or group practice.

(2) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to practice chiropractic.

(3) "Emergency facility" means a hospital emergency department or any other facility that provides emergency medical services.

(4) "Health care practitioner" means all of the following:

(a) A dentist or dental hygienist licensed under Chapter 4715. of the Revised Code;

(b) A registered or licensed practical nurse licensed under Chapter 4723. of the Revised Code;

(c) An optometrist licensed under Chapter 4725. of the Revised Code;

(d) A dispensing optician, spectacle dispensing optician, contact lens dispensing optician, or spectacle-contact lens dispensing optician licensed under Chapter 4725. of the Revised Code;

(e) A pharmacist licensed under Chapter 4729. of the Revised Code;

(f) A physician;

(g) A physician assistant authorized under Chapter 4730. of the Revised Code to practice as a physician assistant;

(h) A practitioner of a limited branch of medicine issued a certificate under Chapter 4731. of the Revised Code;

- (i) A psychologist licensed under Chapter 4732. of the Revised Code;
 - (j) A chiropractor;
 - (k) A hearing aid dealer or fitter licensed under Chapter 4747. of the Revised Code;
 - (l) A speech-language pathologist or audiologist licensed under Chapter 4753. of the Revised Code;
 - (m) An occupational therapist or occupational therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (n) A physical therapist or physical therapy assistant licensed under Chapter 4755. of the Revised Code;
 - (o) A professional clinical counselor, professional counselor, social worker, or independent social worker licensed, or a social work assistant registered, under Chapter 4757. of the Revised Code;
 - (p) A dietitian licensed under Chapter 4759. of the Revised Code;
 - (q) A respiratory care professional licensed under Chapter 4761. of the Revised Code;
 - (r) An emergency medical technician-basic, emergency medical technician-intermediate, or emergency medical technician-paramedic certified under Chapter 4765. of the Revised Code.
- (5) "Health care provider" means a hospital, ambulatory care facility, long-term care facility, pharmacy, emergency facility, or health care practitioner.
- (6) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.
- (7) "Long-term care facility" means a nursing home, residential care facility, or home for the aging, as those terms are defined in section 3721.01 of the Revised Code; an adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code; a nursing facility or intermediate care facility for the mentally retarded, as those terms are defined in section 5111.20 of the Revised Code; a facility or portion of a facility certified as a skilled nursing facility under Title XVIII of the "Social Security Act," 49 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended.
- (8) "Medical record" means data in any form that pertains to a patient's medical history, diagnosis, prognosis, or medical condition and that is generated and maintained by a health care provider in the process of the patient's health care treatment.
- (9) "Medical records company" means a person who stores, locates, or copies medical records for a health care provider, or is compensated for doing so by a health care provider, and charges a fee for providing medical records to a patient or patient's representative.

(10) "Patient" means either of the following:

(a) An individual who received health care treatment from a health care provider;

(b) A guardian, as defined in section 1337.11 of the Revised Code, of an individual described in division (A)(10)(a) of this section.

(11) "Patient's personal representative" means a minor patient's parent or other person acting in loco parentis, a court-appointed guardian, or a person with durable power of attorney for health care for a patient, the executor or administrator of the patient's estate, or the person responsible for the patient's estate if it is not to be probated. "Patient's personal representative" does not include an insurer authorized under Title XXXIX of the Revised Code to do the business of sickness and accident insurance in this state, a health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code, or any other person not named in this division.

(12) "Pharmacy" has the same meaning as in section 4729.01 of the Revised Code.

(13) "Physician" means a person authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(14) "Authorized person" means a person to whom a patient has given written authorization to act on the patient's behalf regarding the patient's medical record.

(B) A patient, a patient's personal representative or an authorized person who wishes to examine or obtain a copy of part or all of a medical record shall submit to the health care provider a written request signed by the patient, personal representative, or authorized person dated not more than one year before the date on which it is submitted. The request shall indicate whether the copy is to be sent to the requestor, physician or chiropractor, or held for the requestor at the office of the health care provider. Within a reasonable time after receiving a request that meets the requirements of this division and includes sufficient information to identify the record requested, a health care provider that has the patient's medical records shall permit the patient to examine the record during regular business hours without charge or, on request, shall provide a copy of the record in accordance with section 3701.741 of the Revised Code, except that if a physician or chiropractor who has treated the patient determines for clearly stated treatment reasons that disclosure of the requested record is likely to have an adverse effect on the patient, the health care provider shall provide the record to a physician or chiropractor designated by the patient. The health care provider shall take reasonable steps to establish the identity of the person making the request to

examine or obtain a copy of the patient's record.

(C) If a health care provider fails to furnish a medical record as required by division (B) of this section, the patient, personal representative, or authorized person who requested the record may bring a civil action to enforce the patient's right of access to the record.

(D)(1) This section does not apply to medical records whose release is covered by section 173.20 or 3721.13 of the Revised Code, by Chapter 1347. or 5122. of the Revised Code, by 42 C.F.R. part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," or by 42 C.F.R. 483.10.

(2) Nothing in this section is intended to supersede the confidentiality provisions of sections 2305.24, 2305.25, 2305.251, and 2305.252 of the Revised Code.

Sec. 3701.83. (A) There is hereby created in the state treasury the general operations fund. Moneys in the fund shall be used for the purposes specified in sections 3701.04, 3701.344, 3702.20, 3710.15, 3711.16, 3717.45, 3718.06, 3721.02, ~~3722.04~~, ~~3721.022~~, 3729.07, ~~3733.04~~, ~~3733.25~~, 3733.43, 3748.04, 3748.05, 3748.07, 3748.12, 3748.13, 3749.04, 3749.07, 4747.04, 4751.04, and 4769.09 of the Revised Code.

(B) The alcohol testing program fund is hereby created in the state treasury. The director of health shall use the fund to administer and enforce the alcohol testing and permit program authorized by section 3701.143 of the Revised Code.

The fund shall receive transfers from the liquor control fund created under section 4301.12 of the Revised Code. All investment earnings of the alcohol testing program fund shall be credited to the fund.

Sec. 3702.52. The director of health shall administer a state certificate of need program in accordance with sections 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

(A) The director shall issue rulings on whether a particular proposed project is a reviewable activity. The director shall issue a ruling not later than forty-five days after receiving a request for a ruling accompanied by the information needed to make the ruling. If the director does not issue a ruling in that time, the project shall be considered to have been ruled not a reviewable activity.

(B) ~~The director shall review applications for certificates of need. Each application for a certificate of need shall be submitted to the director on forms prescribed by the director, shall include all information required by rules adopted under division (B) of section 3702.57 of the Revised Code, and.~~ Each application shall include a plan for obligating the capital expenditures or implementing the proposed project on a timely basis in

accordance with section 3702.525 of the Revised Code. Each application shall also include all other information required by rules adopted under division (B) of section 3702.57 of the Revised Code.

Each application shall be accompanied by the application fee established in rules adopted under division (G) of that section-

Application 3702.57 of the Revised Code. Application fees received by the director under this division shall be deposited into the state treasury to the credit of the certificate of need fund, which is hereby created. The director shall use the fund only to pay the costs of administering sections 3702.11 to 3702.20, 3702.30, and 3702.51 to 3702.62 of the Revised Code and rules adopted under those sections.

The director shall review applications for certificates of need. As part of a review, the director shall determine whether an application is complete. The director shall not consider an application to be complete unless the application meets all criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code. The director shall mail to the applicant a written notice that the application ~~meets the criteria for a complete application specified in rules adopted under section 3702.57 of the Revised Code~~ is complete, or a written request for additional information, not later than thirty days after receiving an application or a response to an earlier request for information. ~~The~~ Except as provided in section 3702.523 of the Revised Code, the director shall not make more than two requests for additional information.

The director may conduct a public informational hearing in the course of reviewing any application for a certificate of need, and shall conduct one if requested to do so by any affected person not later than fifteen days after the director mails the notice that the application is complete. The hearing shall be conducted in the community in which the activities authorized by the certificate of need would be carried out. Any affected person may testify at the hearing. The director may, with the health service agency's consent, designate a health service agency to conduct the hearing.

Except during a public hearing or as necessary to comply with a subpoena issued under division (E) of this section, after a notice of completeness has been received, no person shall make revisions to information that was submitted to the director before the director mailed the notice of completeness or knowingly discuss in person or by telephone the merits of the application with the director. A person may supplement an application after a notice of completeness has been received by submitting clarifying information to the director. If one or more persons request a meeting in person or by telephone, the director shall make a reasonable

effort to invite interested parties to the meeting or conference call.

(C) All of the following apply to the process of granting or denying a certificate of need:

(1) If the project proposed in a certificate of need application meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections, the director shall grant a certificate of need for all or part of the project that is the subject of the application by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section.

(2) The director's grant of a certificate of need does not affect, and sets no precedent for, the director's decision to grant or deny other applications for similar reviewable activities proposed to be conducted in the same or different health service areas.

(3) If the director receives written objections to an application from any affected person by the thirtieth day after mailing the notice of completeness, the director shall notify the applicant and assign a hearing examiner to conduct an adjudication hearing concerning the application in accordance with Chapter 119. of the Revised Code. In the case of applications under comparative review, if the director receives written objections to any of the applications from any affected person by the thirtieth day after the director mails the last notice of completeness, the director shall notify all of the applicants and appoint a hearing examiner to conduct a consolidated adjudication hearing concerning the applications in accordance with Chapter 119. of the Revised Code. The hearing examiner shall be employed by or under contract with the department of health.

The adjudication hearings may be conducted in the health service area in which the reviewable activity is proposed to be conducted. Consolidated adjudication hearings for applications in comparative review may be conducted in the geographic region in which all of the reviewable activities will be conducted. The applicant, the director, and the affected persons that filed objections to the application shall be parties to the hearing. If none of the affected persons that submitted written objections to the application appears or prosecutes the hearing, the hearing examiner shall dismiss the hearing and the director shall grant a certificate of need for all or part of the project that is the subject of the application if the proposed project meets all of the applicable certificate of need criteria for approval under sections 3702.51 to 3702.62 of the Revised Code and the rules adopted under those sections. The affected persons bear the burden of proving by a preponderance of evidence that the project is not needed or that granting the

certificate would not be in accordance with sections 3702.51 to 3702.62 of the Revised Code or the rules adopted under those sections.

(4) Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is not conducted under division (C)(3) of this section not later than sixty days after mailing the notice of completeness or, in the case of an application proposing addition of long-term care beds, not later than sixty days after such other time as is specified in rules adopted under section 3702.57 of the Revised Code. Except as provided in division (C)(5) of this section, the director shall grant or deny certificate of need applications for which an adjudication hearing is conducted under division (C)(3) of this section not later than thirty days after the expiration of the time for filing objections to the report and recommendation of the hearing examiner under section 119.09 of the Revised Code. The director shall base decisions concerning applications for which an adjudication hearing is conducted under division (C)(3) of this section on the report and recommendations of the hearing examiner.

(5) Except as otherwise provided in division (C) (6) of this section, the director or the applicant may extend the deadline prescribed in division (C)(4) of this section once, for no longer than thirty days, by written notice before the end of the deadline prescribed by division (C)(4) of this section. An extension by the director under division (C)(5) of this section shall apply to all applications that are in comparative review.

(6) No applicant in a comparative review may extend the deadline specified in division (C)(4) of this section.

(7) If the director does not grant or deny the certificate by the applicable deadline specified in division (C)(4) of this section or any extension of it under division (C)(5) of this section, the certificate shall be considered to have been granted.

(8) In granting a certificate of need, the director shall specify as the maximum capital expenditure the certificate holder may obligate under the certificate a figure equal to one hundred ten per cent of the approved project cost.

(9) In granting a certificate of need, the director may grant the certificate with conditions that must be met by the holder of the certificate.

(D) The director shall monitor the activities of persons granted certificates of need during the period beginning with the granting of the certificate of need and ending five years after implementation of the activity for which the certificate was granted.

(E) When reviewing applications for certificates of need or monitoring

activities of persons granted certificates of need, the director may issue and enforce, in the manner provided in section 119.09 of the Revised Code, subpoenas duces tecum to compel the production of documents relevant to review of the application or monitoring of the activities. In addition, the director or the director's designee, which may include a health service agency, may visit the sites where the activities are or will be conducted.

(F) The director may withdraw certificates of need.

(G) The director shall conduct, on a regular basis, health system data collection and analysis activities and prepare reports. The director shall make recommendations based upon these activities to the public health council concerning the adoption of appropriate rules under section 3702.57 of the Revised Code. All health care facilities and other health care providers shall submit to the director, upon request, any information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews, and that is prescribed by rules adopted under division (H) of section 3702.57 of the Revised Code.

(H) Any decision to grant or deny a certificate of need shall consider the special needs and circumstances resulting from moral and ethical values and the free exercise of religious rights of health care facilities administered by religious organizations, and the special needs and circumstances of inner city and rural communities.

Sec. 3702.523. A person who has an application for a certificate of need pending with the director of health may revise the application to change the site of the proposed project unless either of the following applies:

(A) The director, under section 3702.52 of the Revised Code, has mailed the applicant a written notice that the application is complete.

(B) The application is subject to a comparative review under section 3702.593 of the Revised Code.

The only revision that may be made in the revised application is the site of the proposed project. The revised site of the proposed project must be located in the same county as the site of the proposed project specified in the original application. The director may not accept a revised application if it includes revisions other than the site of the proposed project or if the revised site is located in a different county than the county in which the site specified in the original application is located.

A revised application shall be accompanied by an additional, non-refundable fee equal to twenty-five per cent of the fee charged under section 3702.52 of the Revised Code for the original application. The additional fee shall be deposited into the certificate of need fund created under section 3702.52 of the Revised Code.

On acceptance of a revised application, the director shall continue to review the application as revised in accordance with section 3702.52 of the Revised Code to determine whether it is complete and, if necessary and regardless of whether the director previously made two requests for additional information, may make a final written request to the applicant for additional information not later than thirty days after the date the director accepts the revised application.

Sec. 3702.57. (A) The public health council shall adopt rules establishing procedures and criteria for reviews of applications for certificates of need and issuance, denial, or withdrawal of certificates.

(1) In adopting rules that establish criteria for reviews of applications of certificates of need, the council shall consider the availability of and need for long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries and shall prescribe criteria for reviewing applications that propose to add long-term care beds to provide care and treatment to persons diagnosed as having traumatic brain injuries.

(2) The criteria for reviews of applications for certificates of need shall relate to the need for the reviewable activity and shall pertain to all of the following matters:

(a) The impact of the reviewable activity on the cost and quality of health services in the relevant geographic area, including, but not limited, to the historical and projected utilization of the services to which the application pertains and the effect of the reviewable activity on utilization of other providers of similar services;

(b) The quality of the services to be provided as the result of the activity, as evidenced by the historical performance of the persons that will be involved in providing the services and by the provisions that are proposed in the application to ensure quality, including but not limited to adequate available personnel, available ancillary and support services, available equipment, size and configuration of physical plant, and relations with other providers;

(c) The impact of the reviewable activity on the availability and accessibility of the type of services proposed in the application to the population of the relevant geographic area, and the level of access to the services proposed in the application that will be provided to medically underserved individuals such as recipients of public assistance and individuals who have no health insurance or whose health insurance is insufficient;

(d) The activity's short- and long-term financial feasibility and cost-effectiveness, the impact of the activity on the applicant's costs and

charges, and a comparison of the applicant's costs and charges with those of providers of similar services in the applicant's proposed service area;

(e) The advantages, disadvantages, and costs of alternatives to the reviewable activity;

(f) The impact of the activity on all other providers of similar services in the health service area or other relevant geographic area, including the impact on their utilization, market share, and financial status;

(g) The historical performance of the applicant and related or affiliated parties in complying with previously granted certificates of need and any applicable certification, accreditation, or licensure requirements;

(h) The relationship of the activity to the current edition of the state health resources plan issued under section 3702.521 of the Revised Code;

(i) The historical performance of the applicant and related or affiliated parties in providing cost-effective health care services;

(j) The special needs and circumstances of the applicant or population proposed to be served by the proposed project, including research activities, prevalence of particular diseases, unusual demographic characteristics, cost-effective contractual affiliations, and other special circumstances;

(k) The appropriateness of the zoning status of the proposed site of the activity;

(l) The participation by the applicant in research conducted by the United States food and drug administration or clinical trials sponsored by the national institutes of health.

(3) The criteria for reviews of applications shall include a formula for determining each county's long-term care bed need for purposes of section 3702.593 of the Revised Code and may include other formulas for determining need for beds.

Any rules prescribing criteria that establish ratios of beds to population shall specify the bases for establishing the ratios or mitigating factors or exceptions to the ratios.

(B) The council shall adopt rules specifying all of the following:

(1) Information that must be provided in applications for certificates of need, ~~which shall include a plan for obligating the capital expenditure or implementing the proposed project on a timely basis in accordance with section 3702.525 of the Revised Code;~~

(2) Procedures for reviewing applications for completeness of information;

(3) Criteria for determining that the application is complete.

(C) The council shall adopt rules specifying requirements that holders of certificates of need must meet in order for the certificates to remain valid

and establishing definitions and requirements for obligation of capital expenditures and implementation of projects authorized by certificates of need.

(D) The council shall adopt rules establishing criteria and procedures under which the director of health may withdraw a certificate of need if the holder fails to meet requirements for continued validity of the certificate.

(E) The council shall adopt rules establishing procedures under which the department of health shall monitor project implementation activities of holders of certificates of need. The rules adopted under this division also may establish procedures for monitoring implementation activities of persons that have received nonreviewability rulings.

(F) The council shall adopt rules establishing procedures under which the director of health shall review certificates of need whose holders exceed or appear likely to exceed an expenditure maximum specified in a certificate.

(G) The council shall adopt rules establishing certificate of need application fees sufficient to pay the costs incurred by the department for administering sections 3702.51 to 3702.62 of the Revised Code and to pay health service agencies for the functions they perform under division (D)(5) of section 3702.58 of the Revised Code. Unless rules are adopted under this division establishing different application fees, the application fee for a project not involving a capital expenditure shall be three thousand dollars and the application fee for a project involving a capital expenditure shall be nine-tenths of one per cent of the capital expenditure proposed subject to a minimum of three thousand dollars and a maximum of twenty thousand dollars.

(H) The council shall adopt rules specifying information that is necessary to conduct reviews of certificate of need applications and to develop recommendations for criteria for reviews that health care facilities and other health care providers are to submit to the director under division (G) of section 3702.52 of the Revised Code.

(I) The council shall adopt rules defining "affiliated person," "related person," and "ultimate controlling interest" for purposes of section 3702.524 of the Revised Code.

(J) The council shall adopt rules prescribing requirements for holders of certificates of need to demonstrate to the director under section 3702.526 of the Revised Code that reasonable progress is being made toward completion of the reviewable activity and establishing standards by which the director shall determine whether reasonable progress is being made.

(K) The public health council shall adopt all rules under divisions (A) to

(J) of this section in accordance with Chapter 119. of the Revised Code. The council may adopt other rules as necessary to carry out the purposes of sections 3702.51 to 3702.62 of the Revised Code.

Sec. 3702.59. (A) The director of health shall accept for review certificate of need applications as provided in sections 3702.592, 3702.593, and 3702.594 of the Revised Code.

(B)(1) The director shall not approve an application for a certificate of need for the addition of long-term care beds to an existing health care facility or for the development of a new health care facility if any of the following apply:

(a) The existing health care facility in which the beds are being placed has one or more waivers for life safety code deficiencies, one or more state fire code violations, or one or more state building code violations, and the project identified in the application does not propose to correct all life safety code deficiencies for which a waiver has been granted, all state fire code violations, and all state building code violations at the existing health care facility in which the beds are being placed;

(b) During the sixty-month period preceding the filing of the application, a notice of proposed license revocation was issued under section 3721.03 of the Revised Code for the existing health care facility in which the beds are being placed or a nursing home owned or operated by the applicant or a principal participant.

(c) During the period that precedes the filing of the application and is encompassed by the three most recent standard surveys of the existing health care facility in which the beds are being placed, any of the following occurred:

(i) The facility was cited on three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies.

(ii) The facility was cited on two or more separate occasions for final, nonappealable immediate jeopardy deficiencies.

(iii) The facility was cited on two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(d) More than two nursing homes owned or operated in this state by the applicant or a principal participant or, if the applicant or a principal participant owns or operates more than twenty nursing homes in this state, more than ten per cent of those nursing homes, were each cited during the period that precedes the filing of the application for the certificate of need and is encompassed by the three most recent standard surveys of the nursing homes that were so cited in any of the following manners:

(i) On three or more separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies;

(ii) On two or more separate occasions for final, nonappealable immediate jeopardy deficiencies;

(iii) On two separate occasions for final, nonappealable actual harm but not immediate jeopardy deficiencies and on one occasion for a final, nonappealable immediate jeopardy deficiency.

(2) In applying divisions (B)(1)(a) to (d) of this section, the director shall not consider deficiencies or violations cited before the applicant or a principal participant acquired or began to own or operate the health care facility at which the deficiencies or violations were cited. The director may disregard deficiencies and violations cited after the health care facility was acquired or began to be operated by the applicant or a principal participant if the deficiencies or violations were attributable to circumstances that arose under the previous owner or operator and the applicant or principal participant has implemented measures to alleviate the circumstances. In the case of an application proposing development of a new health care facility by relocation of beds, the director shall not consider deficiencies or violations that were solely attributable to the physical plant of the existing health care facility from which the beds are being relocated.

(C) The director also shall accept for review any application for the conversion of infirmary beds to long-term care beds if the infirmary meets all of the following conditions:

(1) Is operated exclusively by a religious order;

(2) 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;

(3) Was providing care exclusively to members of such a religious order on January 1, 1994.

~~At no time shall individuals other than those described in division (C)(2) of this section be admitted to a facility to use beds for which a certificate of need is approved under this division.~~

(D) Notwithstanding division (C)(2) of this section, a facility that has been granted a certificate of need under division (C) of this section may provide care to any of the following family members of the individuals described in division (C)(2) of this section: mothers, fathers, brothers, sisters, brothers-in-law, sisters-in-law, or children.

The long-term care beds in a facility that have been granted a certificate of need under division (C) of this section may not be relocated pursuant to sections 3702.592 to 3702.594 of the Revised Code.

Sec. 3704.06. (A) The attorney general, upon the request of the director of environmental protection, shall prosecute any person who violates section 3704.05 or 3704.16 of the Revised Code.

(B) The attorney general, upon request of the director, shall bring an action for an injunction, a civil penalty, or any other appropriate proceedings in any court of competent jurisdiction against any person violating or threatening to violate section 3704.05 or 3704.16 of the Revised Code. The court shall have jurisdiction to grant prohibitory and mandatory injunctive relief and to require payment of a civil penalty upon the showing that ~~such~~ the person has violated this chapter or rules adopted thereunder.

(C) A person who violates section 3704.05 or 3704.16 of the Revised Code shall pay a civil penalty of not more than twenty-five thousand dollars for each day of each violation. This division does not apply to any requirement of this chapter regarding the prevention or abatement of odors.

(D) One-half of the moneys collected as civil penalties under division (C) of this section shall be credited to the environmental education fund created in section 3745.22 of the Revised Code. The remainder of the moneys so collected shall be credited to the air pollution control administration fund, which is hereby created in the state treasury. The air pollution control administration fund shall be administered by the director. Moneys in the air pollution control administration fund shall be used to supplement other moneys available for the administration and enforcement of this chapter and the rules adopted and terms and conditions of orders and permits issued under it, including, without limitation, the issuance of permits under it, and shall not be used to satisfy any state matching fund requirements for the receipt of any federal grant funds.

The director may expend not more than ~~seven~~ one million five hundred fifty thousand dollars of the moneys credited to the air pollution control administration fund under this division in any fiscal year for the purposes specified in this division. The director may request authority from the controlling board to expend any moneys credited to that fund in any fiscal year in excess of that amount.

(E) Upon written complaint by any person, the director shall conduct such investigations and make such inquiries as are necessary to secure compliance with this chapter. The director, upon complaint or upon ~~his~~ the director's own initiative, may investigate or make inquiries into any alleged violation or act of air pollution.

Sec. 3704.14. (A)(1) If the director of environmental protection determines that implementation of a motor vehicle inspection and maintenance program is necessary for the state to effectively comply with

the federal Clean Air Act after June 30, ~~2009~~ 2011, the director may provide for the implementation of the program in those counties in this state in which such a program is federally mandated. Upon making such a determination, the director of environmental protection may request the director of administrative services to extend the terms of the contract that was entered into under the authority of ~~Section 7 of~~ Am. Sub. H.B. ~~24~~ 1 of the ~~127th~~ 128th general assembly. Upon receiving the request, the director of administrative services shall extend the contract, beginning on July 1, ~~2009~~ 2011, in accordance with this section. The contract shall be extended for a period of up to ~~six~~ twelve months with the contractor who conducted the motor vehicle inspection and maintenance program under that contract.

(2) Prior to the expiration of the contract extension that is authorized by division (A)(1) of this section, the director of environmental protection ~~may~~ shall request the director of administrative services to enter into a contract with a vendor to operate a decentralized motor vehicle inspection and maintenance program in each county in this state in which such a program is federally mandated through June 30, ~~2011~~ 2015, with an option for the state to renew the contract through June 30, ~~2012~~ 2017. The contract shall ensure that the decentralized motor vehicle inspection and maintenance program achieves at least the same ~~ozone precursor~~ emission reductions as achieved by the program operated under the authority of the contract that was extended under division (A)(1) of this section. The director of administrative services shall select a vendor through a competitive selection process in compliance with Chapter 125. of the Revised Code.

(3) Notwithstanding any law to the contrary, the director of administrative services shall ensure that a competitive selection process regarding a contract to operate a decentralized motor vehicle inspection and maintenance program in this state incorporates the following ~~elements~~, which shall be included in the contract:

(a) ~~A~~ For purposes of expanding the number of testing locations for consumer convenience, a requirement that the vendor utilize established local businesses, auto repair facilities, or leased properties to operate state-approved inspection and maintenance testing facilities;

(b) A requirement that the vendor selected to operate the program provide notification of the program's requirements to each owner of a motor vehicle that is required to be inspected under the program. The contract shall require the notification to be provided not later than sixty days prior to the date by which the owner of the motor vehicle is required to have the motor vehicle inspected. The director of environmental protection and the vendor shall jointly agree on the content of the notice. However, the notice shall

include at a minimum the locations of all inspection facilities within a specified distance of the address that is listed on the owner's motor vehicle registration;

(c) A requirement that the vendor comply with testing methodology and supply the required equipment approved by the director of environmental protection as specified in the competitive selection process in compliance with Chapter 125. of the Revised Code.

(4) A decentralized motor vehicle inspection and maintenance program operated under this section shall comply with division (B) of this section. The director of environmental protection shall administer the decentralized motor vehicle inspection and maintenance program operated under this section.

(B) The decentralized motor vehicle inspection and maintenance program authorized by this section, at a minimum, shall do all of the following:

- (1) Comply with the federal Clean Air Act;
- (2) Provide for the issuance of inspection certificates;
- (3) Provide for a new car exemption for motor vehicles four years old or newer and provide that a new motor vehicle is exempt for four years regardless of whether legal title to the motor vehicle is transferred during that period.

~~(C) A motor vehicle inspection and maintenance program shall not be implemented in any county in which such a program is not authorized under division (A) of this section without the approval of the general assembly through the enactment of legislation. Further, a motor vehicle inspection and maintenance program shall not be implemented in any county beyond June 30, 2012, without the approval of the general assembly through the enactment of legislation.~~

~~(D)~~ The director of environmental protection shall adopt rules in accordance with Chapter 119. of the Revised Code that the director determines are necessary to implement this section. The director may continue to implement and enforce rules pertaining to the motor vehicle inspection and maintenance program previously implemented under former section 3704.14 of the Revised Code as that section existed prior to its repeal and reenactment by Am. Sub. H.B. 66 of the 126th general assembly, provided that the rules do not conflict with this section.

~~(E)~~(D) There is hereby created in the state treasury the auto emissions test fund, which shall consist of money received by the director from any cash transfers, state and local grants, and other contributions that are received for the purpose of funding the program established under this

section. The director of environmental protection shall use money in the fund solely for the implementation, supervision, administration, operation, and enforcement of the motor vehicle inspection and maintenance program established under this section. Money in the fund shall not be used for either of the following:

(1) To pay for the inspection costs incurred by a motor vehicle dealer so that the dealer may provide inspection certificates to an individual purchasing a motor vehicle from the dealer when that individual resides in a county that is subject to the motor vehicle inspection and maintenance program;

(2) To provide payment for more than one free passing emissions inspection or a total of three emissions inspections for a motor vehicle in any three-hundred-sixty-five day period. The owner or lessee of a motor vehicle is responsible for inspection fees that are related to emissions inspections beyond one free passing emissions inspection or three total emissions inspections in any three-hundred-sixty-five day period. Inspection fees that are charged by a contractor conducting emissions inspections under a motor vehicle inspection and maintenance program shall be approved by the director of environmental protection.

~~(F)~~(E) The motor vehicle inspection and maintenance program established under this section expires upon the termination of all contracts entered into under this section and shall not be implemented beyond the final date on which termination occurs.

Sec. 3705.24. (A)(1) The public health council shall, in accordance with section 111.15 of the Revised Code, adopt rules prescribing fees for the following items or services provided by the state office of vital statistics:

(a) Except as provided in division (A)(4) of this section:

(i) A certified copy of a vital record or a certification of birth;

(ii) A search by the office of vital statistics of its files and records pursuant to a request for information, regardless of whether a copy of a record is provided;

(iii) A copy of a record provided pursuant to a request.

(b) Replacement of a birth certificate following an adoption, legitimation, paternity determination or acknowledgement, or court order;

(c) Filing of a delayed registration of a vital record;

(d) Amendment of a vital record that is requested later than one year after the filing date of the vital record;

(e) Any other documents or services for which the 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 twelve dollars.

(3) Fees prescribed under division (A)(1) of this section shall be collected in addition to any fees required by sections 3109.14 and 3705.242 of the Revised Code.

(4) Fees prescribed under division (A) of this section shall not apply to certifications issued under division (H) of this section or copies provided under section 3705.241 of the Revised Code.

(B) In addition to the fees prescribed under division (A) of this section or section 3709.09 of the Revised Code, the office of vital statistics ~~or~~ the board of health of a city or general health district, or a local registrar of vital statistics who is not a salaried employee of a city or general health district shall charge a five-dollar fee for each certified copy of a vital record and each certification of birth. This fee shall be deposited in the general operations fund created under section 3701.83 of the Revised Code and be used to support the operations, the modernization, and the automation of the vital records program in this state. A board of health or a local registrar shall forward all fees collected under this division to the department of health not later than thirty days after the end of each calendar quarter.

(C) Except as otherwise provided in division (H) of this section, and except as provided in section 3705.241 of the Revised Code, fees collected by the director of health under sections 3705.01 to 3705.29 of the Revised Code shall be paid into the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code. Except as provided in division (B) or (I) of this section, money generated by the fees shall be used only for administration and enforcement of this chapter and the rules adopted under it. Amounts submitted to the department of health for copies of vital records or services in excess of the fees imposed by this section shall be dealt with as follows:

(1) An overpayment of two dollars or less shall be retained by the department and deposited in the state treasury to the credit of the general operations fund created by section 3701.83 of the Revised Code.

(2) An overpayment in excess of two dollars shall be returned to the person who made the overpayment.

(D) If a local registrar is a salaried employee of a city or a general health district, any fees the local registrar receives pursuant to section 3705.23 of the Revised Code shall be paid into the general fund of the city or the health fund of the general health district.

Each local registrar of vital statistics, or each health district where the local registrar is a salaried employee of the district, shall be entitled to a fee for each birth, fetal death, death, or military service certificate properly and

completely made out and registered with the local registrar or district and correctly copied and forwarded to the office of vital statistics in accordance with the population of the primary registration district at the last federal census. The fee for each birth, fetal death, death, or military service certificate shall be:

(1) In primary registration districts of over two hundred fifty thousand, twenty cents;

(2) In primary registration districts of over one hundred twenty-five thousand and less than two hundred fifty thousand, sixty cents;

(3) In primary registration districts of over fifty thousand and less than one hundred twenty-five thousand, eighty cents;

(4) In primary registration districts of less than fifty thousand, one dollar.

(E) The director of health shall annually certify to the county treasurers of the several counties the number of birth, fetal death, death, and military service certificates registered from their respective counties with the names of the local registrars and the amounts due each registrar and health district at the rates fixed in this section. Such amounts shall be paid by the treasurer of the county in which the registration districts are located. No fees shall be charged or collected by registrars except as provided by this chapter and section 3109.14 of the Revised Code.

(F) A probate judge shall be paid a fee of fifteen cents for each certified abstract of marriage prepared and forwarded by the probate judge to the department of health pursuant to section 3705.21 of the Revised Code. The fee shall be in addition to the fee paid for a marriage license and shall be paid by the applicants for the license.

(G) The clerk of a court of common pleas shall be paid a fee of one dollar for each certificate of divorce, dissolution, and annulment of marriage prepared and forwarded by the clerk to the department pursuant to section 3705.21 of the Revised Code. The fee for the certified abstract of divorce, dissolution, or annulment of marriage shall be added to the court costs allowed in these cases.

(H) The fee for an heirloom certification of birth issued pursuant to division (B)(2) of section 3705.23 of the Revised Code shall be an amount prescribed by rule by the director of health plus any fee required by section 3109.14 of the Revised Code. In setting the amount of the fee, the director shall establish a surcharge in addition to an amount necessary to offset the expense of processing heirloom certifications of birth. The fee prescribed by the director of health pursuant to this division shall be deposited into the state treasury to the credit of the heirloom certification of birth fund which is

hereby created. Money credited to the fund shall be used by the office of vital statistics to offset the expense of processing heirloom certifications of birth. However, the money collected for the surcharge, subject to the approval of the controlling board, shall be used for the purposes specified by the family and children first council pursuant to section 121.37 of the Revised Code.

(1) Four dollars of each fee collected by ~~the director of health or the board of health of a city or general health district for an item or service described in division (A)(1)(a) of this section~~ a certified copy of a vital record or a certification of birth shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter ~~and~~. The amount collected shall be used to support public health systems. Of each four dollars collected, one dollar shall be used by the director of health to pay subsidies to boards of health. The subsidies shall be distributed in accordance with the same formula established under section 3701.342 of the Revised Code for the distribution of state health district subsidy funds to boards of health and local health departments.

(2) Four dollars of each fee collected by a local registrar of vital statistics who is not a salaried employee of a city or general health district, for a certified copy of a vital record or certification of birth, shall be transferred to the office of vital statistics not later than thirty days after the end of each calendar quarter. The amount collected shall be used to support public health systems.

Sec. 3709.09. (A) The board of health of a city or general health district may, by rule, establish a uniform system of fees to pay the costs of any services provided by the board.

The fee for issuance of a certified copy of a vital record or a certification of birth shall not be less than the fee prescribed for the same service under division (A)(1) of section 3705.24 of the Revised Code and shall include the fees required by division (B) of section 3705.24 and section 3109.14 of the Revised Code.

Fees for services provided by the board for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25,~~ and 3749.04 of the Revised Code shall be established in accordance with rules adopted under division (B) of this section. The district advisory council, in the case of a general health district, and the legislative authority of the city, in the case of a city health district, may disapprove any fee established by the board of health under this division, and any such fee, as disapproved, shall not be charged by the board of health.

(B) The public health council shall adopt rules under section 111.15 of

the Revised Code that establish fee categories and a uniform methodology for use in calculating the costs of services provided for purposes specified in sections 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~, and 3749.04 of the Revised Code. In adopting the rules, the public health council shall consider recommendations it receives from advisory boards established either by statute or the director of health for entities subject to the fees.

(C) Except when a board of health establishes a fee by adopting a rule as an emergency measure, the board of health shall hold a public hearing regarding each proposed fee for a service provided by the board for a purpose specified in section 3701.344, 3711.10, 3718.06, 3729.07, 3730.03, ~~3733.04, 3733.25~~, or 3749.04 of the Revised Code. If a public hearing is held, at least twenty days prior to the public hearing the board shall give written notice of the hearing to each entity affected by the proposed fee. The notice shall be mailed to the last known address of each entity and shall specify the date, time, and place of the hearing and the amount of the proposed fee.

(D) If payment of a fee established under this section is not received by the day on which payment is due, the board of health shall assess a penalty. The amount of the penalty shall be equal to twenty-five per cent of the applicable fee.

(E) All rules adopted by a board of health under this section shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such rules shall be by publication in one newspaper of general circulation within the health district. Publication shall be made once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and such rules shall take effect and be in force ten days from the date of the first publication.

Sec. 3709.092. (A) A board of health of a city or general health district shall transmit to the director of health all fees or additional amounts that the public health council requires to be collected under sections 3701.344, 3718.06, 3729.07, ~~3733.04, 3733.25~~, and 3749.04 of the Revised Code. The fees and amounts shall be transmitted according to the following schedule:

(1) For fees and amounts received by the board on or after the first day of January but not later than the thirty-first day of March, transmit the fees and amounts not later than the fifteenth day of May;

(2) For fees and amounts received by the board on or after the first day of April but not later than the thirtieth day of June, transmit the fees and amounts not later than the fifteenth day of August;

(3) For fees and amounts received by the board on or after the first day of July but not later than the thirtieth day of September, transmit the fees and amounts not later than the fifteenth day of November;

(4) For fees and amounts received by the board on or after the first day of October but not later than the thirty-first day of December, transmit the fees and amounts not later than the fifteenth day of February of the following year.

(B) The director shall deposit the fees and amounts received under this section into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code. Each amount shall be used solely for the purpose for which it was collected.

Sec. 3709.21. The board of health of a general health district may make such orders and regulations as are necessary for its own government, for the public health, the prevention or restriction of disease, and the prevention, abatement, or suppression of nuisances. Such board may require that no human, animal, or household wastes from sanitary installations within the district be discharged into a storm sewer, open ditch, or watercourse without a permit therefor having been secured from the board under such terms as the board requires. All orders and regulations not for the government of the board, but intended for the general public, shall be adopted, recorded, and certified as are ordinances of municipal corporations and the record thereof shall be given in all courts the same effect as is given such ordinances, but the advertisements of such orders and regulations shall be by publication in ~~one~~ a newspaper published and of general circulation within the district. Publication shall be made once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, and such orders and regulations shall take effect and be in force ten days from the date of the first publication. In cases of emergency caused by epidemics of contagious or infectious diseases, or conditions or events endangering the public health, the board may declare such orders and regulations to be emergency measures, and such orders and regulations shall become effective immediately without such advertising, recording, and certifying.

Sec. 3709.341. The board of county commissioners may donate or sell property, buildings, and furnishings to any board of health of a general or combined health district. Upon acceptance by the board of health of the general or combined district, the board of county commissioners may convey the property, buildings, and furnishings to the board of health to be used as quarters by the board of health. The instrument conveying the property, buildings, and furnishings shall include a reverter clause that, in the event the board of health subsequently sells the property, buildings, and

furnishings:

(A) Reverts the property, buildings, and furnishings to the board of county commissioners if they initially were donated by the board of county commissioners; or

(B) Specifies how the proceeds of the board of health's subsequent sale of the property, buildings, and furnishings shall be distributed, if they initially were sold by the board of county commissioners.

Sec. 3717.53. (A) As used in this section:

(1) "Food nutrition information" includes, but is not limited to, the caloric, fat, carbohydrate, cholesterol, fiber, sugar, potassium, protein, vitamin, mineral, allergen, and sodium content of food. "Food nutrition information" also includes the designation of food as healthy or unhealthy.

(2) "Political subdivision" and "local legislation" have the same meanings as in section 905.501 of the Revised Code.

(3) "Consumer incentive item" means any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemat, or other premium, prize, or consumer product that is associated with a meal served by or acquired from a food service operation.

(B) The director of agriculture has sole and exclusive authority in this state to regulate the provision of food nutrition information and consumer incentive items at food service operations. The director may adopt rules for that purpose in accordance with Chapter 119. of the Revised Code, including rules that establish a schedule of civil penalties for violations of this section and rules adopted under it. Subject to the approval of the joint committee on agency rule review, portions of the rules may be adopted by referencing all or any part of any federal regulations pertaining to the provision of food nutrition information and consumer incentive items.

The regulation of the provision of food nutrition information and consumer incentive items at food service operations ~~is a matter~~ and how food service operations are characterized are matters of general statewide interest that ~~requires~~ require statewide regulation, and rules adopted under this section constitute a comprehensive plan with respect to all aspects of the regulation of the provision of food nutrition information and consumer incentive items at food service operations in this state. Rules adopted under this section shall be applied uniformly throughout this state.

(C) No political subdivision shall ~~enact~~ do any of the following:

(1) Enact, adopt, or continue in effect local legislation relating to the provision or nonprovision of food nutrition information or consumer

incentive items at food service operations;

(2) Condition a license, a permit, or regulatory approval on the provision or nonprovision of food nutrition information or consumer incentive items at food service operations;

(3) Ban, prohibit, or otherwise restrict food at food service operations based on the food nutrition information or on the provision or nonprovision of consumer incentive items;

(4) Condition a license, a permit, or regulatory approval for a food service operation on the existence or nonexistence of food-based health disparities;

(5) Where food service operations are permitted to operate, ban, prohibit, or otherwise restrict a food service operation based on the existence or nonexistence of food-based health disparities as recognized by the department of health, the national institute of health, or the centers for disease control.

Sec. 3719.141. (A) A peace officer may sell any controlled substance in the performance of the officer's official duties only if either of the following applies:

(1) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) The peace officer who makes the sale determines that the sale is necessary in the performance of the officer's official duties;

(c) Any of the following applies:

(i) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer who makes the sale is a peace officer, and the peace officer who makes the sale determines that the sale is necessary to prevent the person from determining or suspecting that the officer who makes the sale is a peace officer.

(ii) The peace officer who makes the sale determines that the sale is necessary to preserve an identity that the peace officer who makes the sale has assumed in the performance of the officer's official duties.

(iii) The sale involves a controlled substance that, during the course of another sale, was intercepted by the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale; the intended recipient of the controlled substance in the other sale does not know that the controlled substance has been so intercepted; the sale in question is made to the intended recipient of the

controlled substance in the other sale and is undertaken with the intent of obtaining evidence of a drug abuse offense against the intended recipient of the controlled substance; and the sale in question does not involve the transfer of any money or other thing of value to the peace officer who makes the sale or any other peace officer who serves the same agency served by the peace officer who makes the sale in exchange for the controlled substance.

(d) If the sale is made under the circumstances described in division (A)(1)(c)(i) or (ii) of this section, no person is charged with any criminal offense or any delinquent act based upon the sale unless both of the following apply:

(i) The person also is charged with a criminal offense or a delinquent act that is based upon an act or omission that is independent of the sale but that either is connected together with the sale, or constitutes a part of a common scheme or plan with the sale, or is part of a course of criminal conduct involving the sale.

(ii) The criminal offense or delinquent act based upon the sale and the other criminal offense or delinquent act are charged in the same indictment, information, or complaint.

(e) The sale is not part of a continuing course of conduct involving the sale of controlled substances by the peace officer who makes the sale.

(f) The amount of the controlled substance sold and the scope of the sale of the controlled substance is as limited as possible under the circumstances.

(g) Prior to the sale, the law enforcement agency served by the peace officer who makes the sale has adopted a written internal control policy that does all of the following:

(i) Addresses the keeping of detailed records as to the amount of money or other things of value obtained in the sale in exchange for the controlled substance;

(ii) Addresses the delivery of all moneys or things of value so obtained to the prosecuting attorney pursuant to division (D) of this section;

(iii) Addresses the agency's use and disposition of all such moneys or things of value that are deposited in the law enforcement trust fund of the sheriff, municipal corporation, or township, pursuant to division (D) of this section, and that are used by the sheriff, are allocated to the police department of the municipal corporation by its legislative authority, or are allocated by the board of township trustees to the township police department, township or joint police district police force, or office of the constable;

(iv) Provides for the keeping of detailed financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds

received, and the specific amount of each general type of expenditure. The policy shall not provide for or permit the identification of any peace officer involved in the sale, any information that is or may be needed in an ongoing investigation, or any specific expenditure that is made in an ongoing investigation.

(2) A peace officer may sell any controlled substance in the performance of the officer's official duties if all of the following apply:

(a) Prior approval for the sale has been given by the prosecuting attorney of the county in which the sale takes place, in any manner described in division (B) of this section;

(b) Prior to the sale, the law enforcement agency served by the peace officer has adopted a written internal control policy that does the things listed in divisions (A)(1)(g)(i) to (iv) of this section;

(c) The purchaser of the controlled substance acquires possession of it in the presence of the peace officer who makes the sale.

(d) Upon the consummation of the sale, either of the following occurs:

(i) The peace officer arrests the purchaser of the controlled substance, recovers it and the proceeds of the sale, and secures it and the proceeds as evidence to be used in a subsequent prosecution.

(ii) The peace officer makes a reasonable, good faith effort to arrest the purchaser of the controlled substance and to recover the controlled substance and the proceeds of the sale, but the officer is unable to make the arrest and recover all of the controlled substance and proceeds for reasons beyond the officer's control, and the peace officer secures all of the controlled substance recovered and all of the proceeds recovered as evidence to be used in a subsequent prosecution.

(B) The approval of a prosecuting attorney required by division (A)(1)(a) or (2)(a) of this section may be in either of the following forms:

(1) A general approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, that grants approval only to that peace officer, and that grants approval for any such sale that may be necessary, after the approval has been granted, under the standards described in division (A)(1) or (2) of this section;

(2) A specific approval that is given by the prosecuting attorney to the peace officer who makes the sale or to the law enforcement agency served by that peace officer, and that grants approval only to that peace officer and only for the particular sale in question, under the standards described in division (A)(1) or (2) of this section.

(C) If a peace officer sells a controlled substance in the performance of

the officer's official duties under division (A)(1) or (2) of this section, the peace officer, within a reasonable time after the sale, shall provide the prosecuting attorney who granted approval for the sale with a written summary that identifies the amount and type of controlled substance sold, the circumstances of the sale, and the amount of any money or other thing of value obtained in the sale in exchange for the controlled substance. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(D)(1) Except as provided in division (D)(2) of this section, if a peace officer sells a controlled substance in the performance of the officer's official duties under division (A)(1) or (2) of this section, the peace officer, as soon as possible after the sale, shall deliver all money or other things of value obtained in the sale in exchange for the controlled substance to the prosecuting attorney who granted approval for the sale. The prosecuting attorney shall safely keep all money and other things of value the prosecuting attorney receives under this division for use as evidence in any criminal action or delinquency proceeding based upon the sale. All money so received by a prosecuting attorney that no longer is needed as evidence in any criminal action or delinquency proceeding shall be deposited by the prosecuting attorney in the law enforcement trust fund of the sheriff if the peace officer who made the sale is the sheriff or a deputy sheriff or the law enforcement trust fund of a municipal corporation or township if it is served by the peace officer who made the sale, as established pursuant to section 2981.13 of the Revised Code, and upon deposit shall be expended only as provided in that section. All other things of value so received by a prosecuting attorney that no longer are needed as evidence in any criminal action or delinquency proceeding shall be disposed of, without appraisal, at a public auction to the highest bidder for cash; the proceeds of the sale shall be deposited by the prosecuting attorney in the law enforcement trust fund of the sheriff if the peace officer who made the sale is the sheriff or a deputy sheriff or the law enforcement trust fund of a municipal corporation or township if it is served by the peace officer who made the sale, as established pursuant to section 2981.13 of the Revised Code, and upon deposit shall be expended only as provided in that section. Each law enforcement agency that uses any money that was deposited in a law enforcement trust fund pursuant to this division shall comply with the written internal control policy adopted by the agency, as required by division (A)(1)(g) or (2)(b) of this section, in its use of the money.

(2) Division (D)(1) of this section does not apply in relation to a peace

officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section in any of the following circumstances:

(a) The person to whom the sale is made or any other person who is involved in the sale does not know that the officer is a peace officer, and, if the officer were to retain and deliver the money or other things of value to the prosecuting attorney, the person would determine or suspect that the officer is a peace officer.

(b) If the officer were to retain and deliver the money or other things of value to the prosecuting attorney, an identity that has been assumed in the performance of the officer's official duties would not be preserved.

(c) The sale is made under the circumstances described in division (A)(1)(c)(iii) of this section.

(3) If division (D)(1) of this section does not apply in relation to a peace officer who sells a controlled substance in the performance of the officer's official duties under division (A)(1) of this section due to the operation of division (D)(2) of this section, the peace officer, as soon as possible after the sale, shall deliver to the prosecuting attorney who granted approval for the sale a written summary that describes the circumstances of the sale and the reason for which division (D)(1) of this section does not apply. The summary shall not identify or enable the identification of any peace officer involved in the sale and shall not contain any information that is or may be needed in an ongoing investigation.

(E)(1) A written internal control policy adopted by a law enforcement agency that is served by a peace officer who sells a controlled substance under division (A)(1) or (2) of this section, as required by division (A)(1)(g) or (2)(b) of this section, is a public record open for inspection under section 149.43 of the Revised Code. Each law enforcement agency that adopts a written internal control policy of that nature shall comply with it in relation to any sale of a controlled substance under division (A)(1) or (2) of this section. All records as to the amount of money or things of value obtained in the sale of a controlled substance, in exchange for the controlled substance, and all financial records of the receipts of the proceeds, the general types of expenditures made out of the proceeds received, and the specific amounts of each general type of expenditure by a law enforcement agency in relation to any sale of a controlled substance under division (A)(1) or (2) of this section are public records open for inspection under section 149.43 of the Revised Code.

(2) A summary required by division (C) or (D)(3) of this section is a public record open for inspection under section 149.43 of the Revised Code.

(F)(1) Each prosecuting attorney who grants approval for a sale of controlled substances by a peace officer and who receives in any calendar year one or more summaries under division (C) of this section relative to the sale of a controlled substance by a peace officer shall prepare a report covering the calendar year that cumulates all of the information contained in each of the summaries so received in the calendar year and shall send the cumulative report, no later than the first day of March in the calendar year following the calendar year covered by the report, to the attorney general.

(2) Each prosecuting attorney who receives any money or any other thing of value under division (D)(1) of this section shall keep detailed financial records of the receipts and dispositions of all such moneys or things of value so received. No record of that nature shall identify, or enable the identification of, any person from whom money or another thing of value was received as a result of the sale of a controlled substance under division (A)(1) or (2) of this section or contain any information that is or may be needed in an ongoing investigation. Each record of that nature is a public record open for inspection under section 149.43 of the Revised Code and shall include, but is not limited to, all of the following information:

(a) The identity of each law enforcement agency that has so delivered any money or other thing of value to the prosecuting attorney;

(b) The total amount of money or other things of value so received from each law enforcement agency;

(c) The disposition made under this section of all money or other things of value so received.

(G) Divisions (A) to (F) of this section do not apply to any peace officer, or to any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice. Any peace officer, or any officer, agent, or employee of the United States, who is operating under the management and direction of the United States department of justice may sell a controlled substance in the performance of the officer's, agent's, or employee's official duties if the sale is made in accordance with federal statutes and regulations.

(H) As used in this section, "peace officer" has the same meaning as in section 2935.01 of the Revised Code and also includes a special agent of the bureau of criminal identification and investigation.

Sec. 3719.41. Controlled substance schedules I, II, III, IV, and V are hereby established, which schedules include the following, subject to amendment pursuant to section 3719.43 or 3719.44 of the Revised Code.

SCHEDULE I

(A) Narcotics-opiates

Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl
(N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol (except levo-alphacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl
(N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide;
1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Alpha-methylthiofentanyl
(N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N- phenylpropanamide);
- (9) Benzethidine;
- (10) Betacetylmethadol;
- (11) Beta-hydroxyfentanyl
(N-[1-(2-hydroxy-2-phenethyl-4-piperidinyl]-N- phenylpropanamide);
- (12) Beta-hydroxy-3-methylfentanyl (other name:
N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-
phenylpropanamide);
- (13) Betameprodine;
- (14) Betamethadol;
- (15) Betaprodine;
- (16) Clonitazene;
- (17) Dextromoramide;
- (18) Diampromide;
- (19) Diethylthiambutene;
- (20) Difenoxin;
- (21) Dimenoxadol;
- (22) Dimepheptanol;
- (23) Dimethylthiambutene;
- (24) Dioxaphetyl butyrate;
- (25) Dipipanone;
- (26) Ethylmethylthiambutene;
- (27) Etonitazene;

- (28) Etoxidine;
- (29) Furethidine;
- (30) Hydroxypethidine;
- (31) Ketobemidone;
- (32) Levomoramide;
- (33) Levophenacymorphan;
- (34) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (35) 3-methylthiofentanyl
(N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidiny]-N-phenylpropanamide);
- (36) Morpheridine;
- (37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);
- (38) Noracymethadol;
- (39) Norlevorphanol;
- (40) Normethadone;
- (41) Norpipanone;
- (42) Para-fluorofentanyl
(N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide);
- (43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (44) Phenadoxone;
- (45) Phenampromide;
- (46) Phenomorphan;
- (47) Phenoperidine;
- (48) Piritramide;
- (49) Proheptazine;
- (50) Properidine;
- (51) Propiram;
- (52) Racemoramide;
- (53) Thiofentanyl
(N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
- (54) Tilidine;
- (55) Trimeperidine.

(B) Narcotics-opium derivatives

Any of the following opium derivatives, including their salts, isomers, and salts of isomers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;

- (4) Codeine methylbromide;
 - (5) Codeine-n-oxide;
 - (6) Cyprenorphine;
 - (7) Desomorphine;
 - (8) Dihydromorphine;
 - (9) Drotebanol;
 - (10) Etorphine (except hydrochloride salt);
 - (11) Heroin;
 - (12) Hydromorphanol;
 - (13) Methyldesorphine;
 - (14) Methyldihydromorphine;
 - (15) Morphine methylbromide;
 - (16) Morphine methylsulfonate;
 - (17) Morphine-n-oxide;
 - (18) Myrophine;
 - (19) Nicocodeine;
 - (20) Nicomorphine;
 - (21) Normorphine;
 - (22) Pholcodine;
 - (23) Thebacon.
- (C) Hallucinogens

Any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation. For the purposes of this division only, "isomer" includes the optical isomers, position isomers, and geometric isomers.

(1) Alpha-ethyltryptamine (some trade or other names: etryptamine; Monase; alpha-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; alpha-ET; and AET);

(2) 4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-alpha-methylphenethylamine; 4-bromo-2,5-DMA);

(3) 4-bromo-2,5-dimethoxyphenethylamine (some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus);

(4) 2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-alpha-methylphenethylamine; 2,5-DMA);

(5) 2,5-dimethoxy-4-ethylamphetamine (some trade or other names: DOET);

- (6) 4-methoxyamphetamine (some trade or other names: 4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine; PMA);
- (7) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (8) 4-methyl-2,5-dimethoxy-amphetamine (some trade or other names: 4-methyl-2,5-dimethoxy-alpha-methylphenethylamine; "DOM" and "STP");
- (9) 3,4-methylenedioxy amphetamine;
- (10) 3,4-methylenedioxymethamphetamine (MDMA);
- (11) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);
- (12) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine and N-hydroxy MDA);
- (13) 3,4,5-trimethoxy amphetamine;
- (14) Bufotenine (some trade or other names: 3-(beta-dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine);
- (15) Diethyltryptamine (some trade or other names: N, N-diethyltryptamine; DET);
- (16) Dimethyltryptamine (some trade or other names: DMT);
- (17) Ibogaine (some trade or other names: 7-ethyl-6,6beta,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido[1',2':1,2] azepino [5, 4-b] indole; tabernanthe iboga);
- (18) Lysergic acid diethylamide;
- (19) Marihuana;
- (20) Mescaline;
- (21) Parahexyl (some trade or other names: 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl);
- (22) Peyote (meaning all parts of the plant presently classified botanically as "Lophophora williamsii Lemaire," whether growing or not, the seeds of that plant, any extract from any part of that plant, and every compound, manufacture, salts, derivative, mixture, or preparation of that plant, its seeds, or its extracts);
- (23) N-ethyl-3-piperidyl benzilate;
- (24) N-methyl-3-piperidyl benzilate;
- (25) Psilocybin;
- (26) Psilocyn;

(27) Tetrahydrocannabinols (synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following: delta-1-cis or trans tetrahydrocannabinol, and their optical isomers; delta-6-cis or trans tetrahydrocannabinol, and their optical isomers; delta-3,4-cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions, are covered.));

(28) Ethylamine analog of phencyclidine (some trade or other names: N-ethyl-1-phenylcyclohexylamine; (1-phenylcyclohexyl)ethylamine; N-(1-phenylcyclohexyl)ethylamine; cyclohexamine; PCE);

(29) Pyrrolidine analog of phencyclidine (some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP);

(30) Thiophene analog of phencyclidine (some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine; 2-thienyl analog of phencyclidine; TPCP; TCP);

(31) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine;

(32) Hashish;

(33) Salvia divinorum;

(34) Salvinorin A.

(D) Depressants

Any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers, unless specifically excepted under federal drug abuse control laws, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone;

(2) Methaqualone.

(E) Stimulants

Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Aminorex (some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine);

(2) Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone,

2-aminopropiophenone, and norephedrone);

(3) Fenethylamine;

(4) Methcathinone (some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)propiofenone; 2-methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiofenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463; and UR1432, its salts, optical isomers, and salts of optical isomers;

(5) (+/-)cis-4-methylaminorex ((+/-)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(6) N-ethylamphetamine;

(7) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine).

SCHEDULE II

(A) Narcotics-opium and opium derivatives

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including the following:

- (a) Raw opium;
- (b) Opium extracts;
- (c) Opium fluid extracts;
- (d) Powdered opium;
- (e) Granulated opium;
- (f) Tincture of opium;
- (g) Codeine;
- (h) Ethylmorphine;
- (i) Etorphine hydrochloride;
- (j) Hydrocodone;
- (k) Hydromorphone;
- (l) Metopon;
- (m) Morphine;
- (n) Oxycodone;
- (o) Oxymorphone;

(p) Thebaine.

(2) Any salt, compound, derivative, or preparation thereof that is chemically equivalent to or identical with any of the substances referred to in division (A)(1) of this schedule, except that these substances shall not include the isoquinoline alkaloids of opium;

(3) Opium poppy and poppy straw;

(4) Coca leaves and any salt, compound, derivative, or preparation of coca leaves (including cocaine and ecgonine, their salts, isomers, and derivatives, and salts of those isomers and derivatives), and any salt, compound, derivative, or preparation thereof that is chemically equivalent to or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine;

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form that contains the phenanthrene alkaloids of the opium poppy).

(B) Narcotics-opiates

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation, but excluding dextrophan and levopropoxyphene:

(1) Alfentanil;

(2) Alphaprodine;

(3) Anileridine;

(4) Bezitramide;

(5) Bulk dextropropoxyphene (non-dosage forms);

(6) Carfentanil;

(7) Dihydrocodeine;

(8) Diphenoxylate;

(9) Fentanyl;

(10) Isomethadone;

(11) Levo-alpha-acetylmethadol (some other names: levo-alpha-acetylmethadol; levomethadyl acetate; LAAM);

(12) Levomethorphan;

(13) Levorphanol;

(14) Metazocine;

(15) Methadone;

(16) Methadone-intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl

butane;

- (17) Moramide-intermediate,
2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid;
- (18) Pethidine (meperidine);
- (19) Pethidine-intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (20) Pethidine-intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (21) Pethidine-intermediate-C,
1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (22) Phenazocine;
- (23) Piminodine;
- (24) Racemethorphan;
- (25) Racemorphan;
- (26) Remifentanil;
- (27) Sufentanil.
- (C) Stimulants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, its optical isomers, and salts of its optical isomers;
- (2) Methamphetamine, its salts, its isomers, and salts of its isomers;
- (3) Methylphenidate;
- (4) Phenmetrazine and its salts.
- (D) Depressants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Amobarbital;
- (2) Gamma-hydroxy-butyrate;
- (3) Glutethimide;
- (4) Pentobarbital;
- (5) Phencyclidine (some trade or other names:
1-(1-phenylcyclohexyl)piperidine; PCP);
- (6) Secobarbital;
- (7) 1-aminophenylcyclohexane and all N-mono-substituted and/or all N-N-disubstituted analogs including, but not limited to, the following:

- (a) 1-phenylcyclohexylamine;
- (b) (1-phenylcyclohexyl) methylamine;
- (c) (1-phenylcyclohexyl) dimethylamine;
- (d) (1-phenylcyclohexyl) methylethylamine;
- (e) (1-phenylcyclohexyl) isopropylamine;
- (f) 1-(1-phenylcyclohexyl) morpholine.

(E) Hallucinogenic substances

- (1) Nabilone (another name for nabilone: (+)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one).

(F) Immediate precursors

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances:

- (1) Immediate precursor to amphetamine and methamphetamine:
 - (a) Phenylacetone (some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone);
- (2) Immediate precursors to phencyclidine (PCP):
 - (a) 1-phenylcyclohexylamine;
 - (b) 1-piperidinocyclohexanecarbonitrile (PCC).

SCHEDULE III

(A) Stimulants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, their optical isomers, position isomers, or geometric isomers, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) All stimulant compounds, mixtures, and preparations included in schedule III pursuant to the federal drug abuse control laws and regulations adopted under those laws;
- (2) Benzphetamine;
- (3) Chlorphentermine;
- (4) Clortermine;
- (5) Phendimetrazine.

(B) Depressants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a

depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs, and one or more other active medicinal ingredients that are not listed in any schedule;

(2) Any suppository dosage form containing amobarbital, secobarbital, pentobarbital, or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository;

(3) Any substance that contains any quantity of a derivative of barbituric acid or any salt of a derivative of barbituric acid;

(4) Chlorhexadol;

(5) Ketamine, its salts, isomers, and salts of isomers (some other names for ketamine: (+/-)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone);

(6) Lysergic acid;

(7) Lysergic acid amide;

(8) Methyprylon;

(9) Sulfondiethylmethane;

(10) Sulfonethylmethane;

(11) Sulfonmethane;

(12) Tiletamine, zolazepam, or any salt of tiletamine or zolazepam (some trade or other names for a tiletamine-zolazepam combination product: Telazol); (some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone); (some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one; flupyrazapon).

(C) Narcotic antidotes

(1) Nalorphine.

(D) Narcotics-narcotic preparations

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or

greater quantity of an isoquinoline alkaloid of opium;

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(E) Anabolic steroids

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, esters, isomers, and salts of esters and isomers, whenever the existence of these salts, esters, and isomers is possible within the specific chemical designation:

(1) Anabolic steroids. Except as otherwise provided in division (E)(1) of schedule III, "anabolic steroids" means any drug or hormonal substance that is chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) and that promotes muscle growth. "Anabolic steroids" does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and that has been approved by the United States secretary of health and human services for that administration, unless a person prescribes, dispenses, or distributes this type of anabolic steroid for human use. "Anabolic steroid" includes, but is not limited to, the following:

- (a) Boldenone;
- (b) Chlorotestosterone (4-chlortestosterone);
- (c) Clostebol;
- (d) Dehydrochlormethyltestosterone;
- (e) Dihydrotestosterone (4-dihydrotestosterone);
- (f) Drostanolone;
- (g) Ethylestrenol;

- (h) Fluoxymesterone;
- (i) Formebolone (formebolone);
- (j) Mesterolone;
- (k) Methandienone;
- (l) Methandranone;
- (m) Methandriol;
- (n) Methandrostenolone;
- (o) Methenolone;
- (p) Methyltestosterone;
- (q) Mibolerone;
- (r) Nandrolone;
- (s) Norethandrolone;
- (t) Oxandrolone;
- (u) Oxymesterone;
- (v) Oxymetholone;
- (w) Stanolone;
- (x) Stanozolol;
- (y) Testolactone;
- (z) Testosterone;
- (aa) Trenbolone;

(bb) Any salt, ester, isomer, or salt of an ester or isomer of a drug or hormonal substance described or listed in division (E)(1) of schedule III if the salt, ester, or isomer promotes muscle growth.

(F) Hallucinogenic substances

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States food and drug administration approved drug product (some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol).

SCHEDULE IV

(A) Narcotic drugs

Unless specifically excepted by federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;
- (2) Dextropropoxyphene

(alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane)[final dosage forms].

(B) Depressants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Alprazolam;
- (2) Barbitol;
- (3) Bromazepam;
- (4) Camazepam;
- (5) Chloral betaine;
- (6) Chloral hydrate;
- (7) Chlordiazepoxide;
- (8) Clobazam;
- (9) Clonazepam;
- (10) Clorazepate;
- (11) Clotiazepam;
- (12) Cloxazolam;
- (13) Delorazepam;
- (14) Diazepam;
- (15) Estazolam;
- (16) Ethchlorvynol;
- (17) Ethinamate;
- (18) Ethyl loflazepate;
- (19) Fludiazepam;
- (20) Flunitrazepam;
- (21) Flurazepam;
- (22) Halazepam;
- (23) Haloxazolam;
- (24) Ketazolam;
- (25) Loprazolam;
- (26) Lorazepam;
- (27) Lormetazepam;
- (28) Mebutamate;
- (29) Medazepam;
- (30) Meprobamate;
- (31) Methohexital;

- (32) Methylphenobarbital (mephobarbital);
 - (33) Midazolam;
 - (34) Nimetazepam;
 - (35) Nitrazepam;
 - (36) Nordiazepam;
 - (37) Oxazepam;
 - (38) Oxazolam;
 - (39) Paraldehyde;
 - (40) Petrichloral;
 - (41) Phenobarbital;
 - (42) Pinazepam;
 - (43) Prazepam;
 - (44) Quazepam;
 - (45) Temazepam;
 - (46) Tetrazepam;
 - (47) Triazolam;
 - (48) Zaleplon;
 - (49) Zolpidem.
- (C) Fenfluramine

Any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts, their optical isomers, position isomers, or geometric isomers, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Fenfluramine.
- (D) Stimulants

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, their optical isomers, position isomers, or geometric isomers, and salts of these isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Cathine ((+)-norpseudoephedrine);
- (2) Diethylpropion;
- (3) Fencamfamin;
- (4) Fenproporex;
- (5) Mazindol;
- (6) Mefenorex;
- (7) Modafinil;

(8) Pemoline (including organometallic complexes and chelates thereof);

(9) Phentermine;

(10) Pipradrol;

(11) Sibutramine;

(12) SPA [(-)-1-dimethylamino-1,2-diphenylethane].

(E) Other substances

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances, including their salts:

(1) Pentazocine;

(2) Butorphanol (including its optical isomers).

SCHEDULE V

(A) Narcotic drugs

Unless specifically excepted under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following narcotic drugs, and their salts, as set forth below:

(1) Buprenorphine.

(B) Narcotics-narcotic preparations

Narcotic drugs containing non-narcotic active medicinal ingredients. Any compound, mixture, or preparation that contains any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, and that includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

(C) Stimulants

Unless specifically exempted or excluded under federal drug abuse control laws or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(1) Ephedrine, except as provided in division (K) of section 3719.44 of the Revised Code;

(2) Pyrovalerone.

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) An adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code;

(v) An alcohol or drug addiction program as defined in section 3793.01

of the Revised Code;

(vi) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(vii) A facility providing services under contract with the department of developmental disabilities under section 5123.18 of the Revised Code unless section 5123.192 of the Revised Code makes the facility subject to the requirements of this chapter;

(viii) 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;

(ix) 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;

(x) 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)(ix) 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~~ do the following:

(1) Provide the following skilled nursing care to its residents ~~as follows~~:

~~(1)(a)~~ Supervision of special diets;

~~(2)(b)~~ Application of dressings, in accordance with rules adopted under section 3721.04 of the Revised Code;

~~(3)(c)~~ Subject to division (B)(1) of this section, administration of medication;

~~(4)~~.

(2) Subject to division (C) of this section, provide other skilled nursing care ~~provided~~ on a part-time, intermittent basis for not more than a total of one hundred twenty days in a twelve-month period;

~~(5) Subject to division (D) of this section, (3) Provide~~ skilled nursing care ~~provided~~ for more than one hundred twenty days in a twelve-month period to a ~~hospice patient, as defined in section 3712.01 of the Revised Code~~ resident when the requirements of division (D) of this section are met.

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," 79 Stat. 620 (1965), 42 U.S.C.A. 1395, 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~~ Except as provided in division (D) of this section, 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~~ medicaid 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," 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)~~(1) A residential care facility may admit or retain ~~a hospice patient~~ an individual who requires skilled nursing care for more than one hundred twenty days in any twelve-month period only if the facility has entered into a written agreement with each of the following:

(a) The individual or individual's sponsor;

(b) The individual's personal physician;

(c) Unless the individual's personal physician oversees the skilled

nursing care, the provider of the skilled nursing care:

(d) If the individual is a hospice patient as defined in section 3712.01 of the Revised Code, a hospice care program licensed under Chapter 3712. of the Revised Code. The

(2) The agreement between the residential care facility and hospice program required by division (D)(1) of this section shall include all of the following provisions:

(1)(a) That the hospice patient individual will be provided skilled nursing care in the facility only if a determination has been made that the patient's individual's needs can be met at the facility;

(2)(b) That the hospice patient individual will be retained in the facility only if periodic redeterminations are made that the patient's individual's needs are being met at the facility;

(3)(c) That the redeterminations will be made according to a schedule specified in the agreement;

(4) That the (d) If the individual is a hospice patient, that the individual has been given an opportunity to choose the hospice care program that best meets the patient's individual's needs;

(e) Unless the individual is a hospice patient, that the individual's personal physician has determined that the skilled nursing care the individual needs is routine.

(E) 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.~~ 5119. 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)(1) The director of health shall charge the following application fee and annual renewal licensing and inspection fee for each fifty persons or part thereof of a home's licensed capacity:

- (a) For state fiscal year 2010, two hundred twenty dollars;
- (b) For state fiscal year 2011, two hundred seventy dollars;
- (c) For each state fiscal year thereafter, three hundred twenty dollars.

(2) All fees collected by the director for the issuance or renewal of licenses shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use only in administering and enforcing this chapter and rules adopted under it.

(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. 3721.022. (A) As used in this section:

(1) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(2) "Deficiency" and "survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) The department of health is hereby designated the state agency responsible for establishing and maintaining health standards and serving as the state survey agency for the purposes of Titles XVIII and XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended. The department shall carry out these functions in accordance with the regulations, guidelines, and procedures issued under Titles XVIII and XIX by the United States secretary of health and human services and with sections 5111.35 to 5111.62 of the Revised Code. The director of health shall enter into agreements with regard to these functions with the department of job and family services and the United States department of health and human services. The director may also enter into agreements with the department of job and family services under which the department of health is designated to perform functions under sections 5111.35 to 5111.62 of the Revised Code.

The director, in accordance with Chapter 119. of the Revised Code, shall adopt rules necessary to implement the survey and certification requirements for skilled nursing facilities and nursing facilities established by the United States secretary of health and human services under Titles XVIII and XIX of the "Social Security Act," and the survey requirements established under sections 5111.35 to 5111.62 of the Revised Code. The rules shall include an informal process by which a facility may obtain a review up to two reviews of any deficiencies that have been cited on a statement of deficiencies made by the department of health under ~~section 5111.42 of the Revised Code~~ 42 C.F.R. Part 488 and cause the facility to be in noncompliance as defined in 42 C.F.R. 488.301. The first review shall be conducted by an employee of the department who did not participate in and was not otherwise involved in any way with the survey. ~~If the employee conducting the review determines~~ A facility that is not satisfied with the results of a first review may receive a second review on payment of a fee to the department. The amount of the fee shall be specified in rules adopted under this section. The fee shall be deposited into the state treasury to the credit of the general operations fund created in section 3701.83 of the Revised Code for use in the implementation of this section. The second review shall be conducted by either of the following as selected by the facility: a hearing officer employed by the department or a hearing officer included on a list the department shall provide the facility. A final determination that any deficiency citation is unjustified, that determination shall be reflected clearly in all records relating to the survey.

The director need not adopt as rules any of the regulations, guidelines, or procedures issued under Titles XVIII and XIX of the "Social Security Act" by the United States secretary of health and human services.

Sec. 3721.04. (A) The public health council shall adopt and publish rules governing the operation of homes, which shall have uniform application throughout the state, and shall prescribe standards for homes with respect to, but not limited to, the following matters:

(1) The minimum space requirements for occupants and equipping of the buildings in which homes are housed so as to ensure healthful, safe, sanitary, and comfortable conditions for all residents, so long as they are not inconsistent with Chapters 3781. and 3791. of the Revised Code or with any rules adopted by the board of building standards and by the state fire marshal;

(2) The number and qualifications of personnel, including management and nursing staff, for each class of home, and the qualifications of nurse aides, as defined in section 3721.21 of the Revised Code, used by long-term

care facilities, as defined in that section;

(3) The medical, rehabilitative, and recreational services to be provided by each class of home;

(4) Dietetic services, including but not limited to sanitation, nutritional adequacy, and palatability of food;

(5) The personal and social services to be provided by each class of home;

(6) The business and accounting practices to be followed and the type of patient and business records to be kept by such homes;

(7) The operation of adult day-care programs provided by and on the same site as homes licensed under this chapter;

(8) The standards and procedures to be followed by residential care facilities in admitting and retaining a resident who requires the application of dressings, including requirements for charting and evaluating on a weekly basis;

(9) The requirements for conducting weekly evaluations of residents receiving skilled nursing care in residential care facilities.

(B) The public health council may adopt whatever additional rules are necessary to carry out or enforce the provisions of sections 3721.01 to 3721.09 and 3721.99 of the Revised Code.

(C) The following apply to the public health council when adopting rules under division (A)(1) of this section regarding the equipping of the buildings in which homes are housed:

(1) The rules shall not require that each resident sleeping room, or a percentage of the resident sleeping rooms, have a bathtub or shower that is directly accessible from or exclusively for the room.

(2) The rules shall require that the privacy and dignity of residents be protected when the residents are transported to and from bathing facilities, prepare for bathing, and bathe.

(D) The following apply to the public health council when adopting rules under division (A)(2) of this section regarding the number and qualifications of personnel in homes:

(1) When adopting rules applicable to residential care facilities, the public health council shall take into consideration the effect that the following may have on the number of personnel needed:

(a) Provision of personal care services;

(b) Provision of part-time, intermittent skilled nursing care pursuant to division (C) of section 3721.011 of the Revised Code;

(c) Provision of skilled nursing care to ~~hospice patients~~ residents pursuant to division (D) of section 3721.011 of the Revised Code.

(2) When adopting rules applicable to nursing homes, the public health council shall require each nursing home to do both of the following:

(a) Have sufficient direct care staff on each shift to meet the needs of the residents in an appropriate and timely manner;

(b) Have the following individuals provide a minimum daily average of two and one-half hours of direct care per resident:

(i) Registered nurses, including registered nurses who perform administrative and supervisory duties;

(ii) Licensed practical nurses, including licensed practical nurses who perform administrative and supervisory duties;

(iii) Nurse aides.

(3) The rules prescribing qualifications of nurse aides used by long-term care facilities, as those terms are defined in section 3721.21 of the Revised Code, shall be no less stringent than the requirements, guidelines, and procedures established by the United States secretary of health and human services under sections 1819 and 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

Sec. 3721.16. For each resident of a home, notice of a proposed transfer or discharge shall be in accordance with this section.

(A)(1) The administrator of a home shall notify a resident in writing, and the resident's sponsor in writing by certified mail, return receipt requested, in advance of any proposed transfer or discharge from the home. The administrator shall send a copy of the notice to the state department of health. The notice shall be provided at least thirty days in advance of the proposed transfer or discharge, unless any of the following applies:

(a) The resident's health has improved sufficiently to allow a more immediate discharge or transfer to a less skilled level of care;

(b) The resident has resided in the home less than thirty days;

(c) An emergency arises in which the safety of individuals in the home is endangered;

(d) An emergency arises in which the health of individuals in the home would otherwise be endangered;

(e) An emergency arises in which the resident's urgent medical needs necessitate a more immediate transfer or discharge.

In any of the circumstances described in divisions (A)(1)(a) to (e) of this section, the notice shall be provided as many days in advance of the proposed transfer or discharge as is practicable.

(2) The notice required under division (A)(1) of this section shall include all of the following:

(a) The reasons for the proposed transfer or discharge;

(b) The proposed date the resident is to be transferred or discharged;

(c) ~~The Subject to division (A)(3) of this section, a proposed location to which the resident is to be transferred or discharged may relocate and a notice that the resident and resident's sponsor may choose another location to which the resident will relocate;~~

(d) Notice of the right of the resident and the resident's sponsor to an impartial hearing at the home on the proposed transfer or discharge, and of the manner in which and the time within which the resident or sponsor may request a hearing pursuant to section 3721.161 of the Revised Code;

(e) A statement that the resident will not be transferred or discharged before the date specified in the notice unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date;

(f) The address of the legal services office of the department of health;

(g) The name, address, and telephone number of a representative of the state long-term care ombudsperson program and, if the resident or patient has a developmental disability or mental illness, the name, address, and telephone number of the Ohio legal rights service.

(3) The proposed location to which a resident may relocate as specified pursuant to division (A)(2)(c) of this section in the proposed transfer or discharge notice shall be capable of meeting the resident's healthcare and safety needs. The proposed location for relocation need not have accepted the resident at the time the notice is issued to the resident and resident's sponsor.

(B) No home shall transfer or discharge a resident before the date specified in the notice required by division (A) of this section unless the home and the resident or, if the resident is not competent to make a decision, the home and the resident's sponsor, agree to an earlier date.

(C) Transfer or discharge actions shall be documented in the resident's medical record by the home if there is a medical basis for the action.

(D) A resident or resident's sponsor may challenge a transfer or discharge by requesting an impartial hearing pursuant to section 3721.161 of the Revised Code, unless the transfer or discharge is required because of one of the following reasons:

(1) The home's license has been revoked under this chapter;

(2) The home is being closed pursuant to section 3721.08, sections 5111.35 to 5111.62, or section 5155.31 of the Revised Code;

(3) The resident is a recipient of medicaid and the home's participation in the medicaid program has been involuntarily terminated or denied by the federal government;

(4) The resident is a beneficiary under the medicare program and the home's certification under the medicare program has been involuntarily terminated or denied by the federal government.

(E) If a resident is transferred or discharged pursuant to this section, the home from which the resident is being transferred or discharged shall provide the resident with adequate preparation prior to the transfer or discharge to ensure a safe and orderly transfer or discharge from the home, and the home or alternative setting to which the resident is to be transferred or discharged shall have accepted the resident for transfer or discharge.

(F) At the time of a transfer or discharge of a resident who is a recipient of medicaid from a home to a hospital or for therapeutic leave, the home shall provide notice in writing to the resident and in writing by certified mail, return receipt requested, to the resident's sponsor, specifying the number of days, if any, during which the resident will be permitted under the medicaid program to return and resume residence in the home and specifying the medicaid program's coverage of the days during which the resident is absent from the home. An individual who is absent from a home for more than the number of days specified in the notice and continues to require the services provided by the facility shall be given priority for the first available bed in a semi-private room.

Sec. 3721.50. As used in sections 3721.50 to 3721.58 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property

associated with the nursing home or hospital is also transferred:

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the amount determined as follows following:

(1) Determine the difference between the following:

(a) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year

~~immediately preceding the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code~~ For fiscal year 2012, eleven dollars and forty-seven cents;

~~(b) The total net patient revenue, less medicaid per diem payments, of all nursing homes and hospital long-term care units as shown on cost reports filed under section 5111.26 of the Revised Code for the calendar year immediately preceding the calendar year that immediately precedes the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code.~~

~~(2) Multiply the amount determined under division (A)(1) of this section by five and five-tenths per cent;~~

~~(3) Divide the amount determined under division (A)(2) of this section by the total number of days in the fiscal year for which the franchise permit fee is assessed under section 3721.51 of the Revised Code;~~

~~(4) Subtract eleven dollars and ninety five cents from the amount determined under division (A)(3) of this section;~~

~~(5) Add eleven dollars and ninety five cents to the amount determined under division (A)(4) of this section~~ For fiscal year 2013 and each fiscal year thereafter, eleven dollars and sixty-seven cents.

~~(B)~~(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

~~(C)~~(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

~~(D)~~(I) "Indirect guarantee percentage" means the percentage specified in section 1903(w)(4)(C)(ii) of the "Social Security Act," 120 Stat. 2994 (2006), 42 U.S.C. 1396b(w)(4)(C)(ii) that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) "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.

~~(E)~~(K) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(F)~~(L) "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.

~~(G)~~(M) "Medicare" means the program established by Title XVIII.

~~(H)~~(N) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

~~(I)~~(O)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include any of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code;

(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.

~~(J)~~(P) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

(Q) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

~~(K)~~(R) "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) Subject to sections 3721.512 ~~and~~, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each nursing home in an amount equal to the franchise permit fee rate 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 on 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 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) Subject to sections 3721.512 ~~and~~, 3721.513, and 3721.531 of the Revised Code and divisions (C) and (D) of this section and for the purposes specified in ~~sections~~ section 3721.56 ~~and 3721.561~~ of the Revised Code, determine an annual franchise permit fee on each hospital in an amount equal to the franchise permit fee rate 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 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 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 total amount of the franchise permit fee assessed under divisions (A) and (B) of this section for a fiscal year exceeds ~~five and one-half per cent~~ the indirect guarantee percentage of the actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year, do both of the following:

(1) Recalculate the assessments under divisions (A) and (B) of this section using a per bed per day rate equal to ~~five and one-half per cent~~ the indirect guarantee percentage of actual net patient revenue for all nursing homes and hospital long-term care units for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under divisions (A) and (B) of this section

and the amount recalculated under division (C)(1) of this section as a credit against the assessments imposed under divisions (A) and (B) of this section for the subsequent fiscal year.

(D) 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 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, take all necessary actions to cease implementation of sections 3721.50 to 3721.58 of the Revised Code in accordance with rules adopted under section 3721.58 of the Revised Code.

Sec. 3721.511. (A) Not later than four months after ~~the effective date of this section~~ July 17, 2009, the department of job and family services shall apply to the United States secretary of health and human services for a waiver under 42 U.S.C. 1396b(w)(3)(E) as necessary to do both of the following regarding the franchise permit fee ~~imposed by~~ assessed under section 3721.51 of the Revised Code:

(1) Reduce the franchise permit fee rate to zero dollars for each nursing home licensed under section 3721.02 or 3721.09 of the Revised Code to which either of the following applies:

(a) The nursing home:

(i) Is exempt from state taxation under section 140.08 of the Revised Code or is exempt from state taxation as a home for the aged as defined in section 5701.13 of the Revised Code;

(ii) Is exempt from federal income taxation under section 501 of the Internal Revenue Code of 1986;

(iii) Does not participate in medicaid or medicare; and

(iv) Provides services for the life of each resident without regard to the resident's ability to secure payment for the services.

(b) The nursing home:

(i) Has had a written affiliation agreement with a university in this state for education and research related to Alzheimer's disease for each of the twenty years preceding ~~the effective date of this section~~ July 17, 2009, and has such an agreement on ~~the effective date of this section~~ July 17, 2009;

(ii) Was constructed pursuant to a certificate of need granted under Section 3 of Am. Sub. S.B. 256 of the 116th ~~General Assembly~~ general assembly; and

(iii) Does not participate in medicaid or medicare.

(2) For each nursing facility with more than two hundred beds certified as nursing facility beds under Title XIX, reduce the franchise permit fee rate for a number of the nursing facility's beds specified by the department to the

amount necessary to obtain approval of the waiver sought under this section.

(B) The effective date of the waiver sought under this section shall be the first day of the ~~calendar~~ quarter beginning after the United States secretary approves the waiver.

Sec. 3721.512. If the United States secretary of health and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee rate under the waiver, reduce the franchise permit fee rate in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the ~~calendar~~ quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code.

Sec. 3721.513. (A) If the United States secretary of health and human services approves the waiver sought under section 3721.511 of the Revised Code, the department of job and family services may do both of the following regarding the franchise permit fee ~~imposed by~~ assessed under section 3721.51 of the Revised Code:

(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver;

(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee rate reduced under section 3721.512 of the Revised Code, uniformly increase the amount of the franchise permit fee rate for a fiscal year to an amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A)(1) of this section for that fiscal year.

(B) If the department increases the franchise permit fee rate in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the ~~calendar~~ quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee rate in accordance with

division (A) of this section for a subsequent fiscal year, the department shall make such determinations and mail such notices in accordance with section 3721.53 of the Revised Code.

Sec. 3721.52. The department of health shall do all of the following:

(A) For the purpose of the fee determinations made under ~~division divisions~~ (A) and (B) of section 3721.51 of the Revised Code, ~~the department of health shall,~~ and not later than the first day of each June, report to the department of job and family services the following:

(1) For each nursing home, the number of beds in ~~each~~ the nursing home licensed on 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:

~~(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 the first day of each June, report to the department of job and family services;~~

(2) For each hospital, the number of beds in ~~each~~ the hospital registered on 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.

(B) For the purpose of the redetermination under section 3721.531 of the Revised Code and not later than the fifteenth day of each January, report to the department of job and family services, for each nursing home and hospital, the number of beds for which a bed surrender occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

Sec. 3721.53. (A) Not later than the fifteenth day of September of each year, the department of job and family services shall determine the annual franchise permit fee for each nursing home and hospital in accordance with section 3721.51 of the Revised Code and any adjustments made in accordance with sections 3721.512 and 3721.513 of the Revised Code.

(B) Not later than the first day of October of each year, the department shall mail to each nursing home and hospital notice of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) ~~Each~~ Subject to section 3721.531 of the Revised Code, each nursing home and hospital shall pay its fee under section 3721.51 of the Revised Code, as adjusted in accordance with sections 3721.512 and 3721.513 of the Revised Code, to the department in four installment payments not later than

forty-five days after the last day of each October, December, March, and June.

~~(D) No nursing home or hospital shall directly bill its residents for the fee paid under this section, or otherwise directly pass the fee through to its residents.~~

Sec. 3721.531. (A) Not later than the last day of February of each year, the department of job and family services shall redetermine each nursing home's and hospital's franchise permit fee if one or more bed surrenders occur during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

(B) In redetermining nursing homes' and hospitals' franchise permit fees under this section, the department shall do both of the following:

(1) Provide for the redetermination to be conducted in a manner consistent with the terms of the waiver sought under section 3721.511 of the Revised Code:

(2) Recalculate each nursing home's and hospital's franchise permit fee in accordance with division (A) or (B) of section 3721.51 of the Revised Code with the following changes:

(a) In the case of a nursing home or hospital for which one or more bed surrenders occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made, the number of beds included in the calculation for the purpose of division (A)(1) or (B)(1) of section 3721.51 of the Revised Code shall exclude the beds for which bed surrenders occurred during that period.

(b) The number of days used in the calculation under division (A)(2) or (B)(2) of section 3721.51 of the Revised Code shall be the number of days in the first half of the calendar year in which the redetermination is made.

(c) The franchise permit fee rate shall reflect adjustments made under sections 3721.512 and 3721.513 of the Revised Code.

(C) Not later than the first day of March of each year, the department shall mail to each nursing home and hospital notice of the amount of its redetermined franchise permit fee.

(D) Each nursing home and hospital shall pay its redetermined fee to the department in two installment payments not later than forty-five days after the last day of March and June of the calendar year in which the redetermination is made.

Sec. 3721.532. If a nursing home or hospital undergoes a change of operator during a fiscal year, the responsibility for paying the franchise

permit fee that was determined for the nursing home or hospital under section 3721.53 of the Revised Code, or redetermined for the nursing home or hospital under section 3721.531 of the Revised Code, for that fiscal year shall be divided proportionally. The exiting operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that ends on the day before the effective date of the change of operator. The entering operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that begins on the effective date of the change of operator. The department of job and family services is not required to mail a notice to the entering operator regarding the amount of that fiscal year's fee for which the entering operator is responsible.

Sec. 3721.533. No nursing home or hospital shall directly bill its residents for the franchise permit fee paid under section 3721.53 or 3721.531 of the Revised Code or otherwise directly pass the fee through to its residents.

Sec. 3721.55. (A) A nursing home or hospital may appeal the fee ~~imposed~~ assessed under section 3721.51 of the Revised Code, as adjusted under section 3721.512 or 3721.513 of the Revised Code, and redetermined under section 3721.531 of the Revised Code solely on the grounds that the department of job and family services committed a material error in determining or redetermining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department mails the notice of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department of job and family services shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, mail a notice of the date, time, and place of the hearing to the nursing home or hospital. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

~~Sec. 3721.561~~ 3721.56. (A) There is hereby created in the state treasury the nursing ~~facility stabilization~~ home franchise permit fee fund. All payments and penalties paid by nursing homes and hospitals under sections 3721.53, 3721.531, 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 fund shall also consist of money deposited into it pursuant to sections 3769.08 and 3769.26 of the Revised Code. Subject to division (B) of section 3769.08 of the Revised Code, the department of job and family services shall use the money in the fund to make medicaid payments to providers of nursing facilities facility services and providers of home and community-based services. Money in the fund may also be used for the residential state supplement program established under section 5119.69 of the Revised Code.

(B) Any money remaining in the nursing ~~facility stabilization~~ home franchise permit fee 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 ~~all~~ both 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 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," 49 105 Stat. ~~620~~ 1793 (~~1935~~ 1991), 42 U.S.C. 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. 3733.41. As used in sections 3733.41 to 3733.49 of the Revised Code:

(A) "Agricultural labor camp" means one or more buildings or structures, trailers, tents, or vehicles, together with any land appertaining thereto, established, operated, or used as temporary living quarters for two or more families or five or more persons intending to engage in or engaged in agriculture or related food processing, whether occupancy is by rent, lease, or mutual agreement. "Agricultural labor camp" does not include a hotel or motel, or a ~~trailer~~ manufactured home park as defined and regulated pursuant to sections section 3733.01 to 3733.08 of the Revised Code, and rules adopted thereunder.

(B) "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 or an authorized representative of the board of health.

(C) "Director" means the director of the department of health or ~~his~~ the authorized representative of the director of health.

(D) "Licensor" means the director of health.

(E) "Person" means the state, any political subdivision, public or private corporation, partnership, association, trust, individual, or other entity.

(F) "Public health council" means the public health council as created by section 3701.33 of the Revised Code.

~~Sec. 3733.99. (A) Whoever violates division (A) of section 3733.08 of the Revised Code is guilty of a misdemeanor of the fourth degree.~~

~~(B) Whoever violates section 3733.30 of the Revised Code is guilty of a minor misdemeanor. Each day that such violation continues is a separate offense.~~

~~(C) Whoever violates section 3733.48 of the Revised Code is guilty of a minor misdemeanor.~~

Sec. 3734.02. (A) The director of environmental protection, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules having uniform application throughout the state governing solid waste facilities and the inspections of and issuance of permits and licenses for all solid waste facilities in order to ensure that the facilities will be located, maintained, and operated, and will undergo closure and post-closure care, in a sanitary manner so as not to create a nuisance, cause or contribute to water pollution, create a health hazard, or violate 40 C.F.R. 257.3-2 or 40 C.F.R. 257.3-8, as amended. The rules may include, without limitation, financial assurance requirements for closure and post-closure care and corrective action and requirements for taking corrective action in the event of the surface or subsurface discharge or migration of explosive gases or leachate from a solid waste facility, or of ground water contamination resulting from the transfer or disposal of solid wastes at a facility, beyond the boundaries of any area within a facility that is operating or is undergoing closure or post-closure care where solid wastes were disposed of or are being disposed of. The rules shall not concern or relate to personnel policies, salaries, wages, fringe benefits, or other conditions of employment of employees of persons owning or operating solid waste facilities. The director, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend, suspend, or rescind rules governing the issuance, modification, revocation, suspension, or denial of

variances from the director's solid waste rules, including, without limitation, rules adopted under this chapter governing the management of scrap tires.

Variances shall be issued, modified, revoked, suspended, or rescinded in accordance with this division, rules adopted under it, and Chapter 3745. of the Revised Code. The director may order the person to whom a variance is issued to take such action within such time as the director may determine to be appropriate and reasonable to prevent the creation of a nuisance or a hazard to the public health or safety or the environment. Applications for variances shall contain such detail plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the director may require. The director shall grant a variance only if the applicant demonstrates to the director's satisfaction that construction and operation of the solid waste facility in the manner allowed by the variance and any terms or conditions imposed as part of the variance will not create a nuisance or a hazard to the public health or safety or the environment. In granting any variance, the director shall state the specific provision or provisions whose terms are to be varied and also shall state specific terms or conditions imposed upon the applicant in place of the provision or provisions. The director may hold a public hearing on an application for a variance or renewal of a variance at a location in the county where the operations that are the subject of the application for the variance are conducted. The director shall give not less than twenty days' notice of the hearing to the applicant by certified mail and shall publish at least one notice of the hearing in a newspaper with general circulation in the county where the hearing is to be held. The director shall make available for public inspection at the principal office of the environmental protection agency a current list of pending applications for variances and a current schedule of pending variance hearings. The director shall make a complete stenographic record of testimony and other evidence submitted at the hearing. Within ten days after the hearing, the director shall make a written determination to issue, renew, or deny the variance and shall enter the determination and the basis for it into the record of the hearing. The director shall issue, renew, or deny an application for a variance or renewal of a variance within six months of the date upon which the director receives a complete application with all pertinent information and data required. No variance shall be issued, revoked, modified, or denied until the director has considered the relative interests of the applicant, other persons and property affected by the variance, and the general public. Any variance granted under this division shall be for a period specified by the director and may be renewed from time to time on such terms and for such periods as the director determines to be

appropriate. No application shall be denied and no variance shall be revoked or modified without a written order stating the findings upon which the denial, revocation, or modification is based. A copy of the order shall be sent to the applicant or variance holder by certified mail.

(B) The director shall prescribe and furnish the forms necessary to administer and enforce this chapter. The director may cooperate with and enter into agreements with other state, local, or federal agencies to carry out the purposes of this chapter. The director may exercise all incidental powers necessary to carry out the purposes of this chapter.

The director may use moneys in the infectious waste management fund created in section 3734.021 of the Revised Code exclusively for administering and enforcing the provisions of this chapter governing the management of infectious wastes. Of each registration and renewal fee collected under rules adopted under division (A)(2)(a) of section 3734.021 or under section 3734.022 of the Revised Code, the director, within forty-five days of its receipt, shall remit from the fund one-half of the fee received to the board of health of the health district in which the registered premises is located, or, in the instance of an infectious wastes transporter, to the board of health of the health district in which the transporter's principal place of business is located. However, if the board of health having jurisdiction over a registrant's premises or principal place of business is not on the approved list under section 3734.08 of the Revised Code, the director shall not make that payment to the board of health.

(C) Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code.

No person shall continue to operate a solid waste facility for which the director has denied a permit for which an application was required under division (A)(3) of section 3734.05 of the Revised Code, or for which the director has disapproved plans and specifications required to be filed by an order issued under division (A)(5) of that section, after the date prescribed for commencement of closure of the facility in the order issued under division (A)(6) of section 3734.05 of the Revised Code denying the permit

application or approval.

On and after the effective date of the rules adopted under division (A) of this section and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, no person shall establish a new, or modify an existing, solid waste transfer facility without first submitting an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the director and receiving a permit issued by the director.

No person shall establish a new compost facility or continue to operate an existing compost facility that accepts exclusively source separated yard wastes without submitting a completed registration for the facility to the director in accordance with rules adopted under divisions (A) and (N)(3) of this section.

This division does not apply to an infectious waste treatment facility that meets any of the following conditions:

(1) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(2) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(3) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(a) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

(b) Chapter 918. of the Revised Code;

(c) Chapter 953. of the Revised Code.

(D) Neither this chapter nor any rules adopted under it apply to single-family residential premises; to infectious wastes generated by individuals for purposes of their own care or treatment that are disposed of with solid wastes from the individual's residence; to the temporary storage of solid wastes, other than scrap tires, prior to their collection for disposal; to the storage of one hundred or fewer scrap tires unless they are stored in such a manner that, in the judgment of the director or the board of health of

the health district in which the scrap tires are stored, the storage causes a nuisance, a hazard to public health or safety, or a fire hazard; or to the collection of solid wastes, other than scrap tires, by a political subdivision or a person holding a franchise or license from a political subdivision of the state; to composting, as defined in section 1511.01 of the Revised Code, conducted in accordance with section 1511.022 of the Revised Code; or to any person who is licensed to transport raw rendering material to a compost facility pursuant to section 953.23 of the Revised Code.

(E)(1) As used in this division:

(a) "On-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated on the premises of the facility.

(b) "Off-site facility" means a facility that stores, treats, or disposes of hazardous waste that is generated off the premises of the facility and includes such a facility that is also an on-site facility.

(c) "Satellite facility" means any of the following:

(i) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(ii) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(iii) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

In addition to the application fee, there is hereby levied an annual permit fee to be paid by the permit holder upon the anniversaries of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits and to be credited to the hazardous

waste facility management fund. Annual permit fees totaling forty thousand dollars or more for any one facility may be paid on a quarterly basis with the first quarterly payment each year being due on the anniversary of the date of issuance of the hazardous waste facility installation and operation permit and of any subsequent renewal permits. The annual permit fee shall be determined for each permit holder by the director in accordance with the following schedule:

TYPE OF BASIC MANAGEMENT UNIT	TYPE OF FACILITY	FEE
Storage facility using:		
Containers	On-site, off-site, and satellite	\$ 500
Tanks	On-site, off-site, and satellite	500
Waste pile	On-site, off-site, and satellite	3,000
Surface impoundment	On-site and satellite	8,000
	Off-site	10,000
Disposal facility using:		
Deep well injection	On-site and satellite	15,000
	Off-site	25,000
Landfill	On-site and satellite	25,000
	Off-site	40,000
Land application	On-site and satellite	2,500
	Off-site	5,000
Surface impoundment	On-site and satellite	10,000
	Off-site	20,000
Treatment facility using:		
Tanks	On-site, off-site, and satellite	700
	On-site and satellite	8,000
Surface impoundment	Off-site	10,000
	On-site and satellite	5,000
Incinerator	Off-site	10,000
	On-site, off-site, and satellite	1,000
Other forms of treatment	On-site, off-site, and satellite	1,000

A hazardous waste disposal facility that disposes of hazardous waste by deep well injection and that pays the annual permit fee established in section 6111.046 of the Revised Code is not subject to the permit fee established in

this division for disposal facilities using deep well injection unless the director determines that the facility is not in compliance with applicable requirements established under this chapter and rules adopted under it.

In determining the annual permit fee required by this section, the director shall not require additional payments for multiple units of the same method of storage, treatment, or disposal or for individual units that are used for both storage and treatment. A facility using more than one method of storage, treatment, or disposal shall pay the permit fee indicated by the schedule for each such method.

The director shall not require the payment of that portion of an annual permit fee of any permit holder that would apply to a hazardous waste management unit for which a permit has been issued, but for which construction has not yet commenced. Once construction has commenced, the director shall require the payment of a part of the appropriate fee indicated by the schedule that bears the same relationship to the total fee that the number of days remaining until the next anniversary date at which payment of the annual permit fee is due bears to three hundred sixty-five.

The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe procedures for collecting the annual permit fee established by this division and may prescribe other requirements necessary to carry out this division.

(3) The prohibition against establishing or operating a hazardous waste facility without a hazardous waste facility installation and operation permit does not apply to either of the following:

(a) A facility that is operating in accordance with a permit renewal issued under division (H) of section 3734.05 of the Revised Code, a revision issued under division (I) of that section as it existed prior to August 20, 1996, or a modification issued by the director under division (I) of that section on and after August 20, 1996;

(b) Except as provided in division (J) of section 3734.05 of the Revised Code, a facility that will operate or is operating in accordance with a permit by rule, or that is not subject to permit requirements, under rules adopted by the director. In accordance with Chapter 119. of the Revised Code, the director shall adopt, and subsequently may amend, suspend, or rescind, rules for the purposes of division (E)(3)(b) of this section. Any rules so adopted shall be consistent with and equivalent to regulations pertaining to interim status adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

If a modification is requested or proposed for a facility described in

division (E)(3)(a) or (b) of this section, division (I)(7) of section 3734.05 of the Revised Code applies.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following:

(1) A hazardous waste facility operating under a permit issued in accordance with this chapter;

(2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(3) A facility in another nation operating in accordance with the laws of that nation;

(4) A facility holding a permit issued pursuant to Title I of the "Marine Protection, Research, and Sanctuaries Act of 1972," 86 Stat. 1052, 33 U.S.C.A. 1401, as amended;

(5) A hazardous waste facility as described in division (E)(3)(a) or (b) of this section.

(G) The director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting solid wastes, infectious wastes, or hazardous waste, or processing solid wastes that consist of scrap tires, in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment from any requirement to obtain a registration certificate, permit, or license or comply with the manifest system or other requirements of this chapter. Such an exemption shall be consistent with and equivalent to any regulations adopted by the administrator of the United States environmental protection agency under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, except as otherwise provided in this chapter.

(H) No person shall engage in filling, grading, excavating, building, drilling, or mining on land where a hazardous waste facility, or a solid waste facility, was operated without prior authorization from the director, who shall establish the procedure for granting such authorization by rules adopted in accordance with Chapter 119. of the Revised Code.

A public utility that has main or distribution lines above or below the land surface located on an easement or right-of-way across land where a solid waste facility was operated may engage in any such activity within the

easement or right-of-way without prior authorization from the director for purposes of performing emergency repair or emergency replacement of its lines; of the poles, towers, foundations, or other structures supporting or sustaining any such lines; or of the appurtenances to those structures, necessary to restore or maintain existing public utility service. A public utility may enter upon any such easement or right-of-way without prior authorization from the director for purposes of performing necessary or routine maintenance of those portions of its existing lines; of the existing poles, towers, foundations, or other structures sustaining or supporting its lines; or of the appurtenances to any such supporting or sustaining structure, located on or above the land surface on any such easement or right-of-way. Within twenty-four hours after commencing any such emergency repair, replacement, or maintenance work, the public utility shall notify the director or the director's authorized representative of those activities and shall provide such information regarding those activities as the director or the director's representative may request. Upon completion of the emergency repair, replacement, or maintenance activities, the public utility shall restore any land of the solid waste facility disturbed by those activities to the condition existing prior to the commencement of those activities.

(I) No owner or operator of a hazardous waste facility, in the operation of the facility, shall cause, permit, or allow the emission therefrom of any particulate matter, dust, fumes, gas, mist, smoke, vapor, or odorous substance that, in the opinion of the director, unreasonably interferes with the comfortable enjoyment of life or property by persons living or working in the vicinity of the facility, or that is injurious to public health. Any such action is hereby declared to be a public nuisance.

(J) Notwithstanding any other provision of this chapter, in the event the director finds an imminent and substantial danger to public health or safety or the environment that creates an emergency situation requiring the immediate treatment, storage, or disposal of hazardous waste, the director may issue a temporary emergency permit to allow the treatment, storage, or disposal of the hazardous waste at a facility that is not otherwise authorized by a hazardous waste facility installation and operation permit to treat, store, or dispose of the waste. The emergency permit shall not exceed ninety days in duration and shall not be renewed. The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code governing the issuance, modification, revocation, and denial of emergency permits.

(K) No owner or operator of a sanitary landfill shall knowingly accept for disposal, or dispose of, any infectious wastes, other than those subject to

division (A)(1)(c) of section 3734.021 of the Revised Code, that have not been treated to render them noninfectious. For the purposes of this division, certification by the owner or operator of the treatment facility where the wastes were treated on the shipping paper required by rules adopted under division (D)(2) of that section creates a rebuttable presumption that the wastes have been so treated.

(L) The director, in accordance with Chapter 119. of the Revised Code, shall adopt, and may amend, suspend, or rescind, rules having uniform application throughout the state establishing a training and certification program that shall be required for employees of boards of health who are responsible for enforcing the solid waste and infectious waste provisions of this chapter and rules adopted under them and for persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities. The rules shall provide all of the following, without limitation:

(1) The program shall be administered by the director and shall consist of a course on new solid waste and infectious waste technologies, enforcement procedures, and rules;

(2) The course shall be offered on an annual basis;

(3) Those persons who are required to take the course under division (L) of this section shall do so triennially;

(4) Persons who successfully complete the course shall be certified by the director;

(5) Certification shall be required for all employees of boards of health who are responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and for all persons who are responsible for the operation of solid waste facilities or infectious waste treatment facilities;

(6)(a) All employees of a board of health who, on the effective date of the rules adopted under this division, are responsible for enforcing the solid waste or infectious waste provisions of this chapter and the rules adopted under them shall complete the course and be certified by the director not later than January 1, 1995;

(b) All employees of a board of health who, after the effective date of the rules adopted under division (L) of this section, become responsible for enforcing the solid waste or infectious waste provisions of this chapter and rules adopted under them and who do not hold a current and valid certification from the director at that time shall complete the course and be certified by the director within two years after becoming responsible for performing those activities.

No person shall fail to obtain the certification required under this division.

(M) The director shall not issue a permit under section 3734.05 of the Revised Code to establish a solid waste facility, or to modify a solid waste facility operating on December 21, 1988, in a manner that expands the disposal capacity or geographic area covered by the facility, that is or is to be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state and identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility or proposed facility is or is to be used exclusively for the disposal of solid wastes generated within the park or recreation area and the director determines that the facility or proposed facility will not degrade any of the natural or cultural resources of the park or recreation area. The director shall not issue a variance under division (A) of this section and rules adopted under it, or issue an exemption order under division (G) of this section, that would authorize any such establishment or expansion of a solid waste facility within the boundaries of any such park or recreation area, state park purchase area, or candidate area, other than a solid waste facility exclusively for the disposal of solid wastes generated within the park or recreation area when the director determines that the facility will not degrade any of the natural or cultural resources of the park or recreation area.

(N)(1) The rules adopted under division (A) of this section, other than those governing variances, do not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. Those facilities are subject to and governed by rules adopted under sections 3734.70 to 3734.73 of the Revised Code, as applicable.

(2) Division (C) of this section does not apply to scrap tire collection, storage, monocell, monofill, and recovery facilities. The establishment and modification of those facilities are subject to sections 3734.75 to 3734.78 and section 3734.81 of the Revised Code, as applicable.

(3) The director may adopt, amend, suspend, or rescind rules under division (A) of this section creating an alternative system for authorizing the

establishment, operation, or modification of a solid waste compost facility in lieu of the requirement that a person seeking to establish, operate, or modify a solid waste compost facility apply for and receive a permit under division (C) of this section and section 3734.05 of the Revised Code and a license under division (A)(1) of that section. The rules may include requirements governing, without limitation, the classification of solid waste compost facilities, the submittal of operating records for solid waste compost facilities, and the creation of a registration or notification system in lieu of the issuance of permits and licenses for solid waste compost facilities. The rules shall specify the applicability of divisions (A)(1), (2)(a), (3), and (4) of section 3734.05 of the Revised Code to a solid waste compost facility.

Sec. 3734.05. (A)(1) Except as provided in divisions (A)(4), (8), and (9) of this section, no person shall operate or maintain a solid waste facility without a license issued under this division by the board of health of the health district in which the facility is located or by the director of environmental protection when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing solid waste facility shall procure a license under this division to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (A)(2) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special fund of the health district created in division (B) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of a solid waste facility, and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with this chapter and rules adopted under it. The terms and conditions may

establish the authorized maximum daily waste receipts for the facility. Limitations on maximum daily waste receipts shall be specified in cubic yards of volume for the purpose of regulating the design, construction, and operation of solid waste facilities. Terms and conditions included in a license or revision to a license by a board of health shall be consistent with, and pertain only to the subjects addressed in, the rules adopted under division (A) of section 3734.02 and division (D) of section 3734.12 of the Revised Code.

(2)(a) Except as provided in divisions (A)(2)(b), (8), and (9) of this section, each person proposing to open a new solid waste facility or to modify an existing solid waste facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code at least two hundred seventy days before proposed operation of the facility and shall concurrently make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the proposed facility is to be located.

(b) On and after the effective date of the rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code governing solid waste transfer facilities, each person proposing to open a new solid waste transfer facility or to modify an existing solid waste transfer facility shall submit an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation to the environmental protection agency for required approval under those rules at least two hundred seventy days before commencing proposed operation of the facility and concurrently shall make application for the issuance of a license under division (A)(1) of this section with the board of health of the health district in which the facility is located or proposed.

(c) Each application for a permit under division (A)(2)(a) or (b) of this section shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (A)(1) or (2) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special fund of the health district

created in division (B) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (A)(1), (2), (3), ~~or (4)~~, or (5) of section 3734.06 of the Revised Code.

(d) As used in divisions (A)(2)(d), (e), and (f) of this section, "modify" means any of the following:

(i) Any increase of more than ten per cent in the total capacity of a solid waste facility;

(ii) Any expansion of the limits of solid waste placement at a solid waste facility;

(iii) Any increase in the depth of excavation at a solid waste facility;

(iv) Any change in the technique of waste receipt or type of waste received at a solid waste facility that may endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code.

Not later than ~~thirty-five~~ forty-five days after submitting an application under division (A)(2)(a) or (b) of this section for a permit to open a new or modify an existing solid waste facility, the applicant, in conjunction with an officer or employee of the environmental protection agency, shall hold a public meeting on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public meeting on the application, the applicant shall publish notice of the meeting in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the applicant shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public meeting and a general description of the proposed new or modified facility. Not later than five days after publishing the notice, the applicant shall send by certified mail a copy of the notice and the date the notice was published to the director and the legislative authority of each municipal corporation, township, and county, and to the chief executive officer of each municipal corporation, in which the facility is or is proposed to be located. At the public meeting, the applicant shall provide information and describe the application and respond to comments or questions concerning the application, and the officer or employee of the agency shall describe the permit application process. At the

public meeting, any person may submit written or oral comments on or objections to the application. Not more than thirty days after the public meeting, the applicant shall provide the director with a copy of a transcript of the full meeting, copies of any exhibits, displays, or other materials presented by the applicant at the meeting, and the original copy of any written comments submitted at the meeting.

(e) Except as provided in division (A)(2)(f) of this section, prior to taking an action, other than a proposed or final denial, upon an application submitted under division (A)(2)(a) of this section for a permit to open a new or modify an existing solid waste facility, the director shall hold a public information session and a public hearing on the application within the county in which the new or modified solid waste facility is or is proposed to be located or within a contiguous county. If the application is for a permit to open a new solid waste facility, the director shall hold the hearing not less than fourteen days after the information session. If the application is for a permit to modify an existing solid waste facility, the director may hold both the information session and the hearing on the same day unless any individual affected by the application requests in writing that the information session and the hearing not be held on the same day, in which case the director shall hold the hearing not less than fourteen days after the information session. The director shall publish notice of the public information session or public hearing not less than thirty days before holding the information session or hearing, as applicable. The notice shall be published in each newspaper of general circulation that is published in the county in which the facility is or is proposed to be located. If no newspaper of general circulation is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the information session or hearing, as applicable, and a general description of the proposed new or modified facility. At the public information session, an officer or employee of the environmental protection agency shall describe the status of the permit application and be available to respond to comments or questions concerning the application. At the public hearing, any person may submit written or oral comments on or objections to the approval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the information session and public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the information session and hearing.

(f) The solid waste management policy committee of a county or joint solid waste management district may adopt a resolution requesting expeditious consideration of a specific application submitted under division (A)(2)(a) of this section for a permit to modify an existing solid waste facility within the district. The resolution shall make the finding that expedited consideration of the application without the public information session and public hearing under division (A)(2)(e) of this section is in the public interest and will not endanger human health, as determined by the director by rules adopted in accordance with Chapter 119. of the Revised Code. Upon receiving such a resolution, the director, at the director's discretion, may issue a final action upon the application without holding a public information session or public hearing pursuant to division (A)(2)(e) of this section.

(3) Except as provided in division (A)(10) of this section, and unless the owner or operator of any solid waste facility, other than a solid waste transfer facility or a compost facility that accepts exclusively source separated yard wastes, that commenced operation on or before July 1, 1968, has obtained an exemption from the requirements of division (A)(3) of this section in accordance with division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code in accordance with the following schedule:

(a) Not later than September 24, 1988, if the facility is located in the city of Garfield Heights or Parma in Cuyahoga county;

(b) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(c) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn or Cuyahoga Heights in Cuyahoga county;

(d) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Garfield Heights, Parma, Brooklyn, and Cuyahoga Heights;

(e) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(f) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (A)(3)(a) to (e) of this section;

(g) Notwithstanding divisions (A)(3)(a) to (f) of this section, not later than December 31, 1990, if the facility is a solid waste facility owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated and if the facility disposes of more than one hundred thousand tons of solid wastes per year, provided that any such facility shall be subject to division (A)(5) of this section.

(4) Except as provided in divisions (A)(8), (9), and (10) of this section, unless the owner or operator of any solid waste facility for which a permit was issued after July 1, 1968, but before January 1, 1980, has obtained an exemption from the requirements of division (A)(4) of this section under division (G) of section 3734.02 of the Revised Code, the owner or operator shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under those rules.

(5) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of a solid waste facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under division (A) of section 3734.02 of the Revised Code and applicable rules adopted under division (D) of section 3734.12 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(6) The director shall act upon an application submitted under division (A)(3) or (4) of this section and any updated engineering plans, specifications, and information submitted under division (A)(5) of this section within one hundred eighty days after receiving them. If the director denies any such permit application, the order denying the application or disapproving the plans shall include the requirements that the owner or operator submit a plan for closure and post-closure care of the facility to the director for approval within six months after issuance of the order, cease accepting solid wastes for disposal or transfer at the facility, and commence

closure of the facility not later than one year after issuance of the order. If the director determines that closure of the facility within that one-year period would result in the unavailability of sufficient solid waste management facility capacity within the county or joint solid waste management district in which the facility is located to dispose of or transfer the solid waste generated within the district, the director in the order of denial or disapproval may postpone commencement of closure of the facility for such period of time as the director finds necessary for the board of county commissioners or directors of the district to secure access to or for there to be constructed within the district sufficient solid waste management facility capacity to meet the needs of the district, provided that the director shall certify in the director's order that postponing the date for commencement of closure will not endanger ground water or any property surrounding the facility, allow methane gas migration to occur, or cause or contribute to any other type of environmental damage.

If an emergency need for disposal capacity that may affect public health and safety exists as a result of closure of a facility under division (A)(6) of this section, the director may issue an order designating another solid waste facility to accept the wastes that would have been disposed of at the facility to be closed.

(7) If the director determines that standards more stringent than those applicable in rules adopted under division (A) of section 3734.02 of the Revised Code and division (D) of section 3734.12 of the Revised Code, or standards pertaining to subjects not specifically addressed by those rules, are necessary to ensure that a solid waste facility constructed at the proposed location will not cause a nuisance, cause or contribute to water pollution, or endanger public health or safety, the director may issue a permit for the facility with such terms and conditions as the director finds necessary to protect public health and safety and the environment. If a permit is issued, the director shall state in the order issuing it the specific findings supporting each such term or condition.

(8) Divisions (A)(1), (2)(a), (3), and (4) of this section do not apply to a solid waste compost facility that accepts exclusively source separated yard wastes and that is registered under division (C) of section 3734.02 of the Revised Code or, unless otherwise provided in rules adopted under division (N)(3) of section 3734.02 of the Revised Code, to a solid waste compost facility if the director has adopted rules establishing an alternative system for authorizing the establishment, operation, or modification of a solid waste compost facility under that division.

(9) Divisions (A)(1) to (7) of this section do not apply to scrap tire

collection, storage, monocell, monofill, and recovery facilities. The approval of plans and specifications, as applicable, and the issuance of registration certificates, permits, and licenses for those facilities are subject to sections 3734.75 to 3734.78 of the Revised Code, as applicable, and section 3734.81 of the Revised Code.

(10) Divisions (A)(3) and (4) of this section do not apply to a solid waste incinerator that was placed into operation on or before October 12, 1994, and that is not authorized to accept and treat infectious wastes pursuant to division (B) of this section.

(B)(1) Each person who is engaged in the business of treating infectious wastes for profit at a treatment facility located off the premises where the wastes are generated that is in operation on August 10, 1988, and who proposes to continue operating the facility shall submit to the board of health of the health district in which the facility is located an application for a license to operate the facility.

Thereafter, no person shall operate or maintain an infectious waste treatment facility without a license issued by the board of health of the health district in which the facility is located or by the director when the health district in which the facility is located is not on the approved list under section 3734.08 of the Revised Code.

(2)(a) During the month of December, but before the first day of January of the next year, every person proposing to continue to operate an existing infectious waste treatment facility shall procure a license to operate the facility for that year from the board of health of the health district in which the facility is located or, if the health district is not on the approved list under section 3734.08 of the Revised Code, from the director. The application for such a license shall be submitted to the board of health or to the director, as appropriate, on or before the last day of September of the year preceding that for which the license is sought. In addition to the application fee prescribed in division (B)(2)(c) of this section, a person who submits an application after that date shall pay an additional ten per cent of the amount of the application fee for each week that the application is late. Late payment fees accompanying an application submitted to the board of health shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code, and late payment fees accompanying an application submitted to the director shall be credited to the general revenue fund. A person who has received a license, upon sale or disposition of an infectious waste treatment facility and upon consent of the board of health and the director, may have the license transferred to another person. The board of health or the director may

include such terms and conditions in a license or revision to a license as are appropriate to ensure compliance with the infectious waste provisions of this chapter and rules adopted under them.

(b) Each person proposing to open a new infectious waste treatment facility or to modify an existing infectious waste treatment facility shall submit an application for a permit with accompanying detail plans and specifications to the environmental protection agency for required approval under the rules adopted by the director pursuant to section 3734.021 of the Revised Code two hundred seventy days before proposed operation of the facility and concurrently shall make application for a license with the board of health of the health district in which the facility is or is proposed to be located. Not later than ninety days after receiving a completed application under division (B)(2)(b) of this section for a permit to open a new infectious waste treatment facility or modify an existing infectious waste treatment facility to expand its treatment capacity, or receiving a completed application under division (A)(2)(a) of this section for a permit to open a new solid waste incineration facility, or modify an existing solid waste incineration facility to also treat infectious wastes or to increase its infectious waste treatment capacity, that pertains to a facility for which a notation authorizing infectious waste treatment is included or proposed to be included in the solid waste incineration facility's license pursuant to division (B)(3) of this section, the director shall hold a public hearing on the application within the county in which the new or modified infectious waste or solid waste facility is or is proposed to be located or within a contiguous county. Not less than thirty days before holding the public hearing on the application, the director shall publish notice of the hearing in each newspaper that has general circulation and that is published in the county in which the facility is or is proposed to be located. If there is no newspaper that has general circulation and that is published in the county, the director shall publish the notice in a newspaper of general circulation in the county. The notice shall contain the date, time, and location of the public hearing and a general description of the proposed new or modified facility. At the public hearing, any person may submit written or oral comments on or objections to the approval or disapproval of the application. The applicant, or a representative of the applicant who has knowledge of the location, construction, and operation of the facility, shall attend the public hearing to respond to comments or questions concerning the facility directed to the applicant or representative by the officer or employee of the environmental protection agency presiding at the hearing.

(c) Each application for a permit under division (B)(2)(b) of this section

shall be accompanied by a nonrefundable application fee of four hundred dollars that shall be credited to the general revenue fund. Each application for an annual license under division (B)(2)(a) of this section shall be accompanied by a nonrefundable application fee of one hundred dollars. If the application for an annual license is submitted to a board of health on the approved list under section 3734.08 of the Revised Code, the application fee shall be credited to the special infectious waste fund of the health district created in division (C) of section 3734.06 of the Revised Code. If the application for an annual license is submitted to the director, the application fee shall be credited to the general revenue fund. If a permit or license is issued, the amount of the application fee paid shall be deducted from the amount of the permit fee due under division (Q) of section 3745.11 of the Revised Code or the amount of the license fee due under division (C) of section 3734.06 of the Revised Code.

(d) The owner or operator of any infectious waste treatment facility that commenced operation on or before July 1, 1968, shall submit to the director an application for a permit with accompanying engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code in accordance with the following schedule:

(i) Not later than December 24, 1988, if the facility is located in Delaware, Greene, Guernsey, Hamilton, Madison, Mahoning, Ottawa, or Vinton county;

(ii) Not later than March 24, 1989, if the facility is located in Champaign, Clinton, Columbiana, Huron, Paulding, Stark, or Washington county, or is located in the city of Brooklyn, Cuyahoga Heights, or Parma in Cuyahoga county;

(iii) Not later than June 24, 1989, if the facility is located in Adams, Auglaize, Coshocton, Darke, Harrison, Lorain, Lucas, or Summit county or is located in Cuyahoga county outside the cities of Brooklyn, Cuyahoga Heights, and Parma;

(iv) Not later than September 24, 1989, if the facility is located in Butler, Carroll, Erie, Lake, Portage, Putnam, or Ross county;

(v) Not later than December 24, 1989, if the facility is located in a county not listed in divisions (B)(2)(d)(i) to (iv) of this section.

The owner or operator of an infectious waste treatment facility required to submit a permit application under division (B)(2)(d) of this section is not required to pay any permit application fee under division (B)(2)(c) of this section, or permit fee under division (Q) of section 3745.11 of the Revised Code, with respect thereto unless the owner or operator also proposes to

modify the facility.

(e) The director may issue an order in accordance with Chapter 3745. of the Revised Code to the owner or operator of an infectious waste treatment facility requiring the person to submit to the director updated engineering detail plans, specifications, and information regarding the facility and its method of operation for approval under rules adopted under section 3734.021 of the Revised Code if, in the director's judgment, conditions at the facility constitute a substantial threat to public health or safety or are causing or contributing to or threatening to cause or contribute to air or water pollution or soil contamination. Any person who receives such an order shall submit the updated engineering detail plans, specifications, and information to the director within one hundred eighty days after the effective date of the order.

(f) The director shall act upon an application submitted under division (B)(2)(d) of this section and any updated engineering plans, specifications, and information submitted under division (B)(2)(e) of this section within one hundred eighty days after receiving them. If the director denies any such permit application or disapproves any such updated engineering plans, specifications, and information, the director shall include in the order denying the application or disapproving the plans the requirement that the owner or operator cease accepting infectious wastes for treatment at the facility.

(3) Division (B) of this section does not apply to an infectious waste treatment facility that meets any of the following conditions:

(a) Is owned or operated by the generator of the wastes and exclusively treats, by methods, techniques, and practices established by rules adopted under division (C)(1) or (3) of section 3734.021 of the Revised Code, wastes that are generated at any premises owned or operated by that generator regardless of whether the wastes are generated on the same premises where the generator's treatment facility is located or, if the generator is a hospital as defined in section 3727.01 of the Revised Code, infectious wastes that are described in division (A)(1)(g), (h), or (i) of section 3734.021 of the Revised Code;

(b) Holds a license or renewal of a license to operate a crematory facility issued under Chapter 4717. and a permit issued under Chapter 3704. of the Revised Code;

(c) Treats or disposes of dead animals or parts thereof, or the blood of animals, and is subject to any of the following:

(i) Inspection under the "Federal Meat Inspection Act," 81 Stat. 584 (1967), 21 U.S.C.A. 603, as amended;

- (ii) Chapter 918. of the Revised Code;
- (iii) Chapter 953. of the Revised Code.

Nothing in division (B) of this section requires a facility that holds a license issued under division (A) of this section as a solid waste facility and that also treats infectious wastes by the same method, technique, or process to obtain a license under division (B) of this section as an infectious waste treatment facility. However, the solid waste facility license for the facility shall include the notation that the facility also treats infectious wastes.

On and after the effective date of the amendments to the rules adopted under division (C)(2) of section 3734.021 of the Revised Code that are required by Section 6 of Substitute House Bill No. 98 of the 120th General Assembly, the director shall not issue a permit to open a new solid waste incineration facility unless the proposed facility complies with the requirements for the location of new infectious waste incineration facilities established in the required amendments to those rules.

(C) Except for a facility or activity described in division (E)(3) of section 3734.02 of the Revised Code, a person who proposes to establish or operate a hazardous waste facility shall submit a complete application for a hazardous waste facility installation and operation permit and accompanying detail plans, specifications, and such information as the director may require to the environmental protection agency at least one hundred eighty days before the proposed beginning of operation of the facility. The applicant shall notify by certified mail the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located of the submission of the application within ten days after the submission or at such earlier time as the director may establish by rule. If the application is for a proposed new hazardous waste disposal or thermal treatment facility, the applicant also shall give actual notice of the general design and purpose of the facility to the legislative authority of each municipal corporation, township, and county in which the facility is proposed to be located at least ninety days before the permit application is submitted to the environmental protection agency.

In accordance with rules adopted under section 3734.12 of the Revised Code, prior to the submission of a complete application for a hazardous waste facility installation and operation permit, the applicant shall hold at least one meeting in the township or municipal corporation in which the facility is proposed to be located, whichever is geographically closer to the proposed location of the facility. The meeting shall be open to the public and shall be held to inform the community of the proposed hazardous waste management activities and to solicit questions from the community

concerning the activities.

(D)(1) Except as provided in section 3734.123 of the Revised Code, upon receipt of a complete application for a hazardous waste facility installation and operation permit under division (C) of this section, the director shall consider the application and accompanying information to determine whether the application complies with agency rules and the requirements of division (D)(2) of this section. After making a determination, the director shall issue either a draft permit or a notice of intent to deny the permit. The director, in accordance with rules adopted under section 3734.12 of the Revised Code or with rules adopted to implement Chapter 3745. of the Revised Code, shall provide public notice of the application and the draft permit or the notice of intent to deny the permit, provide an opportunity for public comments, and, if significant interest is shown, schedule a public meeting in the county in which the facility is proposed to be located and give public notice of the date, time, and location of the public meeting in a newspaper of general circulation in that county.

(2) The director shall not approve an application for a hazardous waste facility installation and operation permit or an application for a modification under division (I)(3) of this section unless the director finds and determines as follows:

(a) The nature and volume of the waste to be treated, stored, or disposed of at the facility;

(b) That the facility complies with the director's hazardous waste standards adopted pursuant to section 3734.12 of the Revised Code;

(c) That the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of various alternatives, and other pertinent considerations;

(d) That the facility represents the minimum risk of all of the following:

(i) Fires or explosions from treatment, storage, or disposal methods;

(ii) Release of hazardous waste during transportation of hazardous waste to or from the facility;

(iii) Adverse impact on the public health and safety.

(e) That the facility will comply with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them;

(f) That if the owner of the facility, the operator of the facility, or any other person in a position with the facility from which the person may influence the installation and operation of the facility has been involved in any prior activity involving transportation, treatment, storage, or disposal of

hazardous waste, that person has a history of compliance with this chapter and Chapters 3704. and 6111. of the Revised Code and all rules and standards adopted under them, the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended, and all regulations adopted under it, and similar laws and rules of other states if any such prior operation was located in another state that demonstrates sufficient reliability, expertise, and competency to operate a hazardous waste facility under the applicable provisions of this chapter and Chapters 3704. and 6111. of the Revised Code, the applicable rules and standards adopted under them, and terms and conditions of a hazardous waste facility installation and operation permit, given the potential for harm to the public health and safety and the environment that could result from the irresponsible operation of the facility. For off-site facilities, as defined in section 3734.41 of the Revised Code, the director may use the investigative reports of the attorney general prepared pursuant to section 3734.42 of the Revised Code as a basis for making a finding and determination under division (D)(2)(f) of this section.

(g) That the active areas within a new hazardous waste facility where acute hazardous waste as listed in 40 C.F.R. 261.33 (e), as amended, or organic waste that is toxic and is listed under 40 C.F.R. 261, as amended, is being stored, treated, or disposed of and where the aggregate of the storage design capacity and the disposal design capacity of all hazardous waste in those areas is greater than two hundred fifty thousand gallons, are not located or operated within any of the following:

- (i) Two thousand feet of any residence, school, hospital, jail, or prison;
- (ii) Any naturally occurring wetland;
- (iii) Any flood hazard area if the applicant cannot show that the facility will be designed, constructed, operated, and maintained to prevent washout by a one-hundred-year flood.

Division (D)(2)(g) of this section does not apply to the facility of any applicant who demonstrates to the director that the limitations specified in that division are not necessary because of the nature or volume of the waste and the manner of management applied, the facility will impose no substantial danger to the health and safety of persons occupying the structures listed in division (D)(2)(g)(i) of this section, and the facility is to be located or operated in an area where the proposed hazardous waste activities will not be incompatible with existing land uses in the area.

(h) That the facility will not be located within the boundaries of a state park established or dedicated under Chapter 1541. of the Revised Code, a state park purchase area established under section 1541.02 of the Revised Code, any unit of the national park system, or any property that lies within

the boundaries of a national park or recreation area, but that has not been acquired or is not administered by the secretary of the United States department of the interior, located in this state, or any candidate area located in this state identified for potential inclusion in the national park system in the edition of the "national park system plan" submitted under paragraph (b) of section 8 of "The Act of August 18, 1970," 84 Stat. 825, 16 U.S.C.A. 1a-5, as amended, current at the time of filing of the application for the permit, unless the facility will be used exclusively for the storage of hazardous waste generated within the park or recreation area in conjunction with the operation of the park or recreation area. Division (D)(2)(h) of this section does not apply to the facility of any applicant for modification of a permit unless the modification application proposes to increase the land area included in the facility or to increase the quantity of hazardous waste that will be treated, stored, or disposed of at the facility.

(3) Not later than one hundred eighty days after the end of the public comment period, the director, without prior hearing, shall issue or deny the permit in accordance with Chapter 3745. of the Revised Code. If the director approves an application for a hazardous waste facility installation and operation permit, the director shall issue the permit, upon such terms and conditions as the director finds are necessary to ensure the construction and operation of the hazardous waste facility in accordance with the standards of this section.

(E) No political subdivision of this state shall require any additional zoning or other approval, consent, permit, certificate, or condition for the construction or operation of a hazardous waste facility authorized by a hazardous waste facility installation and operation permit issued pursuant to this chapter, nor shall any political subdivision adopt or enforce any law, ordinance, or rule that in any way alters, impairs, or limits the authority granted in the permit.

(F) The director may issue a single hazardous waste facility installation and operation permit to a person who operates two or more adjoining facilities where hazardous waste is stored, treated, or disposed of if the application includes detail plans, specifications, and information on all facilities. For the purposes of this section, "adjoining" means sharing a common boundary, separated only by a public road, or in such proximity that the director determines that the issuance of a single permit will not create a hazard to the public health or safety or the environment.

(G) No person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director by this chapter or the rules

adopted under it.

(H)(1) Each person who holds an installation and operation permit issued under this section and who wishes to obtain a permit renewal shall submit a completed application for an installation and operation permit renewal and any necessary accompanying general plans, detail plans, specifications, and such information as the director may require to the director no later than one hundred eighty days prior to the expiration date of the existing permit or upon a later date prior to the expiration of the existing permit if the permittee can demonstrate good cause for the late submittal. The director shall consider the application and accompanying information, inspection reports of the facility, results of performance tests, a report regarding the facility's compliance or noncompliance with the terms and conditions of its permit and rules adopted by the director under this chapter, and such other information as is relevant to the operation of the facility and shall issue a draft renewal permit or a notice of intent to deny the renewal permit. The director, in accordance with rules adopted under this section or with rules adopted to implement Chapter 3745. of the Revised Code, shall give public notice of the application and draft renewal permit or notice of intent to deny the renewal permit, provide for the opportunity for public comments within a specified time period, schedule a public meeting in the county in which the facility is located if significant interest is shown, and give public notice of the public meeting.

(2) Within sixty days after the public meeting or close of the public comment period, the director, without prior hearing, shall issue or deny the renewal permit in accordance with Chapter 3745. of the Revised Code. The director shall not issue a renewal permit unless the director determines that the facility under the existing permit has a history of compliance with this chapter, rules adopted under it, the existing permit, or orders entered to enforce such requirements that demonstrates sufficient reliability, expertise, and competency to operate the facility henceforth under this chapter, rules adopted under it, and the renewal permit. If the director approves an application for a renewal permit, the director shall issue the permit subject to the payment of the annual permit fee required under division (E) of section 3734.02 of the Revised Code and upon such terms and conditions as the director finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are in accordance with the rules adopted under section 3734.12 of the Revised Code.

(3) An installation and operation permit renewal application submitted to the director that also contains or would constitute an application for a

modification shall be acted upon by the director in accordance with division (I) of this section in the same manner as an application for a modification. In approving or disapproving the renewal portion of a permit renewal application containing an application for a modification, the director shall apply the criteria established under division (H)(2) of this section.

(4) An application for renewal or modification of a permit that does not contain an application for a modification as described in divisions (I)(3)(a) to (d) of this section shall not be subject to division (D)(2) of this section.

(I)(1) As used in this section, "modification" means a change or alteration to a hazardous waste facility or its operations that is inconsistent with or not authorized by its existing permit or authorization to operate. Modifications shall be classified as Class 1, 2, or 3 modifications in accordance with rules adopted under division (K) of this section. Modifications classified as Class 3 modifications, in accordance with rules adopted under that division, shall be further classified by the director as either Class 3 modifications that are to be approved or disapproved by the director under divisions (I)(3)(a) to (d) of this section or as Class 3 modifications that are to be approved or disapproved by the director under division (I)(5) of this section. Not later than thirty days after receiving a request for a modification under division (I)(4) of this section that is not listed in Appendix I to 40 C.F.R. 270.42 or in rules adopted under division (K) of this section, the director shall classify the modification and shall notify the owner or operator of the facility requesting the modification of the classification. Notwithstanding any other law to the contrary, a modification that involves the transfer of a hazardous waste facility installation and operation permit to a new owner or operator for any off-site facility as defined in section 3734.41 of the Revised Code shall be classified as a Class 3 modification. The transfer of a hazardous waste facility installation and operation permit to a new owner or operator for a facility that is not an off-site facility shall be classified as a Class 1 modification requiring prior approval of the director.

(2) Except as provided in section 3734.123 of the Revised Code, a hazardous waste facility installation and operation permit may be modified at the request of the director or upon the written request of the permittee only if any of the following applies:

(a) The permittee desires to accomplish alterations, additions, or deletions to the permitted facility or to undertake alterations, additions, deletions, or activities that are inconsistent with or not authorized by the existing permit;

(b) New information or data justify permit conditions in addition to or

different from those in the existing permit;

(c) The standards, criteria, or rules upon which the existing permit is based have been changed by new, amended, or rescinded standards, criteria, or rules, or by judicial decision after the existing permit was issued, and the change justifies permit conditions in addition to or different from those in the existing permit;

(d) The permittee proposes to transfer the permit to another person.

(3) The director shall approve or disapprove an application for a modification in accordance with division (D)(2) of this section and rules adopted under division (K) of this section for all of the following categories of Class 3 modifications:

(a) Authority to conduct treatment, storage, or disposal at a site, location, or tract of land that has not been authorized for the proposed category of treatment, storage, or disposal activity by the facility's permit;

(b) Modification or addition of a hazardous waste management unit, as defined in rules adopted under section 3734.12 of the Revised Code, that results in an increase in a facility's storage capacity of more than twenty-five per cent over the capacity authorized by the facility's permit, an increase in a facility's treatment rate of more than twenty-five per cent over the rate so authorized, or an increase in a facility's disposal capacity over the capacity so authorized. The authorized disposal capacity for a facility shall be calculated from the approved design plans for the disposal units at that facility. In no case during a five-year period shall a facility's storage capacity or treatment rate be modified to increase by more than twenty-five per cent in the aggregate without the director's approval in accordance with division (D)(2) of this section. Notwithstanding any provision of division (I) of this section to the contrary, a request for modification of a facility's annual total waste receipt limit shall be classified and approved or disapproved by the director under division (I)(5) of this section.

(c) Authority to add any of the following categories of regulated activities not previously authorized at a facility by the facility's permit: storage at a facility not previously authorized to store hazardous waste, treatment at a facility not previously authorized to treat hazardous waste, or disposal at a facility not previously authorized to dispose of hazardous waste; or authority to add a category of hazardous waste management unit not previously authorized at the facility by the facility's permit. Notwithstanding any provision of division (I) of this section to the contrary, a request for authority to add or to modify an activity or a hazardous waste management unit for the purposes of performing a corrective action shall be classified and approved or disapproved by the director under division (I)(5)

of this section.

(d) Authority to treat, store, or dispose of waste types listed or characterized as reactive or explosive, in rules adopted under section 3734.12 of the Revised Code, or any acute hazardous waste listed in 40 C.F.R. 261.33(e), as amended, at a facility not previously authorized to treat, store, or dispose of those types of wastes by the facility's permit unless the requested authority is limited to wastes that no longer exhibit characteristics meeting the criteria for listing or characterization as reactive or explosive wastes, or for listing as acute hazardous waste, but still are required to carry those waste codes as established in rules adopted under section 3734.12 of the Revised Code because of the requirements established in 40 C.F.R. 261(a) and (e), as amended, that is, the "mixture," "derived-from," or "contained-in" regulations.

(4) A written request for a modification from the permittee shall be submitted to the director and shall contain such information as is necessary to support the request. Requests for modifications shall be acted upon by the director in accordance with this section and rules adopted under it.

(5) Class 1 modification applications that require prior approval of the director, as provided in division (I)(1) of this section or as determined in accordance with rules adopted under division (K) of this section, Class 2 modification applications, and Class 3 modification applications that are not described in divisions (I)(3)(a) to (d) of this section shall be approved or disapproved by the director in accordance with rules adopted under division (K) of this section. The board of county commissioners of the county, the board of township trustees of the township, and the city manager or mayor of the municipal corporation in which a hazardous waste facility is located shall receive notification of any application for a modification for that facility and shall be considered as interested persons with respect to the director's consideration of the application.

As used in division (I) of this section:

(a) "Owner" means the person who owns a majority or controlling interest in a facility.

(b) "Operator" means the person who is responsible for the overall operation of a facility.

The director shall approve or disapprove an application for a Class 1 modification that requires the director's approval within sixty days after receiving the request for modification. The director shall approve or disapprove an application for a Class 2 modification within three hundred days after receiving the request for modification. The director shall approve or disapprove an application for a Class 3 modification within three hundred

sixty-five days after receiving the request for modification.

(6) The approval or disapproval by the director of a Class 1 modification application is not a final action that is appealable under Chapter 3745. of the Revised Code. The approval or disapproval by the director of a Class 2 modification or a Class 3 modification is a final action that is appealable under that chapter. In approving or disapproving a request for a modification, the director shall consider all comments pertaining to the request that are received during the public comment period and the public meetings. The administrative record for appeal of a final action by the director in approving or disapproving a request for a modification shall include all comments received during the public comment period relating to the request for modification, written materials submitted at the public meetings relating to the request, and any other documents related to the director's action.

(7) Notwithstanding any other provision of law to the contrary, a change or alteration to a hazardous waste facility described in division (E)(3)(a) or (b) of section 3734.02 of the Revised Code, or its operations, is a modification for the purposes of this section. An application for a modification at such a facility shall be submitted, classified, and approved or disapproved in accordance with divisions (I)(1) to (6) of this section in the same manner as a modification to a hazardous waste facility installation and operation permit.

(J)(1) Except as provided in division (J)(2) of this section, an owner or operator of a hazardous waste facility that is operating in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit either a hazardous waste facility installation and operation permit application for the facility or a modification application, whichever is required under division (J)(1)(a) or (b) of this section, within one hundred eighty days after the director has requested the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal.

(a) If the owner or operator does not have a hazardous waste facility installation and operation permit for any hazardous waste treatment, storage, or disposal activities at the facility, the owner or operator shall submit an application for such a permit to the director for the activities authorized by the permit by rule. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the application for the permit in accordance with the procedures governing the approval or disapproval of permit renewals under division (H) of this section.

(b) If the owner or operator has a hazardous waste facility installation

and operation permit for hazardous waste treatment, storage, or disposal activities at the facility other than those authorized by the permit by rule, the owner or operator shall submit to the director a request for modification in accordance with division (I) of this section. Notwithstanding any other provision of law to the contrary, the director shall approve or disapprove the modification application in accordance with division (I)(5) of this section.

(2) The owner or operator of a boiler or industrial furnace that is conducting thermal treatment activities in accordance with a permit by rule under rules adopted by the director under division (E)(3)(b) of section 3734.02 of the Revised Code shall submit a hazardous waste facility installation and operation permit application if the owner or operator does not have such a permit for any hazardous waste treatment, storage, or disposal activities at the facility or, if the owner or operator has such a permit for hazardous waste treatment, storage, or disposal activities at the facility other than thermal treatment activities authorized by the permit by rule, a modification application to add those activities authorized by the permit by rule, whichever is applicable, within one hundred eighty days after the director has requested the submission of the application or upon a later date if the owner or operator demonstrates to the director good cause for the late submittal. The application shall be accompanied by information necessary to support the request. The director shall approve or disapprove an application for a hazardous waste facility installation and operation permit in accordance with division (D) of this section and approve or disapprove an application for a modification in accordance with division (I)(3) of this section, except that the director shall not disapprove an application for the thermal treatment activities on the basis of the criteria set forth in division (D)(2)(g) or (h) of this section.

(3) As used in division (J) of this section:

(a) "Modification application" means a request for a modification submitted in accordance with division (I) of this section.

(b) "Thermal treatment," "boiler," and "industrial furnace" have the same meanings as in rules adopted under section 3734.12 of the Revised Code.

(K) The director shall adopt, and may amend, suspend, or rescind, rules in accordance with Chapter 119. of the Revised Code in order to implement divisions (H) and (I) of this section. Except when in actual conflict with this section, rules governing the classification of and procedures for the modification of hazardous waste facility installation and operation permits shall be substantively and procedurally identical to the regulations governing hazardous waste facility permitting and permit modifications

adopted under the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

Sec. 3734.06. (A)(1) Except as provided in ~~division~~ divisions (A)(2), (3), ~~and~~ (4), ~~and~~ (5) of this section and in section 3734.82 of the Revised Code, the annual fee for a solid waste facility license shall be in accordance with the following schedule:

AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under divisions (A)(1) ~~and~~, (2), ~~and~~ (3) of this section, the authorized maximum daily waste receipt shall be the maximum amount of wastes the facility is authorized to receive daily that is established in the permit for the facility, and any modifications to that permit, issued under division (A)(2) or (3) of section 3734.05 of the Revised Code; the annual license for the facility, and any revisions to that license, issued under division (A)(1) of section 3734.05 of the Revised Code; the approved operating plan or operational report for which submission and approval are required by rules adopted by the director of environmental protection under section 3734.02 of the Revised Code; an order issued by the director as authorized by rule; or the updated engineering plans, specifications, and facility and operation information approved under division (A)(4) of section 3734.05 of the Revised Code. If no authorized maximum daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (A)(1) of this section and thirty thousand dollars under ~~division~~ divisions (A)(2) ~~and~~ (3) of this section.

The authorized maximum daily waste receipt set forth in any such document shall be stated in terms of cubic yards of volume for the purpose of regulating the design, construction, and operation of a solid waste facility. For the purpose of determining applicable license fees under this section, the authorized maximum daily waste receipt so stated shall be converted from cubic yards to tons as the unit of measurement based upon a conversion factor of three cubic yards per ton for compacted wastes generally and one cubic yard per ton for baled wastes.

(2) The annual license fee for a facility that is an incinerator facility is

one-half the amount shown in division (A)(1) of this section. When a municipal corporation, county, or township owns and operates more than one incinerator within its boundaries, the municipal corporation, county, or township shall pay one fee for the licenses for all of its incinerators. The fee shall be determined on the basis of the aggregate maximum daily waste receipt for all the incinerators owned and operated by the municipal corporation, county, or township in an amount that is one-half the amount shown in division (A)(1) of this section.

(3) The annual fee for a solid waste compost facility license shall be in accordance with the following schedule:

AUTHORIZED MAXIMUM DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
12 or less	\$ 300
13 to 25	600
26 to 50	1,200
51 to 75	1,800
76 to 100	2,500
101 to 200 <u>150</u>	6,250 <u>3,750</u>
<u>151 to 200</u>	<u>5,000</u>
201 to 500 <u>250</u>	15,000 <u>6,250</u>
<u>251 to 300</u>	<u>7,500</u>
<u>301 to 400</u>	<u>10,000</u>
<u>401 to 500</u>	<u>12,500</u>
501 or more	30,000

(3)(4) The annual license fee for a solid waste facility, regardless of its authorized maximum daily waste receipt, is five thousand dollars for a facility meeting either of the following qualifications:

(a) The facility is owned by a generator of solid wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) The facility exclusively disposes of wastes that are generated from the combustion of coal, or from the combustion of primarily coal in combination with scrap tires, that is not combined in any way with garbage at one or more premises owned by the generator.

(4)(5) The annual license fee for a facility that is a transfer facility is seven hundred fifty dollars.

(5)(6) The same fees shall apply to private operators and to the state and

its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the solid waste provisions of this chapter and rules adopted under them, excluding the provisions governing scrap tires. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(B) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (A)(1), (2), ~~and (3), and (4)~~ of this section or the entire amount of any such fee that is less than two thousand five hundred dollars. The moneys retained shall be paid into a special fund, which is hereby created in each health district, and used solely to administer and enforce the solid waste provisions of this chapter and the rules adopted under them, excluding the provisions governing scrap tires. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund. The board of health shall retain the entire amount of each fee collected under division (A)~~(4)~~(5) of this section, which moneys shall be paid into the special fund of the health district.

(C)(1) Except as provided in divisions (C)(2) and (3) of this section, the annual fee for an infectious waste treatment facility license shall be in accordance with the following schedule:

AVERAGE DAILY WASTE RECEIPT (TONS)	ANNUAL LICENSE FEE
100 or less	\$ 5,000
101 to 200	12,500
201 to 500	30,000
501 or more	60,000

For the purpose of determining the applicable license fee under divisions (C)(1) and (2) of this section, the average daily waste receipt shall be the average amount of infectious wastes the facility is authorized to receive daily that is established in the permit for the facility, and any modifications to that permit, issued under division (B)(2)(b) or (d) of section 3734.05 of the Revised Code; or the annual license for the facility, and any revisions to that license, issued under division (B)(2)(a) of section 3734.05 of the Revised Code. If no average daily waste receipt is so established, the annual license fee is sixty thousand dollars under division (C)(1) of this section and thirty thousand dollars under division (C)(2) of this section.

(2) The annual license fee for an infectious waste treatment facility that is an incinerator is one-half the amount shown in division (C)(1) of this section.

(3) Fees levied under divisions (C)(1) and (2) of this section shall apply to private operators and to the state and its political subdivisions and shall be paid within thirty days after issuance of a license. The fee includes the cost of licensing, all inspections, and other costs associated with the administration of the infectious waste provisions of this chapter and rules adopted under them. Each such license shall specify that it is conditioned upon payment of the applicable fee to the board of health or the director, as appropriate, within thirty days after issuance of the license.

(4) The board of health shall retain two thousand five hundred dollars of each license fee collected by the board under divisions (C)(1) and (2) of this section. The moneys retained shall be paid into a special infectious waste fund, which is hereby created in each health district, and used solely to administer and enforce the infectious waste provisions of this chapter and the rules adopted under them. The remainder of each license fee collected by the board shall be transmitted to the director within forty-five days after receipt of the fee. The director shall transmit these moneys to the treasurer of state to be credited to the general revenue fund.

Sec. 3734.18. (A) As used in this section:

(1) "On-site facility" means a facility that treats or disposes of hazardous waste that is generated on the premises of the facility.

(2) "Off-site facility" means a facility that treats or disposes of hazardous waste that is generated off the premises of the facility.

(3) "Satellite facility" means any of the following:

(a) An on-site facility that also receives hazardous waste from other premises owned by the same person who generates the waste on the facility premises;

(b) An off-site facility operated so that all of the hazardous waste it receives is generated on one or more premises owned by the person who owns the facility;

(c) An on-site facility that also receives hazardous waste that is transported uninterruptedly and directly to the facility through a pipeline from a generator who is not the owner of the facility.

(B) A treatment or disposal facility that is subject to the fees that are levied under this section may be both an on-site facility and an off-site facility. The determination of whether an on-site facility fee or an off-site facility fee is to be paid for a hazardous waste that is treated or disposed of at the facility shall be based on whether that hazardous waste was generated

on or off the premises of the facility.

(C) There are hereby levied fees on the disposal of hazardous waste to be collected according to the following schedule at each disposal facility to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter or that is operating in accordance with a permit by rule under rules adopted by the director of environmental protection:

(1) For disposal facilities that are off-site facilities, fees shall be levied at the rate of four dollars and fifty cents per ton for hazardous waste disposed of by deep well injection and nine dollars per ton for hazardous waste disposed of by land application or landfilling. The owner or operator of the facility, as a trustee for the state, shall collect the fees and forward them to the director in accordance with rules adopted under this section.

(2) For disposal facilities that are on-site or satellite facilities, fees shall be levied at the rate of two dollars per ton for hazardous waste disposed of by deep well injection and four dollars per ton for hazardous waste disposed of by land application or landfilling. The maximum annual disposal fee for an on-site disposal facility that disposes of one hundred thousand tons or less of hazardous waste in a year is twenty-five thousand dollars. The maximum annual disposal fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by land application or landfilling is fifty thousand dollars, and the maximum annual fee for an on-site facility that disposes of more than one hundred thousand tons of hazardous waste in a year by deep well injection is one hundred thousand dollars. The maximum annual disposal fee for a satellite facility that disposes of one hundred thousand tons or less of hazardous waste in a year is thirty-seven thousand five hundred dollars, and the maximum annual disposal fee for a satellite facility that disposes of more than one hundred thousand tons of hazardous waste in a year is seventy-five thousand dollars, except that a satellite facility defined under division (A)(3)(b) of this section that receives hazardous waste from a single generation site is subject to the same maximum annual disposal fees as an on-site disposal facility. The owner or operator shall pay the fee to the director each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code or on the anniversary of the date of a permit by rule. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that it is late.

(D) There are hereby levied fees at the rate of two dollars per ton on

hazardous waste that is treated at treatment facilities that are not on-site or satellite facilities to which a hazardous waste facility installation and operation permit or renewal of a permit has been issued under this chapter, whose owner or operator is operating in accordance with a permit by rule under rules adopted by the director, or that are not subject to the hazardous waste facility installation and operation permit requirements under rules adopted by the director.

(E) There are hereby levied additional fees on the treatment and disposal of hazardous waste at the rate of ten per cent of the applicable fees prescribed in division (C) or (D) of this section for the purposes of paying the costs of municipal corporations and counties for conducting reviews of applications for hazardous waste facility installation and operation permits for proposed new or modified hazardous waste landfills within their boundaries, emergency response actions with respect to releases of hazardous waste from hazardous waste facilities within their boundaries, monitoring the operation of such hazardous waste facilities, and local waste management planning programs. The owner or operator of a facility located within a municipal corporation, as a trustee for the municipal corporation, shall collect the fees levied by this division and forward them to the treasurer of the municipal corporation or such officer as, by virtue of the charter, has the duties of the treasurer in accordance with rules adopted under this section. The owner or operator of a facility located in an unincorporated area, as a trustee of the county in which the facility is located, shall collect the fees levied by this division and forward them to the county treasurer of that county in accordance with rules adopted under this section. The owner or operator shall pay the fees levied by this division to the treasurer or such other officer of the municipal corporation or to the county treasurer each year upon the anniversary of the date of issuance of the owner's or operator's installation and operation permit during the term of that permit and any renewal permit issued under division (H) of section 3734.05 of the Revised Code or on the anniversary of the date of a permit by rule or the date on which the facility became exempt from hazardous waste facility installation and operation permit requirements under rules adopted by the director. If payment is late, the owner or operator shall pay an additional ten per cent of the amount of the fee for each month that the payment is late.

Moneys received by a municipal corporation under this division shall be paid into a special fund of the municipal corporation and used exclusively for the purposes of conducting reviews of applications for hazardous waste facility installation and operation permits for new or modified hazardous

waste landfills located or proposed within the municipal corporation, conducting emergency response actions with respect to releases of hazardous waste from facilities located within the municipal corporation, monitoring operation of such hazardous waste facilities, and conducting waste management planning programs within the municipal corporation through employees of the municipal corporation or pursuant to contracts entered into with persons or political subdivisions. Moneys received by a board of county commissioners under this division shall be paid into a special fund of the county and used exclusively for those purposes within the unincorporated area of the county through employees of the county or pursuant to contracts entered into with persons or political subdivisions.

(F) As used in this section, "treatment" or "treated" does not include any method, technique, or process designed to recover energy or material resources from the waste or to render the waste amenable for recovery. The fees levied by division (D) of this section do not apply to hazardous waste that is treated and disposed of on the same premises or by the same person.

(G) The director, by rules adopted in accordance with Chapters 119. and 3745. of the Revised Code, shall prescribe any dates not specified in this section and procedures for collecting and forwarding the fees prescribed by this section and may prescribe other requirements that are necessary to carry out this section.

The director shall deposit the moneys collected under divisions (C) and (D) of this section ~~into one or more minority banks, as "minority bank" is defined in division (F)(1) of section 135.04 of the Revised Code,~~ to the credit of the hazardous waste facility management fund, which is hereby created in the state treasury, except that the director shall deposit to the credit of the underground injection control fund created in section 6111.046 of the Revised Code moneys in excess of fifty thousand dollars that are collected during a fiscal year under division (C)(2) of this section from the fee levied on the disposal of hazardous waste by deep well injection at an on-site disposal facility that disposes of more than one hundred thousand tons of hazardous waste in a year.

The environmental protection agency may use moneys in the hazardous waste facility management fund for administration of the hazardous waste program established under this chapter and, in accordance with this section, may request approval by the controlling board on an annual basis for that use ~~on an annual basis. In addition, the agency may use and pledge moneys in that fund for repayment of and for interest on any loans made by the Ohio water development authority to the agency for the hazardous waste program established under this chapter without the necessity of requesting approval~~

~~by the controlling board, which use and pledge shall have priority over any other use of the moneys in the fund and for the purposes specified in sections 3734.19 to 3734.27 of the Revised Code.~~

~~Until September 28, 1996, the director also may use moneys in the fund to pay the start-up costs of administering Chapter 3746. of the Revised Code.~~

If moneys in the fund that the agency uses in accordance with this chapter are reimbursed by grants or other moneys from the United States government, the grants or other moneys shall be placed in the fund.

Before the agency makes any expenditure from the fund other than for repayment of and interest on any loan made by the Ohio water development authority to the agency ~~in accordance with this section~~, the controlling board shall approve the expenditure.

Sec. 3734.19. (A) If the legislative or executive authority of a municipal corporation, county, or township has evidence to indicate that locations within its boundaries once served as hazardous waste facilities or that significant quantities of hazardous waste were disposed of in solid waste facilities within its boundaries, it may file a formal written request with the director of environmental protection, accompanied by supporting evidence, to survey the locations or facilities.

Upon receipt of a request and a review of the evidence submitted with the request, the director shall conduct an investigation to determine if hazardous waste was actually treated, stored, or disposed of at the locations or facilities and, if so, to determine the nature and approximate quantity and types of the waste treated, stored, or disposed of at the particular locations or facilities. In addition, the director shall determine whether the locations or facilities, because of their present condition and the nature and quantities of waste treated, stored, or disposed of therein, result or are likely to result in air pollution, pollution of the waters of the state, or soil contamination or constitute a present or imminent and substantial threat to public health or safety. The director shall report the findings of ~~his~~ the investigation to the municipal corporation, county, or township requesting the survey.

For the purpose of conducting investigations under this section, the director or ~~his~~ the director's authorized representative may enter upon any public or private property. The director or ~~his~~ 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. When conducting investigations under this section, the director shall cause no unnecessary damage to any property. The director may expend moneys from the

hazardous waste facility management fund created in section 3734.18 of the Revised Code, 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.

(B) As used in this section and in sections 3734.20, 3734.21, 3734.23, 3734.25, and 3734.26 of the Revised Code, "soil contamination" means the presence in or on the soil of any hazardous waste or hazardous waste residue resulting from the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing into or on the soil of hazardous waste or hazardous waste residue, or any material that when discharged, deposited, injected, dumped, spilled, leaked, emitted, or placed into or on the soil becomes a hazardous waste, in any quantity or having any characteristics that are or threaten to be injurious to public health or safety, plant or animal life, or the environment or that unreasonably interfere with the comfortable enjoyment of life or property.

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, 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 facility management fund created in section 3734.18 of the Revised Code, 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 facility management fund, the hazardous waste clean-up fund, 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 ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation fund and may expend moneys from loans from the Ohio water development authority to the environmental protection agency that pledge moneys from ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation 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 facility management fund created in

section 3734.18 of the Revised Code, 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 either the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation 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 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 facility management fund created in section 3734.18 of the Revised Code, 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 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 facility management fund, 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 facility management fund created in section 3734.18 of the Revised Code, 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 ~~either~~ the hazardous waste facility management fund, the hazardous waste clean-up fund, or the environmental protection remediation 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 the director may, if 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. 3734.24. After the cleanup of a solid waste facility or a hazardous waste facility acquired and cleaned up under section 3734.23 of the Revised Code, the director of environmental protection may, if the facility is suitable for use by any other state department, agency, office, or institution and if the proposed use of the facility is compatible with the condition of the facility as cleaned up, transfer the facility to that state department, agency, office, or institution. The director shall continue to provide for the post-closure care, maintenance, and monitoring of any such cleaned-up facility as required by section 3734.23 of the Revised Code.

If the director determines that any facility so cleaned up is suitable, because of its condition as cleaned up, for restricted or unrestricted use, the director may, with the approval of the attorney general, sell the facility if the sale is advantageous to the state. Prior to selling the cleaned-up facility, the director shall, when necessary to protect public health or safety, enter into an environmental covenant in accordance with sections 5301.80 to 5301.92 of the Revised Code. When selling any such cleaned-up facility, the director shall retain the right to enter upon the facility, in person or by an authorized agent, to provide for the post-closure care, maintenance, and monitoring of the facility. The director shall provide for the post-closure care, maintenance, and monitoring of any such facility sold as required by section 3734.23 of the Revised Code.

With the approval of the attorney general, the director may grant easements or leases on any such cleaned-up facility if the director determines that the use of the facility under the easement or lease is compatible with its condition as cleaned up.

Any moneys derived from the sale of such cleaned-up facilities or from payments from easements or leases shall be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code, 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.

Sec. 3734.25. (A) The director of environmental protection may make grants of moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code for payment by the state of up to two-thirds of the reasonable and necessary expenses incurred by a municipal corporation, county, or township for the proper closure of or abatement of air or water pollution or soil contamination from a solid waste facility in which significant quantities of hazardous waste were disposed of and that the political subdivision owns and once operated.

(B) A municipal corporation, county, or township shall submit an application for a grant on forms provided by the director, together with detail plans and specifications indicating the measures to be performed, an itemized estimate of the project's cost, a description of the project's benefits, and such other information as the director prescribes. The plan for closure or abatement of air or water pollution or soil contamination may be prepared in consultation with the director or the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only if the director finds that the proposed measures will provide for the proper closure of the facility and will abate or prevent air or water pollution or soil contamination, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility at which land burial of hazardous waste occurred, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface waters and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public

health or safety or to prevent or abate air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the prevention or elimination of air or water pollution or soil contamination from the facility. In making a grant, the director shall enter into a contract with the municipal corporation, county, or township that owns the facility to ensure that the moneys granted are used for the purposes of this section and that measures performed are properly done. The final payment under a grant may not be made until the director inspects and approves the completed cleanup.

The contract shall require the municipal corporation, county, or township to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the director may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. Such easements shall be for a specified period of years and may be extinguished by agreement between the political subdivision and the director.

When necessary to protect public health or safety, the contract may require the municipal corporation, county, or township to enter into an environmental covenant with the director in accordance with sections 5301.80 to 5301.92 of the Revised Code.

Sec. 3734.26. (A) The director of environmental protection may make grants of moneys from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code to the owner, other than a political subdivision, of a solid waste facility in which significant quantities of hazardous waste were disposed of or a hazardous waste facility for up to fifty per cent of the cost of the reasonable and necessary expenses incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility and for developing the land on which it was located for use in industry, commerce, distribution, or research.

The director shall not make grants to the owner of any land on which such facilities are located if the owner at any time owned or operated the facility located thereon for profit or in conjunction with any profit-making enterprise located in this state or to any person who at any time owned or operated a facility concerning which the director has taken action under section 3734.20, 3734.22, or 3734.23 of the Revised Code. However, the director may make grants under this section to any subsequent owner of the

land, provided that the person has no affiliation with any person who owned or operated the facility located on the land for profit or in conjunction with any profit-making enterprise located in this state or who owned or operated a facility concerning which the director has taken action under section 3734.20, 3734.22, or 3734.23 of the Revised Code.

(B) The owner shall submit an application for a grant on forms furnished by the director, together with detail plans and specifications for the measures to be performed to close the facility properly or to abate or prevent air or water pollution or soil contamination from the facility, an itemized estimate of the project's cost, a description of the project's estimated benefits, and such other information as the director prescribes. The plan may be prepared in consultation with the director or with the board of health of the city or general health district in which the facility is located. The director may award the applicant a grant only after finding that the proposed measures will provide for the proper closure of the facility or will abate or prevent air or water pollution or soil contamination from the facility, including, but not limited to, those measures necessary or desirable to:

(1) In the case of a facility for the land burial of hazardous waste, establish and maintain a suitable cover of soil and vegetation over the cells in which waste is buried in order to minimize erosion, the infiltration of surface water into the cells, the production of leachate, and the accumulation or runoff of contaminated surface water and to prevent air emissions of hazardous waste from the facility;

(2) Collect and treat contaminated surface water runoff from the facility;

(3) Collect and treat leachate produced at the facility;

(4) Install test wells and other equipment or facilities to monitor the quality of surface waters receiving runoff from the facility or to monitor air emissions of hazardous waste from the facility;

(5) Regularly monitor and analyze surface water runoff from the facility, the quality of waters receiving the runoff, and ground water quality in the vicinity of the facility, and regularly monitor leachate collection and treatment systems installed under the grant and analyze samples from them;

(6) Remove and dispose of hazardous waste from the facility at a suitable hazardous waste disposal facility where necessary to protect public health or safety or to abate or prevent air or water pollution or soil contamination.

(C) The director shall determine the amount of the grant based upon the director's determination of what constitutes reasonable and necessary expenses for the proper closure of the facility or for the abatement or

prevention of air or water pollution or soil contamination from the facility. The amount of the grant shall not exceed one-half of the total, as determined by the director, of what constitutes reasonable and necessary expenses actually incurred for the proper closure of or abatement or prevention of air or water pollution or soil contamination from the facility.

In making a grant, the director shall enter into a contract for funding with each applicant awarded a grant to ensure that the moneys granted are used for the purpose of this section and that the measures performed are properly performed. The final payment under a grant may not be made until the director inspects and approves the completed cleanup and the plans for developing the land for use in industry, commerce, distribution, or research.

Each contract for funding shall contain provisions for the reimbursement of the state of a portion of the costs of the cleanup that is commensurate with the increase in the market value of the property attributable to the cleanup thereon, as determined by appraisals made before and after cleanup in the manner stated in the contract. For reimbursement of that portion, the contract may include provisions for:

(1) Payment to the state of the share of the income derived from the productive use of the land;

(2) Imposition of a lien in the amount of the increase in fair market value payable upon the transfer or conveyance to a new owner;

(3) Waiver of all reimbursement if the determination discloses an increase in value that is insubstantial in comparison to the benefits to the public from the abatement of threats to public health or safety or from the abatement or prevention of pollution or contamination, considering the applicant's share of the cleanup cost.

All reimbursements and payments shall be credited to the hazardous waste facility management fund or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, as applicable.

(D) The contract shall require the owner to execute an easement whereby the director, an authorized employee of the agency, or a contractor employed by the agency may enter upon the facility to sample, repair, or reconstruct air and water quality monitoring equipment constructed under the contract. 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 contract 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.

(E) As used in this section, "commerce" includes, but is not limited to, agriculture, forestry, and housing.

Sec. 3734.27. Before making grants from the hazardous waste facility management fund created in section 3734.18 of the Revised Code or the hazardous waste clean-up fund created in section 3734.28 of the Revised Code, the director of environmental protection shall consider each project application submitted by a political subdivision under section 3734.25 of the Revised Code, each application submitted by the owner of a facility under section 3734.26 of the Revised Code, and each facility surveyed under section 3734.19 of the Revised Code and, based upon the feasibility, cost, and public benefits of restoring the particular land and the availability of federal or other financial assistance for restoration, establish priorities for awarding grants from the fund.

Sec. 3734.28. Except as otherwise provided in ~~section~~ sections 3734.281 and 3734.282 of the Revised Code, moneys collected under sections 3734.122, 3734.13, 3734.20, 3734.22, 3734.24, and 3734.26 of the Revised Code and under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, as amended, including moneys recovered under division (B)(1) of this section, 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 both~~ of the following shall be credited to the fund:

(A) Moneys recovered for costs paid from the fund for activities described in divisions (A)(1) and (2) of section 3745.12 of the Revised Code ~~shall be credited to the fund;~~

(B) Natural resource damage assessment costs recovered under any of the following:

(1) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601, et seq., as amended;

(2) The "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701, et seq., as amended;

(3) The Federal Water Pollution Control Act as defined in section 6111.01 of the Revised Code;

(4) Any other applicable federal or state law. ~~The~~

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, 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.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the responsibilities of the environmental protection agency for which money may be expended from the fund.

Sec. 3734.282. ~~All~~ Except for natural resource damage assessment costs recovered by the state that are required by section 3734.28 of the Revised Code to be credited to the hazardous waste clean-up fund created in that section, all money collected by the state for natural resources damages under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C. 9601 et seq., as amended, the "Oil Pollution Act of 1990," 104 Stat. 484, 33 U.S.C. 2701 et seq., as amended, the "~~Clean~~ Federal Water Pollution Control Act," ~~86 Stat. 862, 33 U.S.C. 1321,~~ as amended defined in section 6111.01 of the Revised Code, or any other applicable federal or state law shall be paid into the state treasury to the credit of the natural resource damages fund, which is hereby created. The director of environmental protection shall use money in the fund only in accordance with the purposes of and the limitations on natural resources damages set forth in the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," as amended, the "Oil Pollution Act of 1990," as amended, the "~~Clean~~ Federal Water Pollution Control Act," ~~as amended,~~ or another applicable federal or state law. All investment earnings of the fund shall be credited to the fund.

The director of environmental protection may enter into contracts and grant agreements with federal, state, or local government agencies, nonprofit organizations, and colleges and universities for the purpose of carrying out the director's responsibilities for which money may be expended from the fund.

Sec. 3734.57. (A) The following fees are hereby levied on the transfer or disposal of solid wastes in this state:

(1) One dollar per ton ~~on and after July 1, 2003,~~ through June 30, ~~2012~~ 2014, 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, ~~2012~~ 2014, 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~~ two dollars and fifty cents per ton ~~on and after July 1, 2005,~~ through June 30, ~~2012~~ 2014, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund created in section 3745.015 of the Revised Code;

(4) ~~An additional one dollar per ton on and after August 1, 2009, through June 30, 2012, the proceeds of which shall be deposited in the state treasury to the credit of the environmental protection fund.~~

(5) An additional twenty-five cents per ton ~~on and after August 1, 2009,~~ through June 30, ~~2012~~ 2013, 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.

In the case of solid wastes that are taken to a solid waste transfer facility located in this state prior to being transported for disposal at a solid waste disposal facility located in this state or outside of this state, the fees levied under this division shall be collected by the owner or operator of the transfer facility as a trustee for the state. The amount of fees required to be collected under this division at such a transfer facility shall equal the total tonnage of solid wastes received at the facility multiplied by the fees levied under this division. In the case of solid wastes that are not taken to a solid waste transfer facility located in this state prior to being transported to a solid waste disposal facility, the fees shall be collected by the owner or operator of the solid waste disposal facility as a trustee for the state. The amount of fees required to be collected under this division at such a disposal facility shall equal the total tonnage of solid wastes received at the facility that was not previously taken to a solid waste transfer facility located in this state multiplied by the fees levied under this division. Fees levied under this division do not apply to materials separated from a mixed waste stream for recycling by a generator or materials removed from the solid waste stream

through recycling, as "recycling" is defined in rules adopted under section 3734.02 of the Revised Code.

The owner or operator of a solid waste transfer facility or disposal facility, as applicable, shall prepare and file with the director of environmental protection each month a return indicating the total tonnage of solid wastes received at the facility during that month and the total amount of the fees required to be collected under this division during that month. In addition, the owner or operator of a solid waste disposal facility shall indicate on the return the total tonnage of solid wastes received from transfer facilities located in this state during that month for which the fees were required to be collected by the transfer facilities. The monthly returns shall be filed on a form prescribed by the director. Not later than thirty days after the last day of the month to which a return applies, the owner or operator shall mail to the director the return for that month together with the fees required to be collected under this division during that month as indicated on the return or may submit the return and fees electronically in a manner approved by the director. If the return is filed and the amount of the fees due is paid in a timely manner as required in this division, the owner or operator may retain a discount of three-fourths of one per cent of the total amount of the fees that are required to be paid as indicated on the return.

The owner or operator may request an extension of not more than thirty days for filing the return and remitting the fees, provided that the owner or operator has submitted such a request in writing to the director together with a detailed description of why the extension is requested, the director has received the request not later than the day on which the return is required to be filed, and the director has approved the request. If the fees are not remitted within thirty days after the last day of the month to which the return applies or are not remitted by the last day of an extension approved by the director, the owner or operator shall not retain the three-fourths of one per cent discount and shall pay an additional ten per cent of the amount of the fees for each month that they are late. For purposes of calculating the late fee, the first month in which fees are late begins on the first day after the deadline has passed for timely submitting the return and fees, and one additional month shall be counted every thirty days thereafter.

The owner or operator of a solid waste facility may request a refund or credit of fees levied under this division and remitted to the director that have not been paid to the owner or operator. Such a request shall be made only if the fees have not been collected by the owner or operator, have become a debt that has become worthless or uncollectable for a period of six months or more, and may be claimed as a deduction, including a deduction claimed

if the owner or operator keeps accounts on an accrual basis, under the "Internal Revenue Code of 1954," 68A Stat. 50, 26 U.S.C. 166, as amended, and regulations adopted under it. Prior to making a request for a refund or credit, an owner or operator shall make reasonable efforts to collect the applicable fees. A request for a refund or credit shall not include any costs resulting from those efforts to collect unpaid fees.

A request for a refund or credit of fees shall be made in writing, on a form prescribed by the director, and shall be supported by evidence that may be required in rules adopted by the director under this chapter. After reviewing the request, and if the request and evidence submitted with the request indicate that a refund or credit is warranted, the director shall grant a refund to the owner or operator or shall permit a credit to be taken by the owner or operator on a subsequent monthly return submitted by the owner or operator. The amount of a refund or credit shall not exceed an amount that is equal to ninety days' worth of fees owed to an owner or operator by a particular debtor of the owner or operator. A refund or credit shall not be granted by the director to an owner or operator more than once in any twelve-month period for fees owed to the owner or operator by a particular debtor.

If, after receiving a refund or credit from the director, an owner or operator receives payment of all or part of the fees, the owner or operator shall remit the fees with the next monthly return submitted to the director together with a written explanation of the reason for the submittal.

For purposes of computing the fees levied under this division or division (B) of this section, any solid waste transfer or disposal facility that does not use scales as a means of determining gate receipts shall use a conversion factor of three cubic yards per ton of solid waste or one cubic yard per ton for baled waste, as applicable.

The fees levied under this division and divisions (B) and (C) of this section are in addition to all other applicable fees and taxes and shall be paid by the customer or a political subdivision to the owner or operator of a solid waste transfer or disposal facility. In the alternative, the fees shall be paid by a customer or political subdivision to a transporter of waste who subsequently transfers the fees to the owner or operator of such a facility. The fees shall be paid notwithstanding the existence of any provision in a contract that the customer or a political subdivision may have with the owner or operator or with a transporter of waste to the facility that would not require or allow such payment regardless of whether the contract was entered prior to or after the effective date of this amendment. For those purposes, "customer" means a person who contracts with, or utilizes the

solid waste services of, the owner or operator of a solid waste transfer or disposal facility or a transporter of solid waste to such a facility.

(B) For the purposes specified in division (G) of this section, the solid waste management policy committee of a county or joint solid waste management district may levy fees upon the following activities:

(1) The disposal at a solid waste disposal facility located in the district of solid wastes generated within the district;

(2) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of the district, but inside this state;

(3) The disposal at a solid waste disposal facility within the district of solid wastes generated outside the boundaries of this state.

The solid waste management plan of the county or joint district approved under section 3734.521 or 3734.55 of the Revised Code and any amendments to it, or the resolution adopted under this division, as appropriate, shall establish the rates of the fees levied under divisions (B)(1), (2), and (3) of this section, if any, and shall specify whether the fees are levied on the basis of tons or cubic yards as the unit of measurement. A solid waste management district that levies fees under this division on the basis of cubic yards shall do so in accordance with division (A) of this section.

The fee levied under division (B)(1) of this section shall be not less than one dollar per ton nor more than two dollars per ton, the fee levied under division (B)(2) of this section shall be not less than two dollars per ton nor more than four dollars per ton, and the fee levied under division (B)(3) of this section shall be not more than the fee levied under division (B)(1) of this section.

Prior to the approval of the solid waste management plan of a district under section 3734.55 of the Revised Code, the solid waste management policy committee of a district may levy fees under this division by adopting a resolution establishing the proposed amount of the fees. Upon adopting the resolution, the committee shall deliver a copy of the resolution to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district and shall prepare and publish the resolution and a notice of the time and location where a public hearing on the fees will be held. Upon adopting the resolution, the committee shall deliver written notice of the adoption of the resolution; of the amount of the proposed fees; and of the date, time, and location of the public hearing to the director and to the fifty industrial, commercial, or institutional generators of solid wastes

within the district that generate the largest quantities of solid wastes, as determined by the committee, and to their local trade associations. The committee shall make good faith efforts to identify those generators within the district and their local trade associations, but the nonprovision of notice under this division to a particular generator or local trade association does not invalidate the proceedings under this division. The publication shall occur at least thirty days before the hearing. After the hearing, the committee may make such revisions to the proposed fees as it considers appropriate and thereafter, by resolution, shall adopt the revised fee schedule. Upon adopting the revised fee schedule, the committee shall deliver a copy of the resolution doing so to the board of county commissioners of each county forming the district and to the legislative authority of each municipal corporation and township under the jurisdiction of the district. Within sixty days after the delivery of a copy of the resolution adopting the proposed revised fees by the policy committee, each such board and legislative authority, by ordinance or resolution, shall approve or disapprove the revised fees and deliver a copy of the ordinance or resolution to the committee. If any such board or legislative authority fails to adopt and deliver to the policy committee an ordinance or resolution approving or disapproving the revised fees within sixty days after the policy committee delivered its resolution adopting the proposed revised fees, it shall be conclusively presumed that the board or legislative authority has approved the proposed revised fees. The committee shall determine if the resolution has been ratified in the same manner in which it determines if a draft solid waste management plan has been ratified under division (B) of section 3734.55 of the Revised Code.

The committee may amend the schedule of fees levied pursuant to a resolution adopted and ratified under this division by adopting a resolution establishing the proposed amount of the amended fees. The committee may repeal the fees levied pursuant to such a resolution by adopting a resolution proposing to repeal them. Upon adopting such a resolution, the committee shall proceed to obtain ratification of the resolution in accordance with this division.

Not later than fourteen days after declaring the new fees to be ratified or the fees to be repealed under this division, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the ratification and the amount of the fees or of the repeal of the fees. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

Fees levied under this division also may be established, amended, or repealed by a solid waste management policy committee through the adoption of a new district solid waste management plan, the adoption of an amended plan, or the amendment of the plan or amended plan in accordance with sections 3734.55 and 3734.56 of the Revised Code or the adoption or amendment of a district plan in connection with a change in district composition under section 3734.521 of the Revised Code.

Not later than fourteen days after the director issues an order approving a district's solid waste management plan, amended plan, or amendment to a plan or amended plan that establishes, amends, or repeals a schedule of fees levied by the district, the committee shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees of the approval of the plan or amended plan, or the amendment to the plan, as appropriate, and the amount of the fees, if any. In the case of an initial or amended plan approved under section 3734.521 of the Revised Code in connection with a change in district composition, other than one involving the withdrawal of a county from a joint district, the committee, within fourteen days after the change takes effect pursuant to division (G) of that section, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fees that the change has taken effect and of the amount of the fees, if any. Collection of any fees shall commence or collection of repealed fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, forty-five days or more before the beginning of a calendar year, the policy committee of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change, within fourteen days after the director's completion of the required actions, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the issuance of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of January immediately following the issuance of

the notice. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on that first day of January.

If, in the case of a change in district composition involving the withdrawal of a county from a joint district, the director completes the actions required under division (G)(1) or (3) of section 3734.521 of the Revised Code, as appropriate, less than forty-five days before the beginning of a calendar year, the director, on behalf of each of the districts resulting from the change that obtained the director's approval of an initial or amended plan in connection with the change proceedings, shall notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the district's fees that the change is to take effect on the first day of January immediately following the mailing of the notice and of the amount of the fees or amended fees levied under divisions (B)(1) to (3) of this section pursuant to the district's initial or amended plan as so approved or, if appropriate, the repeal of the district's fees by that initial or amended plan. Collection of any fees set forth in such a plan or amended plan shall commence on the first day of the second month following the month in which notification is sent to the owner or operator. If such an initial or amended plan repeals a schedule of fees, collection of the fees shall cease on the first day of the second month following the month in which notification is sent to the owner or operator.

If the schedule of fees that a solid waste management district is levying under divisions (B)(1) to (3) of this section is amended or repealed, the fees in effect immediately prior to the amendment or repeal shall continue to be collected until collection of the amended fees commences or collection of the repealed fees ceases, as applicable, as specified in this division. In the case of a change in district composition, money so received from the collection of the fees of the former districts shall be divided among the resulting districts in accordance with division (B) of section 343.012 of the Revised Code and the agreements entered into under division (B) of section 343.01 of the Revised Code to establish the former and resulting districts and any amendments to those agreements.

For the purposes of the provisions of division (B) of this section establishing the times when newly established or amended fees levied by a district are required to commence and the collection of fees that have been amended or repealed is required to cease, "fees" or "schedule of fees" includes, in addition to fees levied under divisions (B)(1) to (3) of this section, those levied under section 3734.573 or 3734.574 of the Revised Code.

(C) For the purposes of defraying the added costs to a municipal

corporation or township of maintaining roads and other public facilities and of providing emergency and other public services, and compensating a municipal corporation or township for reductions in real property tax revenues due to reductions in real property valuations resulting from the location and operation of a solid waste disposal facility within the municipal corporation or township, a municipal corporation or township in which such a solid waste disposal facility is located may levy a fee of not more than twenty-five cents per ton on the disposal of solid wastes at a solid waste disposal facility located within the boundaries of the municipal corporation or township regardless of where the wastes were generated.

The legislative authority of a municipal corporation or township may levy fees under this division by enacting an ordinance or adopting a resolution establishing the amount of the fees. Upon so doing the legislative authority shall mail a certified copy of the ordinance or resolution to the board of county commissioners or directors of the county or joint solid waste management district in which the municipal corporation or township is located or, if a regional solid waste management authority has been formed under section 343.011 of the Revised Code, to the board of trustees of that regional authority, the owner or operator of each solid waste disposal facility in the municipal corporation or township that is required to collect the fee by the ordinance or resolution, and the director of environmental protection. Although the fees levied under this division are levied on the basis of tons as the unit of measurement, the legislative authority, in its ordinance or resolution levying the fees under this division, may direct that the fees be levied on the basis of cubic yards as the unit of measurement based upon a conversion factor of three cubic yards per ton generally or one cubic yard per ton for baled wastes.

Not later than five days after enacting an ordinance or adopting a resolution under this division, the legislative authority shall so notify by certified mail the owner or operator of each solid waste disposal facility that is required to collect the fee. Collection of any fee levied on or after March 24, 1992, shall commence on the first day of the second month following the month in which notification is sent to the owner or operator.

(D)(1) The fees levied under divisions (A), (B), and (C) of this section do not apply to the disposal of solid wastes that:

(a) Are disposed of at a facility owned by the generator of the wastes when the solid waste facility exclusively disposes of solid wastes generated at one or more premises owned by the generator regardless of whether the facility is located on a premises where the wastes are generated;

(b) ~~Are 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~~ regardless of whether the disposal facility is located on the premises owned by the generator where the wastes are generated.

(2) Except as provided in section 3734.571 of the Revised Code, any fees levied under division (B)(1) of this section apply to solid wastes originating outside the boundaries of a county or joint district that are covered by an agreement for the joint use of solid waste facilities entered into under section 343.02 of the Revised Code by the board of county commissioners or board of directors of the county or joint district where the wastes are generated and disposed of.

(3) When solid wastes, other than solid wastes that consist of scrap tires, are burned in a disposal facility that is an incinerator or energy recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash remaining after burning of the solid wastes and shall be collected by the owner or operator of the sanitary landfill where the ash is disposed of.

(4) When solid wastes are delivered to a solid waste transfer facility, the fees levied under divisions (B) and (C) of this section shall be levied upon the disposal of solid wastes transported off the premises of the transfer facility for disposal and shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of.

(5) The fees levied under divisions (A), (B), and (C) of this section do not apply to sewage sludge that is generated by a waste water treatment facility holding a national pollutant discharge elimination system permit and that is disposed of through incineration, land application, or composting or at another resource recovery or disposal facility that is not a landfill.

(6) The fees levied under divisions (A), (B), and (C) of this section do not apply to solid wastes delivered to a solid waste composting facility for processing. When any unprocessed solid waste or compost product is transported off the premises of a composting facility and disposed of at a landfill, the fees levied under divisions (A), (B), and (C) of this section shall be collected by the owner or operator of the landfill where the unprocessed waste or compost product is disposed of.

(7) When solid wastes that consist of scrap tires are processed at a scrap tire recovery facility, the fees levied under divisions (A), (B), and (C) of this section shall be levied upon the disposal of the fly ash and bottom ash or other solid wastes remaining after the processing of the scrap tires and shall be collected by the owner or operator of the solid waste disposal facility

where the ash or other solid wastes are disposed of.

(8) The director of environmental protection may issue an order exempting from the fees levied under this section solid wastes, including, but not limited to, scrap tires, that are generated, transferred, or disposed of as a result of a contract providing for the expenditure of public funds entered into by the administrator or regional administrator of the United States environmental protection agency, the director of environmental protection, or the director of administrative services on behalf of the director of environmental protection for the purpose of remediating conditions at a hazardous waste facility, solid waste facility, or other location at which the administrator or regional administrator or the director of environmental protection has reason to believe that there is a substantial threat to public health or safety or the environment or that the conditions are causing or contributing to air or water pollution or soil contamination. An order issued by the director of environmental protection under division (D)(8) of this section shall include a determination that the amount of the fees not received by a solid waste management district as a result of the order will not adversely impact the implementation and financing of the district's approved solid waste management plan and any approved amendments to the plan. Such an order is a final action of the director of environmental protection.

(E) The fees levied under divisions (B) and (C) of this section shall be collected by the owner or operator of the solid waste disposal facility where the wastes are disposed of as a trustee for the county or joint district and municipal corporation or township where the wastes are disposed of. Moneys from the fees levied under division (B) of this section shall be forwarded to the board of county commissioners or board of directors of the district in accordance with rules adopted under division (H) of this section. Moneys from the fees levied under division (C) of this section shall be forwarded to the treasurer or such other officer of the municipal corporation as, by virtue of the charter, has the duties of the treasurer or to the fiscal officer of the township, as appropriate, in accordance with those rules.

(F) Moneys received by the treasurer or other officer of the municipal corporation under division (E) of this section shall be paid into the general fund of the municipal corporation. Moneys received by the fiscal officer of the township under that division shall be paid into the general fund of the township. The treasurer or other officer of the municipal corporation or the township fiscal officer, as appropriate, shall maintain separate records of the moneys received from the fees levied under division (C) of this section.

(G) Moneys received by the board of county commissioners or board of directors under division (E) of this section or section 3734.571, 3734.572,

3734.573, or 3734.574 of the Revised Code shall be paid to the county treasurer, or other official acting in a similar capacity under a county charter, in a county district or to the county treasurer or other official designated by the board of directors in a joint district and kept in a separate and distinct fund to the credit of the district. If a regional solid waste management authority has been formed under section 343.011 of the Revised Code, moneys received by the board of trustees of that regional authority under division (E) of this section shall be kept by the board in a separate and distinct fund to the credit of the district. Moneys in the special fund of the county or joint district arising from the fees levied under division (B) of this section and the fee levied under division (A) of section 3734.573 of the Revised Code shall be expended by the board of county commissioners or directors of the district in accordance with the district's solid waste management plan or amended plan approved under section 3734.521, 3734.55, or 3734.56 of the Revised Code exclusively for the following purposes:

(1) Preparation of the solid waste management plan of the district under section 3734.54 of the Revised Code, monitoring implementation of the plan, and conducting the periodic review and amendment of the plan required by section 3734.56 of the Revised Code by the solid waste management policy committee;

(2) Implementation of the approved solid waste management plan or amended plan of the district, including, without limitation, the development and implementation of solid waste recycling or reduction programs;

(3) Providing financial assistance to boards of health within the district, if solid waste facilities are located within the district, for enforcement of this chapter and rules, orders, and terms and conditions of permits, licenses, and variances adopted or issued under it, other than the hazardous waste provisions of this chapter and rules adopted and orders and terms and conditions of permits issued under those provisions;

(4) Providing financial assistance to each county within the district to defray the added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation of a solid waste facility within the county under the district's approved solid waste management plan or amended plan;

(5) Pursuant to contracts entered into with boards of health within the district, if solid waste facilities contained in the district's approved plan or amended plan are located within the district, for paying the costs incurred by those boards of health for collecting and analyzing samples from public or private water wells on lands adjacent to those facilities;

(6) Developing and implementing a program for the inspection of solid wastes generated outside the boundaries of this state that are disposed of at solid waste facilities included in the district's approved solid waste management plan or amended plan;

(7) Providing financial assistance to boards of health within the district for the enforcement of section 3734.03 of the Revised Code or to local law enforcement agencies having jurisdiction within the district for enforcing anti-littering laws and ordinances;

(8) Providing financial assistance to boards of health of health districts within the district that are on the approved list under section 3734.08 of the Revised Code to defray the costs to the health districts for the participation of their employees responsible for enforcement of the solid waste provisions of this chapter and rules adopted and orders and terms and conditions of permits, licenses, and variances issued under those provisions in the training and certification program as required by rules adopted under division (L) of section 3734.02 of the Revised Code;

(9) Providing financial assistance to individual municipal corporations and townships within the district to defray their added costs of maintaining roads and other public facilities and of providing emergency and other public services resulting from the location and operation within their boundaries of a composting, energy or resource recovery, incineration, or recycling facility that either is owned by the district or is furnishing solid waste management facility or recycling services to the district pursuant to a contract or agreement with the board of county commissioners or directors of the district;

(10) Payment of any expenses that are agreed to, awarded, or ordered to be paid under section 3734.35 of the Revised Code and of any administrative costs incurred pursuant to that section. In the case of a joint solid waste management district, if the board of county commissioners of one of the counties in the district is negotiating on behalf of affected communities, as defined in that section, in that county, the board shall obtain the approval of the board of directors of the district in order to expend moneys for administrative costs incurred.

Prior to the approval of the district's solid waste management plan under section 3734.55 of the Revised Code, moneys in the special fund of the district arising from the fees shall be expended for those purposes in the manner prescribed by the solid waste management policy committee by resolution.

Notwithstanding division (G)(6) of this section as it existed prior to October 29, 1993, or any provision in a district's solid waste management

plan prepared in accordance with division (B)(2)(e) of section 3734.53 of the Revised Code as it existed prior to that date, any moneys arising from the fees levied under division (B)(3) of this section prior to January 1, 1994, may be expended for any of the purposes authorized in divisions (G)(1) to (10) of this section.

(H) The director shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for collecting and forwarding the fees levied under divisions (B) and (C) of this section to the boards of county commissioners or directors of county or joint solid waste management districts and to the treasurers or other officers of municipal corporations and the fiscal officers of townships. The rules also shall prescribe the dates for forwarding the fees to the boards and officials and may prescribe any other requirements the director considers necessary or appropriate to implement and administer divisions (A), (B), and (C) of this section.

Sec. 3734.577. Notwithstanding any section of the Revised Code to the contrary, no solid waste management district shall exempt a public sector commercial licensed hauler from a fee that is charged to private sector commercial licensed haulers by the solid waste management district.

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, 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, 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 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 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 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 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 supporting market development activities for scrap tires and synthetic rubber from tire manufacturing processes and tire recycling processes and to support scrap tire amnesty and cleanup events; to make loans to promote the recycling or recovery of energy from scrap tires; and to defray the costs of administering and enforcing sections 3734.90 to 3734.9014 of the Revised Code, a fee of fifty cents per tire is hereby levied on the sale of tires. The proceeds of the fee shall be deposited in the state treasury to the credit of the scrap tire management fund created in section 3734.82 of the Revised Code. The fee is levied from the first day of the calendar month that begins next after thirty days from October 29, 1993, through June 30, ~~2011~~ 2013.

(2) Beginning on ~~September 5, 2004~~ July 1, 2011, and ending on June 30, ~~2011~~ 2013, 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 and be used exclusively for the purposes specified in division (G)(3) of that section until July 1, 2010, whereupon the proceeds 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.

(B) Only one sale of the same article shall be used in computing the amount of the fee due.

Sec. 3735.36. When a metropolitan housing authority has acquired the property necessary for any project, it shall proceed to make plans and specifications for carrying out such project, and shall advertise for bids for all work ~~which~~ that it desires to have done by contract, such advertisements to be published as provided in section 7.16 of the Revised Code or once a week for two consecutive weeks in a newspaper of general circulation in the political subdivision in which the project is to be developed. The contract shall be awarded to the lowest and best bidder.

Sec. 3735.66. The legislative authorities of municipal corporations and counties may survey the housing within their jurisdictions and, after the survey, may adopt resolutions describing the boundaries of community reinvestment areas which contain the conditions required for the finding under division (B) of section 3735.65 of the Revised Code. The findings resulting from the survey shall be incorporated in the resolution describing the boundaries of an area. The legislative authority may stipulate in the resolution that only new structures or remodeling classified as to use as

commercial, industrial, or residential, or some combination thereof, and otherwise satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation under that section. If the resolution does not include such a stipulation, all new structures and remodeling satisfying the requirements of section 3735.67 of the Revised Code are eligible for exemption from taxation regardless of classification. Whether or not the resolution includes such a stipulation, the classification of the structures or remodeling eligible for exemption in the area shall at all times be consistent with zoning restrictions applicable to the area. For the purposes of sections 3735.65 to 3735.70 of the Revised Code, whether a structure or remodeling composed of multiple units is classified as commercial or residential shall be determined by resolution or ordinance of the legislative authority or, in the absence of such a determination, by the classification of the use of the structure or remodeling under the applicable zoning regulations.

If construction or remodeling classified as residential is eligible for exemption from taxation, the resolution shall specify a percentage, not to exceed one hundred per cent, of the assessed valuation of such property to be exempted. The percentage specified shall apply to all residential construction or remodeling for which exemption is granted.

The resolution adopted pursuant to this section shall be published in a newspaper of general circulation in the municipal corporation, if the resolution is adopted by the legislative authority of a municipal corporation, or in a newspaper of general circulation in the county, if the resolution is adopted by the legislative authority of the county, once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, immediately following its adoption.

Each legislative authority adopting a resolution pursuant to this section shall designate a housing officer. In addition, each such legislative authority, not later than fifteen days after the adoption of the resolution, shall petition the director of development for the director to confirm the findings described in the resolution. The petition shall be accompanied by a copy of the resolution and by a map of the community reinvestment area in sufficient detail to denote the specific boundaries of the area and to indicate zoning restrictions applicable to the area. The director shall determine whether the findings contained in the resolution are valid, and whether the classification of structures or remodeling eligible for exemption under the resolution is consistent with zoning restrictions applicable to the area as indicated on the map. Within thirty days of receiving the petition, the director shall forward the director's determination to the legislative

authority. The legislative authority or housing officer shall not grant any exemption from taxation under section 3735.67 of the Revised Code until the director forwards the director's determination to the legislative authority. The director shall assign to each community reinvestment area a unique designation by which the area shall be identified for purposes of sections 3735.65 to 3735.70 of the Revised Code.

If zoning restrictions in any part of a community reinvestment area are changed at any time after the legislative authority petitions the director under this section, the legislative authority shall notify the director and shall submit a map of the area indicating the new zoning restrictions in the area.

Sec. 3737.73. (A) No principal or person in charge of a public or private school or educational institution having an average daily attendance of twenty or more pupils, and no person in charge of any children's home or orphanage housing twenty or more minor persons, shall willfully neglect to instruct and train such children by means of drills or rapid dismissals, so that such children in a sudden emergency may leave the building in the shortest possible time without confusion. The principal or person in charge of a school or educational institution shall conduct drills or rapid dismissals at least nine times during the school year, which shall be at the times and frequency prescribed in rules adopted by the fire marshal. However, no drill or rapid dismissal under this division need be conducted in any month that a school safety drill required under division (D) of this section is conducted as long as a total of nine drills or rapid dismissals under this division are conducted in the school year. The principal or person in charge of a children's home or orphanage shall conduct drills or rapid dismissals at least once each month while the home is in operation. In the case of schools, no principal or person in charge of a school shall willfully neglect to keep the doors and exits of such building unlocked during school hours. The fire marshal may order the immediate installation of necessary fire gongs or signals in such schools, institutions, or children's homes and enforce this division and divisions (B) and (C)(3) of this section.

(B) In conjunction with the drills or rapid dismissals required by division (A) of this section, principals or persons in charge of public or private primary and secondary schools, or educational institutions, shall instruct pupils in safety precautions to be taken in case of a tornado alert or warning. Such principals or persons in charge of such schools or institutions shall designate, in accordance with standards prescribed by the fire marshal, appropriate locations to be used to shelter pupils in case of a tornado, tornado alert, or warning.

(C)(1) The fire marshal or the fire marshal's designee shall annually

inspect each school, institution, home, or orphanage subject to division (A) of this section to determine compliance with that division, and each school or institution subject to division (B) of this section to ascertain whether the locations comply with the standards prescribed under that division. Nothing in this section shall require a school or institution to construct or improve a facility or location for use as a shelter area.

(2) The fire marshal or the fire marshal's designee shall issue a warning to any person found in violation of division (A) or (B) of this section. The warning shall indicate the specific violation and a date by which such violation shall be corrected.

(3) No person shall fail to correct violations by the date indicated on a warning issued under division (C)(2) of this section.

(D)(1) On or before April 1, 2007, and on or before each first day of December thereafter, the principal or person in charge of each public or private school or educational institution shall conduct a school safety drill to provide pupils with instruction in the procedures to follow in situations where pupils must be secured in the school building, such as a threat to the school involving an act of terrorism; a person possessing a deadly weapon or dangerous ordnance, as defined in section 2923.11 of the Revised Code, on school property; or other act of violence.

(2)(a) The principal or person in charge of each public or private school or educational institution shall provide to the police chief or other similar chief law enforcement officer of the municipal corporation, township, or township or joint police district in which the school or institution is located, or, in absence of any such person, the county sheriff of the county in which the school or institution is located advance written notice of each school safety drill required under division (D)(1) of this section and shall keep a written record of the date and time of each drill conducted. The advance notice shall be provided not later than seventy-two hours prior to the date the drill will be conducted and shall include the date and time the drill will be conducted and the address of the school or educational institution. The notice shall be provided by mail, facsimile, or electronic submission.

(b) Not later than April 5, 2007, and not later than the fifth day of December each year thereafter, the principal or person in charge of each public or private school or educational institution shall provide written certification by mail of the date and time each school safety drill required under division (D)(1) of this section was conducted to the police chief or other similar chief law enforcement officer of the municipal corporation, township, or township or joint police district in which the school or institution is located, or, in the absence of any such person, the county

sheriff of the county in which the school or institution is located. If such certification is not provided, the principal or person in charge of the school or institution shall be considered to have failed to conduct the drill and shall be subject to division (D)(4) of this section.

(3) The principal or person in charge of each public or private school or educational institution shall hold annual training sessions for employees of the school or institution regarding the conduct of school safety drills.

(4) The police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district, or, in the absence of any such person, the county sheriff shall issue a warning to any person found in violation of division (D)(1) of this section. Each warning issued for a violation of division (D)(1) of this section shall require the principal or person in charge of the school or institution to correct the violation by conducting the school safety drill not later than the thirtieth day after the date the warning is issued. The violation shall not be considered corrected unless, not later than forty days after the date the warning is issued, the principal or person in charge of the school or institution provides written certification of the date and time the drill was conducted to the police chief or other similar chief law enforcement officer or county sheriff who issued the warning.

(5) No person shall fail to correct violations by the date indicated on a warning issued under division (D)(4) of this section.

Sec. 3737.83. The fire marshal shall, as part of the state fire code, adopt rules to:

(A) Establish minimum standards of performance for fire protection equipment and fire fighting equipment;

(B) Establish minimum standards of training, fix minimum qualifications, and require certificates for all persons who engage in the business for profit of installing, testing, repairing, or maintaining fire protection equipment;

(C) Provide for the issuance of certificates required under division (B) of this section and establish the fees to be charged for such certificates. A certificate shall be granted, renewed, or revoked according to rules the fire marshal shall adopt.

(D) Establish minimum standards of flammability for consumer goods in any case where the federal government or any department or agency thereof has established, or may from time to time establish standards of flammability for consumer goods. The standards established by the fire marshal shall be identical to the minimum federal standards.

In any case where the federal government or any department or agency

thereof, establishes standards of flammability for consumer goods subsequent to the adoption of a flammability standard by the fire marshal, standards previously adopted by the fire marshal shall not continue in effect to the extent such standards are not identical to the minimum federal standards.

With respect to the adoption of minimum standards of flammability, this division shall supersede any authority granted a political subdivision by any other section of the Revised Code.

(E) Establish minimum standards pursuant to section 5104.05 of the Revised Code for fire prevention and fire safety in child day-care centers and in type A family day-care homes, as defined in section 5104.01 of the Revised Code.

(F) Establish minimum standards for fire prevention and safety an adult group home seeking licensure as an adult care facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code. The fire marshal shall adopt the rules under this division in consultation with the directors of mental health and aging and interested parties designated by the directors of mental health and aging.

Sec. 3737.841. As used in this section and section 3737.842 of the Revised Code:

(A) "Public occupancy" means all of the following:

(1) Any state correctional institution as defined in section 2967.01 of the Revised Code and any county, multicounty, municipal, or municipal-county jail or workhouse;

(2) Any hospital as defined in section 3727.01 of the Revised Code, any hospital licensed by the department of mental health under section 5119.20 of the Revised Code, and any institution, hospital, or other place established, controlled, or supervised by the department of mental health under Chapter 5119. of the Revised Code;

(3) Any nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code and any adult care facility as defined in section ~~3722.04~~ 5119.70 of the Revised Code;

(4) Any child day-care center and any type A family day-care home as defined in section 5104.01 of the Revised Code;

(5) Any public auditorium or stadium;

(6) Public assembly areas of hotels and motels containing more than ten articles of seating furniture.

(B) "Sell" includes sell, offer or expose for sale, barter, trade, deliver, give away, rent, consign, lease, possess for sale, or dispose of in any other commercial manner.

(C) Except as provided in division (D) of this section, "seating furniture" means any article of furniture, including children's furniture, that can be used as a support for an individual, or ~~his~~ an individual's limbs or feet, when sitting or resting in an upright or reclining position and that either:

- (1) Is made with loose or attached cushions or pillows;
- (2) Is stuffed or filled in whole or in part with any filling material;
- (3) Is or can be stuffed or filled in whole or in part with any substance or material, concealed by fabric or any other covering.

"Seating furniture" includes the cushions or pillows belonging to or forming a part of the furniture, the structural unit, and the filling material and its container or covering.

(D) "Seating furniture" does not include, except if intended for use by children or in facilities designed for the care or treatment of humans, any of the following:

- (1) Cushions or pads intended solely for outdoor use;
- (2) Any article with a smooth surface that contains no more than one-half inch of filling material, if that article does not have an upholstered horizontal surface meeting an upholstered vertical surface;
- (3) Any article manufactured solely for recreational use or physical fitness purposes, including weight-lifting benches, gymnasium mats or pads, and sidehorses.

(E) "Filling material" means cotton, wool, kapok, feathers, down, hair, liquid, or any other natural or ~~manmade~~ artificial material or substance that is used or can be used as stuffing in seating furniture.

Sec. 3737.87. As used in sections 3737.87 to 3737.98 of the Revised Code:

(A) "Accidental release" means any sudden or nonsudden release of petroleum that was neither expected nor intended by the owner or operator of the applicable underground storage tank system and that results in the need for corrective action or compensation for bodily injury or property damage.

(B) "Corrective action" means any action necessary to protect human health and the environment in the event of a release of petroleum into the environment, including, without limitation, any action necessary to monitor, assess, and evaluate the release. In the instance of a suspected release, ~~the term~~ "corrective action" includes, without limitation, an investigation to confirm or disprove the occurrence of the release. In the instance of a confirmed release, ~~the term~~ "corrective action" includes, without limitation, the initial corrective action taken under section 3737.88 or 3737.882 of the

Revised Code and rules adopted or orders issued under those sections and any action taken consistent with a remedial action to clean up contaminated ground water, surface water, soils, and subsurface material and to address the residual effects of a release after the initial corrective action is taken.

(C) "Eligible lending institution" means a financial institution that is eligible to make commercial loans, is a public depository of state funds under section 135.03 of the Revised Code, and agrees to participate in the petroleum underground storage tank linked deposit program provided for in sections 3737.95 to 3737.98 of the Revised Code.

(D) "Eligible owner" means any person that owns six or fewer petroleum underground storage tanks comprising a petroleum underground storage tank or underground storage tank system.

(E) "Installer" means a person who supervises the installation of, performance of major repairs on site to, abandonment of, or removal of underground storage tank systems.

(F) "Major repair" means the restoration of a tank or an underground storage tank system component that has caused a release of a product from the underground storage tank system, the upgrading of a tank or an underground storage tank system component, or the modification of a tank or an underground storage tank system component. "Major repair" does not include routine maintenance for normal operational upkeep to prevent an underground storage tank system from releasing a product.

(G) "Operator" means the person in daily control of, or having responsibility for the daily operation of, an underground storage tank system.

(H) "Owner" means:

(1) In the instance of an underground storage tank system in use on November 8, 1984, or brought into use after that date, the person who owns the underground storage tank system;

(2) In the instance of an underground storage tank system in use before November 8, 1984, that was no longer in use on that date, the person who owned the underground storage tank system immediately before the discontinuation of its use.

~~The term~~ "Owner" includes any person who holds, or, in the instance of an underground storage tank system in use before November 8, 1984, but no longer in use on that date, any person who held immediately before the discontinuation of its use, a legal, equitable, or possessory interest of any kind in an underground storage tank system or in the property on which the underground storage tank system is located, including, without limitation, a trust, vendor, vendee, lessor, or lessee. ~~The term~~ "Owner" does not include

any person who, without participating in the management of an underground storage tank system and without otherwise being engaged in petroleum production, refining, or marketing, holds indicia of ownership in an underground storage tank system primarily to protect the person's security interest in it.

(I) "Person," in addition to the meaning in section 3737.01 of the Revised Code, means the United States and any department, agency, or instrumentality thereof.

(J) "Petroleum" means petroleum, including crude oil or any fraction thereof, that is a liquid at the temperature of sixty degrees Fahrenheit and the pressure of fourteen and seven-tenths pounds per square inch absolute. ~~The term~~ "Petroleum" includes, without limitation, motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(K) "Petroleum underground storage tank linked deposit" means a certificate of deposit placed by the treasurer of state with an eligible lending institution pursuant to sections 3737.95 to 3737.98 of the Revised Code.

(L) "Regulated substance" means petroleum or any substance identified or listed as a hazardous substance in rules adopted under division (D) of section 3737.88 of the Revised Code.

(M) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing of from an underground storage tank system into ground or surface water or subsurface soils or otherwise into the environment.

(N) Notwithstanding division (F) of section 3737.01 of the Revised Code, "responsible person" means the person who is the owner or operator of an underground storage tank system.

(O) "Tank" means a stationary device designed to contain an accumulation of regulated substances that is constructed of ~~manmade~~ manufactured materials.

(P) "Underground storage tank" means one or any combination of tanks, including the underground pipes connected thereto, that are used to contain an accumulation of regulated substances the volume of which, including the volume of the underground pipes connected thereto, is ten per cent or more beneath the surface of the ground.

~~The term~~ "Underground storage tank" does not include any of the following or any pipes connected to any of the following:

(1) Pipeline facilities, including gathering lines, regulated under the "Natural Gas Pipeline Safety Act of 1968," 82 Stat. 720, 49 U.S.C.A. 1671, as amended, or the "Hazardous Liquid Pipeline Safety Act of 1979," 93 Stat.

1003, 49 U.S.C.A. 2001, as amended;

(2) Farm or residential tanks of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes;

(3) Tanks used for storing heating fuel for consumptive use on the premises where stored;

(4) Surface impoundments, pits, ponds, or lagoons;

(5) Storm or waste water collection systems;

(6) Flow-through process tanks;

(7) Storage tanks located in underground areas, including, without limitation, basements, cellars, mine workings, drifts, shafts, or tunnels, when the tanks are located on or above the surface of the floor;

(8) Septic tanks;

(9) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations.

(Q) "Underground storage tank system" means an underground storage tank and the connected underground piping, underground ancillary equipment, and containment system, if any.

(R) "Revenues" means all fees, premiums, and charges paid by owners and operators of petroleum underground storage tanks to the petroleum underground storage tank release compensation board created in section 3737.90 of the Revised Code; proceeds received by the board from any insurance, condemnation, or guaranty; the proceeds of petroleum underground storage tank revenue bonds; and the income and profits from the investment of any such revenues.

(S) "Revenue bonds," unless the context indicates a different meaning or intent, means petroleum underground storage tank revenue bonds and petroleum underground storage tank revenue refunding bonds that are issued by the petroleum underground storage tank release compensation board pursuant to sections 3737.90 to 3737.948 of the Revised Code.

(T) "Class C release" means a release of petroleum occurring or identified from an underground storage tank system subject to sections 3737.87 to 3737.89 of the Revised Code for which the responsible person for the release is specifically determined by the fire marshal not to be a viable person capable of undertaking or completing the corrective actions required under those sections for the release. "Class C release" also includes any release designated as a "class C release" in accordance with rules adopted under section 3737.88 of the Revised Code.

Sec. 3737.88. (A)(1) The fire marshal shall have responsibility for implementation of the underground storage tank program and corrective action program for releases of petroleum from underground ~~petroleum~~

storage tanks established by the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2795, 42 U.S.C.A. 6901, as amended. To implement the ~~program~~ programs, the fire marshal may adopt, amend, and rescind such rules, conduct such inspections, require annual registration of underground storage tanks, issue such citations and orders to enforce those rules, enter into environmental covenants in accordance with sections 5301.80 to 5301.92 of the Revised Code, and perform such other duties, as are consistent with those programs. The fire marshal, by rule, may delegate the authority to conduct inspections of underground storage tanks to certified fire safety inspectors.

(2) In the place of any rules regarding release containment and release detection for underground storage tanks adopted under division (A)(1) of this section, the fire marshal, by rule, shall designate areas as being sensitive for the protection of human health and the environment and adopt alternative rules regarding release containment and release detection methods for new and upgraded underground storage tank systems located in those areas. In designating such areas, the fire marshal shall take into consideration such factors as soil conditions, hydrogeology, water use, and the location of public and private water supplies. Not later than July 11, 1990, the fire marshal shall file the rules required under this division with the secretary of state, director of the legislative service commission, and joint committee on agency rule review in accordance with divisions (B) and (H) of section 119.03 of the Revised Code.

(3) Notwithstanding sections 3737.87 to 3737.89 of the Revised Code, a person who is not a responsible person may conduct a voluntary action in accordance with Chapter 3746. of the Revised Code and rules adopted under it for a class C release. The director of environmental protection, pursuant to section 3746.12 of the Revised Code, may issue a covenant not to sue to any person who properly completes a voluntary action with respect to a class C release in accordance with Chapter 3746. of the Revised Code and rules adopted under it.

(B) Before adopting any rule under this section or section 3737.881 or 3737.882 of the Revised Code, the fire marshal shall file written notice of the proposed rule with the chairperson of the state fire commission, and, within sixty days after notice is filed, the commission may file responses to or comments on and may recommend alternative or supplementary rules to the fire marshal. At the end of the sixty-day period or upon the filing of responses, comments, or recommendations by the commission, the fire marshal may adopt the rule filed with the commission or any alternative or supplementary rule recommended by the commission.

(C) The fire commission may recommend courses of action to be taken by the fire marshal in carrying out the fire marshal's duties under this section. The commission shall file its recommendations in the office of the fire marshal, and, within sixty days after the recommendations are filed, the fire marshal shall file with the chairperson of the commission comments on, and proposed action in response to, the recommendations.

(D) For the purpose of sections 3737.87 to 3737.89 of the Revised Code, the fire marshal shall adopt, and may amend and rescind, rules identifying or listing hazardous substances. The rules shall be consistent with and equivalent in scope, coverage, and content to regulations identifying or listing hazardous substances adopted under the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9602, as amended, except that the fire marshal shall not identify or list as a hazardous substance any hazardous waste identified or listed in rules adopted under division (A) of section 3734.12 of the Revised Code.

(E) ~~Notwithstanding any provision of the laws of this state to the contrary~~ Except as provided in division (A)(3) of this section, the fire marshal ~~has~~ shall have exclusive jurisdiction to regulate the storage, treatment, and disposal of petroleum contaminated soil generated from corrective actions undertaken in response to releases of petroleum from underground storage tank systems. The fire marshal may adopt, amend, or rescind such rules as the fire marshal considers to be necessary or appropriate to regulate the storage, treatment, or disposal of petroleum contaminated soil so generated.

(F) The fire marshal shall adopt, amend, and rescind rules under sections 3737.88 to 3737.882 of the Revised Code in accordance with Chapter 119. of the Revised Code.

Sec. 3743.06. In addition to conforming to the rules of the fire marshal adopted pursuant to section 3743.05 of the Revised Code, licensed manufacturers of fireworks shall operate their fireworks plants in accordance with the following:

(A) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a fireworks plant shall be posted on the premises in a manner determined by the fire marshal.

(B) Reasonable precautions shall be taken to protect the premises of a fireworks plant from trespass, loss, theft, or destruction. Only persons employed by the manufacturer, authorized governmental personnel, and persons who have obtained permission from a member of the manufacturer's office to be on the premises, are to be allowed to enter and remain on the

premises.

(C) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a fireworks plant is prohibited, except that a manufacturer may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no manufacturing, handling, sales, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(D) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a manufacturer.

(E) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of the fireworks plant, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(F) A manufacturer shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to the premises of its fireworks plant.

(G) Each fireworks plant shall have at least one class 1 magazine that is approved by the bureau of alcohol, tobacco, and firearms of the United States department of the treasury and that is otherwise in conformity with federal law. This division does not apply to fireworks plants existing on or before August 3, 1931.

(H) Awnings, tents, and canopies shall not be used as facilities for the sale or storage of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(I) Fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks, nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall.

(J) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal, that the facility is closed to all public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business as approved by the fire marshal, the licensed manufacturer shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(K) If any fireworks item is removed from its original package or is manufactured with any fuse other than a safety fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(L) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

- (1) A deputy sheriff;
- (2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;
- (3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(M) All doors of all buildings on the licensed premises shall swing outward.

(N) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.19. In addition to conforming to the rules of the fire marshal

adopted pursuant to section 3743.18 of the Revised Code, licensed wholesalers of fireworks shall conduct their business operations in accordance with the following:

(A) A wholesaler shall conduct its business operations from the location described in its application for licensure or in a notification submitted under division (B) of section 3743.17 of the Revised Code.

(B) Signs indicating that smoking is generally forbidden and trespassing is prohibited on the premises of a wholesaler shall be posted on the premises as determined by the fire marshal.

(C) Reasonable precautions shall be taken to protect the premises of a wholesaler from trespass, loss, theft, or destruction.

(D) Smoking or the carrying of pipes, cigarettes, or cigars, matches, lighters, other flame-producing items, or open flame on, or the carrying of a concealed source of ignition into, the premises of a wholesaler is prohibited, except that a wholesaler may permit smoking in specified lunchrooms or restrooms in buildings or other structures in which no sales, handling, or storage of fireworks takes place. "NO SMOKING" signs shall be posted on the premises as required by the fire marshal.

(E) Fire and explosion prevention and other reasonable safety measures and precautions shall be implemented by a wholesaler.

(F) Persons shall not be permitted to have in their possession or under their control, while they are on the premises of a wholesaler, any intoxicating liquor, beer, or controlled substance, and they shall not be permitted to enter or remain on the premises if they are found to be under the influence of any intoxicating liquor, beer, or controlled substance.

(G) A wholesaler shall conform to all building, safety, and zoning statutes, ordinances, rules, or other enactments that apply to its premises.

(H) Each building used in the sale of fireworks shall be kept open to the public for at least four hours each day between the hours of eight a.m. and five p.m., five days of each week, every week of the year. Upon application from a licensed wholesaler, the fire marshal may waive any of the requirements of this division.

(I) Awnings, tents, or canopies shall not be used as facilities for the storage or sale of fireworks. This division does not prohibit the use of an awning or canopy attached to a public access showroom for storing nonflammable shopping convenience items such as shopping carts or baskets or providing a shaded area for patrons waiting to enter the public sales area.

(J) 1.4G fireworks may be stored in trailers if the trailers are properly enclosed, secured, and grounded and are separated from any structure to

which the public is admitted by a distance that will, in the fire marshal's judgment, allow fire-fighting equipment to have full access to the structures on the licensed premises. Such trailers may be moved into closer proximity to any structure only to accept or discharge cargo for a period not to exceed forty-eight hours. Only two such trailers may be placed in such closer proximity at any one time. At no time may trailers be used for conducting sales of any class of fireworks nor may members of the public have access to the trailers.

Storage areas for fireworks that are in the same building where fireworks are displayed and sold to the public shall be separated from the areas to which the public has access by an appropriately rated fire wall. If the licensee installs and properly maintains an early suppression fast response sprinkler system or equivalent fire suppression system as described in the fire code adopted by the fire marshal in accordance with section 3737.82 of the Revised Code throughout the structure, a fire barrier wall may be substituted for a fire wall between the areas to which the public has access and the storage portions of the structure.

(K) A fire suppression system as defined in section 3781.108 of the Revised Code may be turned off only for repair, drainage of the system to prevent damage by freezing during the period of time, approved by the fire marshal under division (I) of this section, that the facility is closed to public access during winter months, or maintenance of the system. If any repair or maintenance is necessary during times when the facility is open for public access and business, the licensed wholesaler shall notify in advance the appropriate insurance company and fire chief or fire prevention officer regarding the nature of the maintenance or repair and the time when it will be performed.

(L) If any fireworks item is removed from its original package or is manufactured with any fuse other than a fuse approved by the consumer product safety commission, then the item shall be covered completely by repackaging or bagging or it shall otherwise be covered so as to prevent ignition prior to sale.

(M) A safety officer shall be present during regular business hours at a building open to the public during the period commencing fourteen days before, and ending two days after, each fourth day of July. The officer shall be highly visible, enforce this chapter and any applicable building codes to the extent the officer is authorized by law, and be one of the following:

- (1) A deputy sheriff;
- (2) A law enforcement officer of a municipal corporation, township, or township or joint township police district;

(3) A private uniformed security guard registered under section 4749.06 of the Revised Code.

(N) All doors of all buildings on the licensed premises shall swing outward.

(O) All wholesale and commercial sales of fireworks shall be packaged, shipped, placarded, and transported in accordance with United States department of transportation regulations applicable to the transportation, and the offering for transportation, of hazardous materials. For purposes of this division, "wholesale and commercial sales" includes all sales for resale and any nonretail sale made in furtherance of a commercial enterprise. For purposes of enforcement of these regulations under section 4905.83 of the Revised Code, any sales transaction exceeding one thousand pounds shall be rebuttably presumed to be a wholesale or commercial sale.

Sec. 3743.52. (A) The license of an exhibitor of fireworks is effective for one year from the date of its issuance by the fire marshal. If an exhibitor of fireworks wishes to continue as an exhibitor after its then effective license expires, it shall apply for a new license pursuant to section 3743.50 of the Revised Code. The fire marshal shall send a written notice of the expiration of its license to a licensed exhibitor at least two months before the expiration date.

(B) The license of an exhibitor of fireworks authorizes the exhibitor to conduct public fireworks exhibitions in this state if it complies with sections 3743.50 to 3743.55 of the Revised Code and with the rules adopted by the fire marshal pursuant to section 3743.53 of the Revised Code.

The license is not transferable or assignable, and is subject to revocation as provided in section 3743.70 or division (D) of section 3743.99 of the Revised Code or pursuant to Chapter 119. of the Revised Code if the exhibitor fails to comply with sections 3743.50 to 3743.55 of the Revised Code or the rules adopted by the fire marshal pursuant to section 3743.53 of the Revised Code.

If the license of an exhibitor is revoked, the exhibitor shall cease conducting public fireworks exhibitions immediately. Subject to division (D) of section 3743.99 of the Revised Code, the exhibitor may not reapply for licensure as an exhibitor of fireworks until two years expire from the date of revocation. The fire marshal shall remove from the list of licensed exhibitors the exhibitor's name, and shall notify fire chiefs, fire prevention officers, and police chiefs or other similar chief law enforcement officers of municipal corporations, townships, or township or joint police districts in this state of the revocation.

(C) Each licensed exhibitor of fireworks or a designee of the exhibitor,

whose identity is provided to the fire marshal by the exhibitor, shall attend a continuing education program consisting of not less than six hours of instruction once every three years. 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 exhibitor or the exhibitor's designee who attends a program as required under this division, within one year after attending the program, and on an annual basis during the following two years, shall conduct in-service training for other employees of the licensee regarding the information obtained in the program. A licensed exhibitor shall provide the fire marshal with certified proof of full compliance with all applicable annual training requirements of the United States department of transportation and of the occupational safety and health administration. A licensed exhibitor 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. An individual exhibitor who has no employees shall not fulfill continuing education requirements through a designee.

Sec. 3743.53. (A) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code that establish qualifications that all applicants for licensure as an exhibitor of fireworks shall satisfy. These rules shall be designed to provide a reasonable degree of assurance that individuals conducting public fireworks exhibitions in this state are proficient in handling and discharging fireworks, are capable of handling the responsibilities associated with exhibitions as prescribed by rule of the fire marshal pursuant to divisions (B) and (E) of this section or as prescribed by sections 3743.50 to 3743.55 of the Revised Code, and will conduct fireworks exhibitions in a manner that emphasizes the safety and security of the public. The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code and may include, in addition to other requirements prescribed by the fire marshal, a requirement that the applicant for licensure successfully complete a written examination or otherwise successfully demonstrate its proficiency in the handling and discharging of fireworks in a safe manner and its ability to handle the responsibilities associated with exhibitions.

(B) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code that govern the nature and conduct of public fireworks exhibitions by licensed exhibitors of fireworks. These rules shall be designed to promote the safety and security of persons viewing a fireworks exhibition, to promote the safety of persons who, although not viewing an exhibition, could be affected by fireworks used at it, and to promote the safety and security of exhibitors and their assistants.

The rules shall be consistent with sections 3743.50 to 3743.55 of the Revised Code; except as otherwise provided in this section, shall be substantially equivalent to the most recent versions of chapters 1123, 1124, and 1126 of the most recent national fire protection association standards; and shall apply to, but not be limited to, the following subject matters:

- (1) The construction of shells used in a fireworks exhibition;
 - (2) Except as the storage and securing of fireworks is addressed by the rules adopted under division (E) of this section, the storage, securing, and supervision of fireworks pending their use in, and during the course of, a fireworks exhibition, and inspections by exhibitors of fireworks to be used in an exhibition prior to their use. These rules shall regulate, among other relevant matters, the storage of fireworks in manners that will effectively eliminate or reduce the likelihood of the fireworks becoming wet or being exposed to flame, and appropriate distances between storage sites and the sites at which fireworks will be discharged.
 - (3) The installation and nature of mortars used in a fireworks exhibition, and inspections by exhibitors of mortars prior to their use;
 - (4) Minimum distances between storage sites, discharge sites, spectator viewing sites, parking areas, and potential landing areas of fireworks, and minimum distances between discharge sites, potential landing areas, and residential or other types of buildings or structures;
 - (5) The nature of discharge sites and potential landing sites;
 - (6) Fire protection, the use and location of monitors for crowd control, the use of fences and rope barriers for crowd control, illumination, smoking and the use of open flame, and posting of warning signs concerning smoking or the use of open flame in connection with fireworks exhibitions. These rules may provide some authority to local officials in determining adequate fire protection, and numbers and locations of monitors.
 - (7) Procedures to be followed in the discharging of fireworks;
 - (8) Weather and crowd-related conditions under which fireworks may and may not be discharged, including circumstances under which exhibitions should be postponed;
 - (9) Inspections of premises following a fireworks exhibition for purposes of locating and disposing of defective or unexploded fireworks. Inspections shall be required immediately following an exhibition, and, if an exhibition is conducted at night, also at sunrise the following morning.
- (C) All mortars used in a fireworks exhibition that are greater than or equal to eight inches in diameter shall be equipped with electronic ignition equipment in accordance with chapter 1123 of the most recent edition of the national fire protection association standards.

(D) Only persons who are employees of licensed exhibitors of fireworks and who are registered with the fire marshal under section 3743.56 of the Revised Code shall be permitted within the discharge perimeter of an exhibition.

(E)(1) The fire marshal shall adopt rules in accordance with Chapter 119. of the Revised Code and consistent with division (E)(3) of this section that establish both of the following:

(a) Uniform standards for the stability and securing of fireworks storage racks used at a fireworks exhibition;

(b) A detailed checklist that a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall complete, while conducting the inspection required under division (C) of section 3743.54 of the Revised Code at the premises at which a fireworks exhibition will take place, to ensure that the exhibition will comply with all applicable requirements of this chapter, and all applicable rules adopted under this chapter, that regulate the conduct of a fireworks exhibition.

(2) Each licensed exhibitor of fireworks shall comply with the rules that the fire marshal adopts under division (E)(1)(a) of this section.

(3) Prior to the fire marshal's adoption of the rules referred to in divisions (E)(1)(a) and (b) of this section, the director of commerce shall appoint a committee consisting of the fire marshal, three representatives of the fireworks industry, and three representatives of the fire service industry to assist the fire marshal in adopting those rules. The fire marshal shall adopt initial rules under those divisions by not later than May 1, 2001.

(F) A fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, shall conduct the inspection referred to in division (E)(1)(b) of this section, complete the checklist referred to in division (E)(1)(b) of this section while conducting the inspection, and provide a copy of the completed checklist to the fire marshal.

(G) A designee, if any, designated by a police chief or other similar chief law enforcement officer under this section or section 3743.54 of the Revised Code shall be a law enforcement officer serving in the same law enforcement agency as the police chief or other similar chief law enforcement officer.

Sec. 3743.54. (A) A licensed exhibitor of fireworks may acquire fireworks for use at a public fireworks exhibition only from a licensed manufacturer of fireworks or licensed wholesaler of fireworks, and only in accordance with the procedures specified in this section and section 3743.55 of the Revised Code.

(B)(1) A licensed exhibitor of fireworks who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to whichever of the following persons is appropriate under the circumstances:

(a) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in a municipal corporation, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular municipal corporation.

(b) Unless division (B)(1)(c) or (d) of this section applies, if the exhibition will take place in an unincorporated area, the approval shall be obtained from the fire chief of the particular township or township fire district, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the particular township, or township or joint police district.

(c) If fire protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief of the political subdivision providing the fire protection services and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision in which the premises on which the exhibition will take place are located. If police services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivision providing the police services and from the fire chief of the political subdivision in which the premises on which the exhibition will take place are located. If both fire and police protection services for the premises on which the exhibition will take place are provided in accordance with a contract between political subdivisions, the approval shall be obtained from the fire chief, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or similar chief law enforcement officer, of the political subdivisions providing the police and fire protection services.

(d) If there is no municipal corporation, township, or township fire district fire department, no municipal corporation, township, or township or joint police district police department, and no contract for police or fire protection services between political subdivisions covering the premises on which the exhibition will take place, the approval shall be obtained from the fire prevention officer, and from the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, having jurisdiction over the premises.

(2) The approval required by division (B)(1) of this section shall be evidenced by the fire chief or fire prevention officer and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, signing a permit for the exhibition. The fire marshal shall prescribe the form of exhibition permits and distribute copies of the form to fire chiefs, to fire prevention officers, and to police chiefs or other similar chief law enforcement officers of municipal corporations, townships, or township or joint police districts, or their designees, in this state. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the fire marshal or, if it is available, from a fire chief, a fire prevention officer, a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district, or a designee of such a police chief or other similar chief law enforcement officer.

(C) Before a permit is signed and issued to a licensed exhibitor of fireworks, the fire chief or fire prevention officer, in consultation with the police chief or other similar chief law enforcement officer or with the designee of the police chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show the applicant's license as an exhibitor of fireworks to the fire chief or fire prevention officer.

The fire chief or fire prevention officer, and the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the fire marshal pursuant to divisions (B) and (E) of section 3743.53 of the Revised Code and that the applicant is, in fact, a licensed exhibitor of fireworks. The fire chief or fire prevention officer, in consultation with the police chief or other similar chief law

enforcement officer or with the designee of the police chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.

(D) If the legislative authorities of their political subdivisions have prescribed a fee for the issuance of a permit for a public fireworks exhibition, fire chiefs or fire prevention officers, and police chiefs, other similar chief law enforcement officers, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.

Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars, with surety satisfactory to the fire chief or fire prevention officer and to the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to persons or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss to persons or property emanating from the fireworks exhibition. The legislative authority of a political subdivision in which a public fireworks exhibition will take place may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. Fire chiefs or fire prevention officers, and police chiefs, other similar chief law enforcement officers, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by the political subdivision in which the fireworks exhibition will take place.

(E)(1) Each permit for a fireworks exhibition issued by a fire chief or fire prevention officer, and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipal corporation, township, ~~or township fire or police district,~~ or joint police district of the fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, or designee of the police chief or other similar chief law enforcement officer, and identify the certified fire safety inspector, fire chief, or fire prevention officer who will be present before, during, and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the fire chief or fire prevention officer, and by the police chief or other similar chief law enforcement officer, or the designee of the police chief or other similar chief law enforcement officer, issuing it to the fire marshal, who shall keep a record of the permits

received. A permit is not transferable or assignable.

(2) Each fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, and designee of a police chief or other similar chief law enforcement officer shall keep a record of issued permits for fireworks exhibitions. In this list, the fire chief, fire prevention officer, police chief or other similar chief law enforcement officer, and designee of a police chief or other similar chief law enforcement officer shall list the name of the exhibitor, the exhibitor's license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.

(F) The governing authority having jurisdiction in the location where an exhibition is to take place shall require that a certified fire safety inspector, fire chief, or fire prevention officer be present before, during, and after the exhibition, and shall require the certified fire safety inspector, fire chief, or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this chapter.

(G) Notwithstanding any provision of the Revised Code to the contrary, the state fire marshal is hereby authorized to create additional license categories for fireworks exhibitors and to create additional permit requirements for fireworks exhibitions for the indoor use of fireworks and other uses of pyrotechnics, including the use of pyrotechnic materials that do not meet the definition of fireworks as described in section 3743.01 of the Revised Code. Such licenses and permits and the fees for such licenses and permits shall be described in rules adopted by the fire marshal under Chapter 119. of the Revised Code. Such rules may provide for different standards for exhibitor licensure and the permitting and conducting of a fireworks exhibition than the requirements of this chapter.

Prior to the state fire marshal's adoption of the rules described in this division, the director of commerce shall appoint a committee consisting of the state fire marshal or the marshal's designee, three representatives of the fireworks industry, and three representatives of the fire service to assist the state fire marshal in adopting these rules. Unless an extension is granted by the director of commerce, the state fire marshal shall adopt initial rules under this section not later than July 1, 2010.

Sec. 3743.64. (A) No person shall conduct a fireworks exhibition in this state or act as an exhibitor of fireworks in this state unless the person is a licensed exhibitor of fireworks.

(B) No person shall conduct a fireworks exhibition in this state or act as

an exhibitor of fireworks in this state after the person's license as an exhibitor of fireworks has expired, been denied renewal, or been revoked, unless a new license has been obtained.

(C) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the fire marshal pursuant to divisions (B) and (E) of section 3743.53 of the Revised Code or to comply with divisions (C) and (D) of that section.

(D) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to section 3743.54 of the Revised Code or if a permit so secured is revoked by a fire chief or fire prevention officer, in consultation with a police chief or other similar chief law enforcement officer of a municipal corporation, township, or township or joint police district or with a designee of such a police chief or other similar chief law enforcement officer, pursuant to that section.

(E) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance with sections 3743.54 and 3743.55 of the Revised Code.

(F) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises on which the exhibition is being conducted.

(G) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the fire marshal under section 3743.56 of the Revised Code.

(H) Except as provided in division (C) of section 3743.541 of the Revised Code, no person shall knowingly, or knowingly permit another person to, dismantle, reposition, or otherwise disturb any fireworks, associated equipment or materials, or other items within a fireworks incident site, or any evidence related to a fireworks incident, at any time after that person has reason to believe a fireworks incident has occurred, before the state fire marshal, the state fire marshal's designee, a member of the state fire marshal's staff, or other appropriate state or local law enforcement authorities permit in accordance with section 3743.541 of the Revised Code the dismantling, repositioning, or other disturbance of the fireworks, equipment, materials, or items within the fireworks incident site or of any evidence related to the fireworks incident.

Sec. 3745.015. There is hereby created in the state treasury the environmental protection fund consisting of money credited to the fund

under ~~divisions~~ division (A)(3) ~~and (4)~~ of section 3734.57 of the Revised Code. The environmental protection agency shall use money in the fund to pay the agency's costs associated with administering and enforcing, or otherwise conducting activities under, this chapter and Chapters 3704., 3734., 3746., 3747., 3748., 3750., 3751., 3752., 3753., 5709., 6101., 6103., 6105., 6109., 6111., 6112., 6113., 6115., 6117., and 6119. and sections 122.65 and 1521.19 of the Revised Code.

Sec. 3745.016. There is hereby created in the state treasury the federally supported cleanup and response fund consisting of money credited to the fund from federal grants, gifts, and contributions to support the investigation and remediation of contaminated property. The environmental protection agency shall use money in the fund to support the investigation and remediation of contaminated property.

Sec. 3745.11. (A) Applicants for and holders of permits, licenses, variances, plan approvals, and certifications issued by the director of environmental protection pursuant to Chapters 3704., 3734., 6109., and 6111. of the Revised Code shall pay a fee to the environmental protection agency for each such issuance and each application for an issuance as provided by this section. No fee shall be charged for any issuance for which no application has been submitted to the director.

(B) Each person who is issued a permit to install prior to July 1, 2003, pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	800
300 or more, but less than 500	1500
500 or more, but less than 1000	2500
1000 or more, but less than 5000	4000
5000 or more	6000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half of the applicable amount established in division (F)(1) of this section.

(2) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	400

501 to 2000	750
2001 to 20,000	1000
more than 20,000	2500

(3)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	400
5001 to 10,000	600
10,001 to 50,000	800
more than 50,000	1000

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed.

(b) Notwithstanding division (B)(3)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay the fees established in division (B)(3)(c) of this section for a process used in any of the following industries, as identified by the applicable four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1972, as revised:

- 1211 Bituminous coal and lignite mining;
- 1213 Bituminous coal and lignite mining services;
- 1411 Dimension stone;
- 1422 Crushed and broken limestone;
- 1427 Crushed and broken stone, not elsewhere classified;
- 1442 Construction sand and gravel;
- 1446 Industrial sand;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated.

(c) The fees established in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process listed in division (B)(3)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
10,001 to 50,000	300
50,001 to 100,000	400
100,001 to 200,000	500
200,001 to 400,000	600
400,001 or more	700

(4) Storage tanks	
Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	200
100,001 to 250,000	250
250,001 to 500,000	350
500,001 to 1,000,000	500
1,000,001 or greater	750
(5) Gasoline/fuel dispensing facilities	
For each gasoline/fuel dispensing facility	Permit to install \$ 100
(6) Dry cleaning facilities	
For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100
(7) Registration status	
For each source covered by registration status	Permit to install \$ 75

(C)(1) Except as otherwise provided in division (C)(2) of this section, beginning July 1, 1994, each person who owns or operates an air contaminant source and who is required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay the fees set forth in division (C)(1) of this section. For the purposes of that division, total emissions of air contaminants may be calculated using engineering calculations, emissions factors, material balance calculations, or performance testing procedures, as authorized by the director.

The following fees shall be assessed on the total actual emissions from a source in tons per year of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead:

(a) Fifteen dollars per ton on the total actual emissions of each such regulated pollutant during the period July through December 1993, to be collected no sooner than July 1, 1994;

(b) Twenty dollars per ton on the total actual emissions of each such regulated pollutant during calendar year 1994, to be collected no sooner than April 15, 1995;

(c) Twenty-five dollars per ton on the total actual emissions of each such regulated pollutant in calendar year 1995, and each subsequent calendar year, to be collected no sooner than the fifteenth day of April of the year next succeeding the calendar year in which the emissions occurred.

The fees levied under division (C)(1) of this section do not apply to that

portion of the emissions of a regulated pollutant at a facility that exceed four thousand tons during a calendar year.

(2) The fees assessed under division (C)(1) of this section are for the purpose of providing funding for the Title V permit program.

(3) The fees assessed under division (C)(1) of this section do not apply to emissions from any electric generating unit designated as a Phase I unit under Title IV of the federal Clean Air Act prior to calendar year 2000. Those fees shall be assessed on the emissions from such a generating unit commencing in calendar year 2001 based upon the total actual emissions from the generating unit during calendar year 2000 and shall continue to be assessed each subsequent calendar year based on the total actual emissions from the generating unit during the preceding calendar year.

(4) The director shall issue invoices to owners or operators of air contaminant sources who are required to pay a fee assessed under division (C) or (D) of this section. Any such invoice shall be issued no sooner than the applicable date when the fee first may be collected in a year under the applicable division, shall identify the nature and amount of the fee assessed, and shall indicate that the fee is required to be paid within thirty days after the issuance of the invoice.

(D)(1) Except as provided in division (D)(3) of this section, from January 1, 1994, through December 31, 2003, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and obtain a Title V permit under section 3704.036 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 50	\$ 75
50 or more, but less than 100	300
100 or more	700

(2) Except as provided in division (D)(3) of this section, beginning January 1, 2004, each person who owns or operates an air contaminant source; who is required to apply for a permit to operate pursuant to rules adopted under division (G), or a variance pursuant to division (H), of section 3704.03 of the Revised Code; and who is not required to apply for and

obtain a Title V permit under section 3704.03 of the Revised Code shall pay a single fee based upon the sum of the actual annual emissions from the facility of the regulated pollutants particulate matter, sulfur dioxide, nitrogen oxides, organic compounds, and lead in accordance with the following schedule:

Total tons per year of regulated pollutants emitted	Annual fee per facility
More than 0, but less than 10	\$ 100
10 or more, but less than 50	200
50 or more, but less than 100	300
100 or more	700

(3)(a) As used in division (D) of this section, "synthetic minor facility" means a facility for which one or more permits to install or permits to operate have been issued for the air contaminant sources at the facility that include terms and conditions that lower the facility's potential to emit air contaminants below the major source thresholds established in rules adopted under section 3704.036 of the Revised Code.

(b) Beginning January 1, 2000, through June 30, ~~2012~~ 2014, each person who owns or operates a synthetic minor facility shall pay an annual fee based on the sum of the actual annual emissions from the facility of particulate matter, sulfur dioxide, nitrogen dioxide, organic compounds, and lead in accordance with the following schedule:

Combined total tons per year of all regulated pollutants emitted	Annual fee per facility
Less than 10	\$ 170
10 or more, but less than 20	340
20 or more, but less than 30	670
30 or more, but less than 40	1,010
40 or more, but less than 50	1,340
50 or more, but less than 60	1,680
60 or more, but less than 70	2,010
70 or more, but less than 80	2,350
80 or more, but less than 90	2,680
90 or more, but less than 100	3,020
100 or more	3,350

(4) The fees assessed under division (D)(1) of this section shall be collected annually no sooner than the fifteenth day of April, commencing in 1995. The fees assessed under division (D)(2) of this section shall be

collected annually no sooner than the fifteenth day of April, commencing in 2005. The fees assessed under division (D)(3) of this section shall be collected no sooner than the fifteenth day of April, commencing in 2000. The fees assessed under division (D) of this section in a calendar year shall be based upon the sum of the actual emissions of those regulated pollutants during the preceding calendar year. For the purpose of division (D) of this section, emissions of air contaminants may be calculated using engineering calculations, emission factors, material balance calculations, or performance testing procedures, as authorized by the director. The director, by rule, may require persons who are required to pay the fees assessed under division (D) of this section to pay those fees biennially rather than annually.

(E)(1) Consistent with the need to cover the reasonable costs of the Title V permit program, the director annually shall increase the fees prescribed in division (C)(1) of this section by the percentage, if any, by which the consumer price index for the most recent calendar year ending before the beginning of a year exceeds the consumer price index for calendar year 1989. Upon calculating an increase in fees authorized by division (E)(1) of this section, the director shall compile revised fee schedules for the purposes of division (C)(1) of this section and shall make the revised schedules available to persons required to pay the fees assessed under that division and to the public.

(2) For the purposes of division (E)(1) of this section:

(a) The consumer price index for any year is the average of the consumer price index for all urban consumers published by the United States department of labor as of the close of the twelve-month period ending on the thirty-first day of August of that year.

(b) If the 1989 consumer price index is revised, the director shall use the revision of the consumer price index that is most consistent with that for calendar year 1989.

(F) Each person who is issued a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code on or after July 1, 2003, shall pay the fees specified in the following schedules:

(1) Fuel-burning equipment (boilers, furnaces, or process heaters used in the process of burning fuel for the primary purpose of producing heat or power by indirect heat transfer)

Input capacity (maximum) (million British thermal units per hour)	Permit to install
Greater than 0, but less than 10	\$ 200
10 or more, but less than 100	400
100 or more, but less than 300	1000

300 or more, but less than 500	2250
500 or more, but less than 1000	3750
1000 or more, but less than 5000	6000
5000 or more	9000

Units burning exclusively natural gas, number two fuel oil, or both shall be assessed a fee that is one-half the applicable amount shown in division (F)(1) of this section.

(2) Combustion turbines and stationary internal combustion engines designed to generate electricity

Generating capacity (mega watts)	Permit to install
0 or more, but less than 10	\$ 25
10 or more, but less than 25	150
25 or more, but less than 50	300
50 or more, but less than 100	500
100 or more, but less than 250	1000
250 or more	2000

(3) Incinerators

Input capacity (pounds per hour)	Permit to install
0 to 100	\$ 100
101 to 500	500
501 to 2000	1000
2001 to 20,000	1500
more than 20,000	3750

(4)(a) Process

Process weight rate (pounds per hour)	Permit to install
0 to 1000	\$ 200
1001 to 5000	500
5001 to 10,000	750
10,001 to 50,000	1000
more than 50,000	1250

In any process where process weight rate cannot be ascertained, the minimum fee shall be assessed. A boiler, furnace, combustion turbine, stationary internal combustion engine, or process heater designed to provide direct heat or power to a process not designed to generate electricity shall be assessed a fee established in division (F)(4)(a) of this section. A combustion turbine or stationary internal combustion engine designed to generate electricity shall be assessed a fee established in division (F)(2) of this section.

(b) Notwithstanding division (F)(4)(a) of this section, any person issued a permit to install pursuant to rules adopted under division (F) of section

3704.03 of the Revised Code shall pay the fees set forth in division (F)(4)(c) of this section for a process used in any of the following industries, as identified by the applicable two-digit, three-digit, or four-digit standard industrial classification code according to the Standard Industrial Classification Manual published by the United States office of management and budget in the executive office of the president, 1987, as revised:

- Major group 10, metal mining;
- Major group 12, coal mining;
- Major group 14, mining and quarrying of nonmetallic minerals;
- Industry group 204, grain mill products;
- 2873 Nitrogen fertilizers;
- 2874 Phosphatic fertilizers;
- 3281 Cut stone and stone products;
- 3295 Minerals and earth, ground or otherwise treated;
- 4221 Grain elevators (storage only);
- 5159 Farm related raw materials;
- 5261 Retail nurseries and lawn and garden supply stores.

(c) The fees set forth in the following schedule apply to the issuance of a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code for a process identified in division (F)(4)(b) of this section:

Process weight rate (pounds per hour)	Permit to install
0 to 10,000	\$ 200
10,001 to 50,000	400
50,001 to 100,000	500
100,001 to 200,000	600
200,001 to 400,000	750
400,001 or more	900

(5) Storage tanks

Gallons (maximum useful capacity)	Permit to install
0 to 20,000	\$ 100
20,001 to 40,000	150
40,001 to 100,000	250
100,001 to 500,000	400
500,001 or greater	750

(6) Gasoline/fuel dispensing facilities

For each gasoline/fuel dispensing facility (includes all units at the facility)	Permit to install
	\$ 100

(7) Dry cleaning facilities

For each dry cleaning facility (includes all units at the facility)	Permit to install \$ 100
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(8) Registration status

For each source covered by registration status	Permit to install \$ 75
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(G) An owner or operator who is responsible for an asbestos demolition or renovation project pursuant to rules adopted under section 3704.03 of the Revised Code shall pay the fees set forth in the following schedule:

Action	Fee
Each notification	\$75
Asbestos removal	\$3/unit
Asbestos cleanup	\$4/cubic yard

For purposes of this division, "unit" means any combination of linear feet or square feet equal to fifty.

(H) A person who is issued an extension of time for a permit to install an air contaminant source pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code shall pay a fee equal to one-half the fee originally assessed for the permit to install under this section, except that the fee for such an extension shall not exceed two hundred dollars.

(I) A person who is issued a modification to a permit to install an air contaminant source pursuant to rules adopted under section 3704.03 of the Revised Code shall pay a fee equal to one-half of the fee that would be assessed under this section to obtain a permit to install the source. The fee assessed by this division only applies to modifications that are initiated by the owner or operator of the source and shall not exceed two thousand dollars.

(J) Notwithstanding division (B) or (F) of this section, a person who applies for or obtains a permit to install pursuant to rules adopted under division (F) of section 3704.03 of the Revised Code after the date actual construction of the source began shall pay a fee for the permit to install that is equal to twice the fee that otherwise would be assessed under the applicable division unless the applicant received authorization to begin construction under division (W) of section 3704.03 of the Revised Code. This division only applies to sources for which actual construction of the source begins on or after July 1, 1993. The imposition or payment of the fee established in this division does not preclude the director from taking any administrative or judicial enforcement action under this chapter, Chapter 3704., 3714., 3734., or 6111. of the Revised Code, or a rule adopted under

any of them, in connection with a violation of rules adopted under division (F) of section 3704.03 of the Revised Code.

As used in this division, "actual construction of the source" means the initiation of physical on-site construction activities in connection with improvements to the source that are permanent in nature, including, without limitation, the installation of building supports and foundations and the laying of underground pipework.

(K) Fifty cents per ton of each fee assessed under division (C) of this section on actual emissions from a source and received by the environmental protection agency pursuant to that division shall be deposited into the state treasury to the credit of the small business assistance fund created in section 3706.19 of the Revised Code. The remainder of the moneys received by the division pursuant to that division and moneys received by the agency pursuant to divisions (D), (F), (G), (H), (I), and (J) of this section shall be deposited in the state treasury to the credit of the clean air fund created in section 3704.035 of the Revised Code.

(L)(1)(a) Except as otherwise provided in division (L)(1)(b) or (c) of this section, a person issued a water discharge permit or renewal of a water discharge permit pursuant to Chapter 6111. of the Revised Code shall pay a fee based on each point source to which the issuance is applicable in accordance with the following schedule:

Design flow discharge (gallons per day)	Fee
0 to 1000	\$ 0
1,001 to 5000	100
5,001 to 50,000	200
50,001 to 100,000	300
100,001 to 300,000	525
over 300,000	750

(b) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit that is applicable to coal mining operations regulated under Chapter 1513. of the Revised Code shall be two hundred fifty dollars per mine.

(c) Notwithstanding the fee schedule specified in division (L)(1)(a) of this section, the fee for a water discharge permit for a public discharger identified by I in the third character of the permittee's NPDES permit number shall not exceed seven hundred fifty dollars.

(2) A person applying for a plan approval for a wastewater treatment works pursuant to section 6111.44, 6111.45, or 6111.46 of the Revised Code shall pay a fee of one hundred dollars plus sixty-five one-hundredths of one per cent of the estimated project cost through June 30, ~~2012~~ 2014, and one

hundred dollars plus two-tenths of one per cent of the estimated project cost on and after July 1, ~~2012~~ 2014, except that the total fee shall not exceed fifteen thousand dollars through June 30, ~~2012~~ 2014, and five thousand dollars on and after July 1, ~~2012~~ 2014. The fee shall be paid at the time the application is submitted.

(3) A person issued a modification of a water discharge permit shall pay a fee equal to one-half the fee that otherwise would be charged for a water discharge permit, except that the fee for the modification shall not exceed four hundred dollars.

(4) A person who has entered into an agreement with the director under section 6111.14 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons who have entered into agreements under that section, or who have applied for agreements, of the amount of the fee.

(5)(a)(i) Not later than January 30, ~~2010~~ 2012, and January 30, ~~2011~~ 2013, a person holding an NPDES discharge permit issued pursuant to Chapter 6111. of the Revised Code with an average daily discharge flow of five thousand gallons or more shall pay a nonrefundable annual discharge fee. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required annual discharge fee.

(ii) The billing year for the annual discharge fee established in division (L)(5)(a)(i) of this section shall consist of a twelve-month period beginning on the first day of January of the year preceding the date when the annual discharge fee is due. In the case of an existing source that permanently ceases to discharge during a billing year, the director shall reduce the annual discharge fee, including the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, by one-twelfth for each full month during the billing year that the source was not discharging, but only if the person holding the NPDES discharge permit for the source notifies the director in writing, not later than the first day of October of the billing year, of the circumstances causing the cessation of discharge.

(iii) The annual discharge fee established in division (L)(5)(a)(i) of this section, except for the surcharge applicable to certain industrial facilities pursuant to division (L)(5)(c) of this section, shall be based upon the average daily discharge flow in gallons per day calculated using first day of May through thirty-first day of October flow data for the period two years prior to the date on which the fee is due. In the case of NPDES discharge

permits for new sources, the fee shall be calculated using the average daily design flow of the facility until actual average daily discharge flow values are available for the time period specified in division (L)(5)(a)(iii) of this section. The annual discharge fee may be prorated for a new source as described in division (L)(5)(a)(ii) of this section.

(b) An NPDES permit holder that is a public discharger shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2010 <u>2012</u> , and January 30, 2011 <u>2013</u>
5,000 to 49,999	\$ 200
50,000 to 100,000	500
100,001 to 250,000	1,050
250,001 to 1,000,000	2,600
1,000,001 to 5,000,000	5,200
5,000,001 to 10,000,000	10,350
10,000,001 to 20,000,000	15,550
20,000,001 to 50,000,000	25,900
50,000,001 to 100,000,000	41,400
100,000,001 or more	62,100

Public dischargers owning or operating two or more publicly owned treatment works serving the same political subdivision, as "treatment works" is defined in section 6111.01 of the Revised Code, and that serve exclusively political subdivisions having a population of fewer than one hundred thousand shall pay an annual discharge fee under division (L)(5)(b) of this section that is based on the combined average daily discharge flow of the treatment works.

(c) An NPDES permit holder that is an industrial discharger, other than a coal mining operator identified by P in the third character of the permittee's NPDES permit number, shall pay the fee specified in the following schedule:

Average daily discharge flow	Fee due by January 30, 2010 <u>2012</u> , and January 30, 2011 <u>2013</u>
5,000 to 49,999	\$ 250
50,000 to 250,000	1,200

250,001 to 1,000,000	2,950
1,000,001 to 5,000,000	5,850
5,000,001 to 10,000,000	8,800
10,000,001 to 20,000,000	11,700
20,000,001 to 100,000,000	14,050
100,000,001 to 250,000,000	16,400
250,000,001 or more	18,700

In addition to the fee specified in the above schedule, an NPDES permit holder that is an industrial discharger classified as a major discharger during all or part of the annual discharge fee billing year specified in division (L)(5)(a)(ii) of this section shall pay a nonrefundable annual surcharge of seven thousand five hundred dollars not later than January 30, ~~2010~~ 2012, and not later than January 30, ~~2011~~ 2013. Any person who fails to pay the surcharge at that time shall pay an additional amount that equals ten per cent of the amount of the surcharge.

(d) Notwithstanding divisions (L)(5)(b) and (c) of this section, a public discharger identified by I in the third character of the permittee's NPDES permit number and an industrial discharger identified by I, J, L, V, W, X, Y, or Z in the third character of the permittee's NPDES permit number shall pay a nonrefundable annual discharge fee of one hundred eighty dollars not later than January 30, ~~2010~~ 2012, and not later than January 30, ~~2011~~ 2013. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee.

(6) Each person obtaining a national pollutant discharge elimination system general or individual permit for municipal storm water discharge shall pay a nonrefundable storm water discharge fee of one hundred dollars per square mile of area permitted. The fee shall not exceed ten thousand dollars and shall be payable on or before January 30, 2004, and the thirtieth day of January of each year thereafter. Any person who fails to pay the fee on the date specified in division (L)(6) of this section shall pay an additional amount per year equal to ten per cent of the annual fee that is unpaid.

(7) The director shall transmit all moneys collected under division (L) of this section to the treasurer of state for deposit into the state treasury to the credit of the surface water protection fund created in section 6111.038 of the Revised Code.

(8) As used in division (L) of this section:

(a) "NPDES" means the federally approved national pollutant discharge elimination system program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits and imposing and enforcing pretreatment requirements under Chapter 6111. of the Revised Code and

rules adopted under it.

(b) "Public discharger" means any holder of an NPDES permit identified by P in the second character of the NPDES permit number assigned by the director.

(c) "Industrial discharger" means any holder of an NPDES permit identified by I in the second character of the NPDES permit number assigned by the director.

(d) "Major discharger" means any holder of an NPDES permit classified as major by the regional administrator of the United States environmental protection agency in conjunction with the director.

(M) Through June 30, ~~2012~~ 2014, a person applying for a license or license renewal to operate a public water system under section 6109.21 of the Revised Code shall pay the appropriate fee established under this division at the time of application to the director. Any person who fails to pay the fee at that time shall pay an additional amount that equals ten per cent of the required fee. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

Except as provided in division (M)(4) of this section, fees required under this division shall be calculated and paid in accordance with the following schedule:

(1) For the initial license required under division (A)(1) of section 6109.21 of the Revised Code for any public water system that is a community water system as defined in section 6109.01 of the Revised Code, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Number of service connections	Fee amount
Not more than 49	\$ 112
50 to 99	176
Number of service connections	Average cost per connection
100 to 2,499	\$ 1.92
2,500 to 4,999	1.48
5,000 to 7,499	1.42
7,500 to 9,999	1.34
10,000 to 14,999	1.16
15,000 to 24,999	1.10
25,000 to 49,999	1.04
50,000 to 99,999	.92
100,000 to 149,999	.86
150,000 to 199,999	.80

200,000 or more .76

A public water system may determine how it will pay the total amount of the fee calculated under division (M)(1) of this section, including the assessment of additional user fees that may be assessed on a volumetric basis.

As used in division (M)(1) of this section, "service connection" means the number of active or inactive pipes, goosenecks, pigtails, and any other fittings connecting a water main to any building outlet.

(2) For the initial license required under division (A)(2) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a nontransient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

Population served	Fee amount
Fewer than 150	\$ 112
150 to 299	176
300 to 749	384
750 to 1,499	628
1,500 to 2,999	1,268
3,000 to 7,499	2,816
7,500 to 14,999	5,510
15,000 to 22,499	9,048
22,500 to 29,999	12,430
30,000 or more	16,820

As used in division (M)(2) of this section, "population served" means the total number of individuals ~~receiving water from~~ having access to the water supply during a twenty-four-hour period for at least sixty days during any calendar year. In the absence of a specific population count, that number shall be calculated at the rate of three individuals per service connection.

(3) For the initial license required under division (A)(3) of section 6109.21 of the Revised Code for any public water system that is not a community water system and serves a transient population, and for each license renewal required for such a system prior to January 31, ~~2012~~ 2014, the fee is:

<u>Number of wells or sources, other than surface water, supplying system</u>	Fee amount
1	\$112
2	112
3	176
4	278

5	568
System designated as using a surface water source	792

As used in division (M)(3) of this section, "number of wells or sources, other than surface water, supplying system" means those wells or sources that are physically connected to the plumbing system serving the public water system.

(4) A public water system designated as using a surface water source shall pay a fee of seven hundred ninety-two dollars or the amount calculated under division (M)(1) or (2) of this section, whichever is greater.

(N)(1) A person applying for a plan approval for a public water supply system under section 6109.07 of the Revised Code shall pay a fee of one hundred fifty dollars plus thirty-five hundredths of one per cent of the estimated project cost, except that the total fee shall not exceed twenty thousand dollars through June 30, ~~2012~~ 2014, and fifteen thousand dollars on and after July 1, ~~2012~~ 2014. The fee shall be paid at the time the application is submitted.

(2) A person who has entered into an agreement with the director under division (A)(2) of section 6109.07 of the Revised Code shall pay an administrative service fee for each plan submitted under that section for approval that shall not exceed the minimum amount necessary to pay administrative costs directly attributable to processing plan approvals. The director annually shall calculate the fee and shall notify all persons that have entered into agreements under that division, or who have applied for agreements, of the amount of the fee.

(3) Through June 30, ~~2012~~ 2014, the following fee, on a per survey basis, shall be charged any person for services rendered by the state in the evaluation of laboratories and laboratory personnel for compliance with accepted analytical techniques and procedures established pursuant to Chapter 6109. of the Revised Code for determining the qualitative characteristics of water:

microbiological	
MMO-MUG	\$2,000
MF	2,100
MMO-MUG and MF	2,550
organic chemical	5,400
trace metals	5,400
standard chemistry	2,800
limited chemistry	1,550

On and after July 1, ~~2012~~ 2014, the following fee, on a per survey basis,

shall be charged any such person:

microbiological	\$ 1,650
organic chemicals	3,500
trace metals	3,500
standard chemistry	1,800
limited chemistry	1,000

The fee for those services shall be paid at the time the request for the survey is made. Through June 30, ~~2012~~ 2014, an individual laboratory shall not be assessed a fee under this division more than once in any three-year period unless the person requests the addition of analytical methods or analysts, in which case the person shall pay eighteen hundred dollars for each additional survey requested.

As used in division (N)(3) of this section:

- (a) "MF" means microfiltration.
- (b) "MMO" means minimal medium ONPG.
- (c) "MUG" means 4-methylumbelliferyl-beta-D-glucuronide.
- (d) "ONPG" means o-nitrophenyl-beta-D-galactopyranoside.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(O) Any person applying to the director for examination for certification as an operator of a water supply system or wastewater system under Chapter 6109. or 6111. of the Revised Code, at the time the application is submitted, shall pay an application fee of forty-five dollars through November 30, ~~2012~~ 2014, and twenty-five dollars on and after December 1, ~~2012~~ 2014. Upon approval from the director that the applicant is eligible to take the examination therefor, the applicant shall pay a fee in accordance with the following schedule through November 30, ~~2012~~ 2014:

Class A operator	\$35
Class I operator	60
Class II operator	75
Class III operator	85
Class IV operator	100

On and after December 1, ~~2012~~ 2014, the applicant shall pay a fee in accordance with the following schedule:

Class A operator	\$25
Class I operator	\$45
Class II operator	55
Class III operator	65
Class IV operator	75

A person shall pay a biennial certification renewal fee for each applicable class of certification in accordance with the following schedule:

Class A operator	\$25
Class I operator	35
Class II operator	45
Class III operator	55
Class IV operator	65

If a certification renewal fee is received by the director more than thirty days, but not more than one year after the expiration date of the certification, the person shall pay a certification renewal fee in accordance with the following schedule:

Class A operator	\$45
Class I operator	55
Class II operator	65
Class III operator	75
Class IV operator	85

A person who requests a replacement certificate shall pay a fee of twenty-five dollars at the time the request is made.

The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

(P) Any person submitting an application for an industrial water pollution control certificate under section 6111.31 of the Revised Code, as that section existed before its repeal by H.B. 95 of the 125th general assembly, shall pay a nonrefundable fee of five hundred dollars at the time the application is submitted. The director shall transmit all moneys collected under this division to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. A person paying a certificate fee under this division shall not pay an application fee under division (S)(1) of this section. On and after June 26, 2003, persons shall file such applications and pay the fee as required under sections 5709.20 to 5709.27 of the Revised Code, and proceeds from the fee shall be credited as provided in section 5709.212 of the Revised Code.

(Q) Except as otherwise provided in division (R) of this section, a person issued a permit by the director for a new solid waste disposal facility other than an incineration or composting facility, a new infectious waste treatment facility other than an incineration facility, or a modification of such an existing facility that includes an increase in the total disposal or treatment capacity of the facility pursuant to Chapter 3734. of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal or

treatment capacity, or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars. A person issued a modification of a permit for a solid waste disposal facility or an infectious waste treatment facility that does not involve an increase in the total disposal or treatment capacity of the facility shall pay a fee of one thousand dollars. A person issued a permit to install a new, or modify an existing, solid waste transfer facility under that chapter shall pay a fee of two thousand five hundred dollars. A person issued a permit to install a new or to modify an existing solid waste incineration or composting facility, or an existing infectious waste treatment facility using incineration as its principal method of treatment, under that chapter shall pay a fee of one thousand dollars. The increases in the permit fees under this division resulting from the amendments made by Amended Substitute House Bill 592 of the 117th general assembly do not apply to any person who submitted an application for a permit to install a new, or modify an existing, solid waste disposal facility under that chapter prior to September 1, 1987; any such person shall pay the permit fee established in this division as it existed prior to June 24, 1988. In addition to the applicable permit fee under this division, a person issued a permit to install or modify a solid waste facility or an infectious waste treatment facility under that chapter who fails to pay the permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the permit fee is late.

Permit and late payment fees paid to the director under this division shall be credited to the general revenue fund.

(R)(1) A person issued a registration certificate for a scrap tire collection facility under section 3734.75 of the Revised Code shall pay a fee of two hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(2) A person issued a registration certificate for a new scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of three hundred dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of twenty-five dollars.

(3) A person issued a permit for a scrap tire storage facility under section 3734.76 of the Revised Code shall pay a fee of one thousand dollars, except that if the facility is owned or operated by a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code, the person shall pay a fee of fifty dollars.

(4) A person issued a permit for a scrap tire monocell or monofill facility under section 3734.77 of the Revised Code shall pay a fee of ten dollars per thousand cubic yards of disposal capacity or one thousand dollars, whichever is greater, except that the total fee for any such permit shall not exceed eighty thousand dollars.

(5) A person issued a registration certificate for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one hundred dollars.

(6) A person issued a permit for a scrap tire recovery facility under section 3734.78 of the Revised Code shall pay a fee of one thousand dollars.

(7) In addition to the applicable registration certificate or permit fee under divisions (R)(1) to (6) of this section, a person issued a registration certificate or permit for any such scrap tire facility who fails to pay the registration certificate or permit fee to the director in compliance with division (V) of this section shall pay an additional ten per cent of the amount of the fee for each week that the fee is late.

(8) The registration certificate, permit, and late payment fees paid to the director under divisions (R)(1) to (7) of this section shall be credited to the scrap tire management fund created in section 3734.82 of the Revised Code.

(S)(1) Except as provided by divisions (L), (M), (N), (O), (P), and (S)(2) of this section, division (A)(2) of section 3734.05 of the Revised Code, section 3734.79 of the Revised Code, and rules adopted under division (T)(1) of this section, any person applying for a registration certificate under section 3734.75, 3734.76, or 3734.78 of the Revised Code or a permit, variance, or plan approval under Chapter 3734. of the Revised Code shall pay a nonrefundable fee of fifteen dollars at the time the application is submitted.

Except as otherwise provided, any person applying for a permit, variance, or plan approval under Chapter 6109. or 6111. of the Revised Code shall pay a nonrefundable fee of one hundred dollars at the time the application is submitted through June 30, ~~2012~~ 2014, and a nonrefundable fee of fifteen dollars at the time the application is submitted on and after July 1, ~~2012~~ 2014. ~~Through~~ Except as provided in division (S)(3) of this section, through June 30, ~~2012~~ 2014, any person applying for a national pollutant discharge elimination system permit under Chapter 6111. of the Revised Code shall pay a nonrefundable fee of two hundred dollars at the time of application for the permit. On and after July 1, ~~2012~~ 2014, such a person shall pay a nonrefundable fee of fifteen dollars at the time of application.

In addition to the application fee established under division (S)(1) of

this section, any person applying for a national pollutant discharge elimination system general storm water construction permit shall pay a nonrefundable fee of twenty dollars per acre for each acre that is permitted above five acres at the time the application is submitted. However, the per acreage fee shall not exceed three hundred dollars. In addition, any person applying for a national pollutant discharge elimination system general storm water industrial permit shall pay a nonrefundable fee of one hundred fifty dollars at the time the application is submitted.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under division (S)(1) of this section pursuant to Chapter 6111. of the Revised Code and under division (S)(3) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

If a registration certificate is issued under section 3734.75, 3734.76, or 3734.78 of the Revised Code, the amount of the application fee paid shall be deducted from the amount of the registration certificate fee due under division (R)(1), (2), or (5) of this section, as applicable.

If a person submits an electronic application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section, the person shall pay the applicable application fee as expeditiously as possible after the submission of the electronic application. An application for a registration certificate, permit, variance, or plan approval for which an application fee is established under division (S)(1) of this section shall not be reviewed or processed until the applicable application fee, and any other fees established under this division, are paid.

(2) Division (S)(1) of this section does not apply to an application for a registration certificate for a scrap tire collection or storage facility submitted under section 3734.75 or 3734.76 of the Revised Code, as applicable, if the owner or operator of the facility or proposed facility is a motor vehicle salvage dealer licensed under Chapter 4738. of the Revised Code.

(3) A person applying for coverage under a national pollutant discharge elimination system general discharge permit for household sewage treatment systems shall pay the following fees:

(a) A nonrefundable fee of two hundred dollars at the time of application for initial permit coverage;

(b) A nonrefundable fee of one hundred dollars at the time of application for a renewal of permit coverage.

(T) The director may adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) Prescribe fees to be paid by applicants for and holders of any license, permit, variance, plan approval, or certification required or authorized by Chapter 3704., 3734., 6109., or 6111. of the Revised Code that are not specifically established in this section. The fees shall be designed to defray the cost of processing, issuing, revoking, modifying, denying, and enforcing the licenses, permits, variances, plan approvals, and certifications.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6109. of the Revised Code to the treasurer of state for deposit into the drinking water protection fund created in section 6109.30 of the Revised Code.

The director shall transmit all moneys collected under rules adopted under division (T)(1) of this section pursuant to Chapter 6111. of the Revised Code to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code.

(2) Exempt the state and political subdivisions thereof, including education facilities or medical facilities owned by the state or a political subdivision, or any person exempted from taxation by section 5709.07 or 5709.12 of the Revised Code, from any fee required by this section;

(3) Provide for the waiver of any fee, or any part thereof, otherwise required by this section whenever the director determines that the imposition of the fee would constitute an unreasonable cost of doing business for any applicant, class of applicants, or other person subject to the fee;

(4) Prescribe measures that the director considers necessary to carry out this section.

(U) When the director reasonably demonstrates that the direct cost to the state associated with the issuance of a permit to install, license, variance, plan approval, or certification exceeds the fee for the issuance or review specified by this section, the director may condition the issuance or review on the payment by the person receiving the issuance or review of, in addition to the fee specified by this section, the amount, or any portion thereof, in excess of the fee specified under this section. The director shall not so condition issuances for which fees are prescribed in divisions (B)(7) and (L)(1)(b) of this section.

(V) Except as provided in divisions (L), (M), and (P) of this section or unless otherwise prescribed by a rule of the director adopted pursuant to

Chapter 119. of the Revised Code, all fees required by this section are payable within thirty days after the issuance of an invoice for the fee by the director or the effective date of the issuance of the license, permit, variance, plan approval, or certification. If payment is late, the person responsible for payment of the fee shall pay an additional ten per cent of the amount due for each month that it is late.

(W) As used in this section, "fuel-burning equipment," "fuel-burning equipment input capacity," "incinerator," "incinerator input capacity," "process," "process weight rate," "storage tank," "gasoline dispensing facility," "dry cleaning facility," "design flow discharge," and "new source treatment works" have the meanings ascribed to those terms by applicable rules or standards adopted by the director under Chapter 3704. or 6111. of the Revised Code.

(X) As used in divisions (B), (C), (D), (E), (F), (H), (I), and (J) of this section, and in any other provision of this section pertaining to fees paid pursuant to Chapter 3704. of the Revised Code:

(1) "Facility," "federal Clean Air Act," "person," and "Title V permit" have the same meanings as in section 3704.01 of the Revised Code.

(2) "Title V permit program" means the following activities as necessary to meet the requirements of Title V of the federal Clean Air Act and 40 C.F.R. part 70, including at least:

(a) Preparing and adopting, if applicable, generally applicable rules or guidance regarding the permit program or its implementation or enforcement;

(b) Reviewing and acting on any application for a Title V permit, permit revision, or permit renewal, including the development of an applicable requirement as part of the processing of a permit, permit revision, or permit renewal;

(c) Administering the permit program, including the supporting and tracking of permit applications, compliance certification, and related data entry;

(d) Determining which sources are subject to the program and implementing and enforcing the terms of any Title V permit, not including any court actions or other formal enforcement actions;

(e) Emission and ambient monitoring;

(f) Modeling, analyses, or demonstrations;

(g) Preparing inventories and tracking emissions;

(h) Providing direct and indirect support to small business stationary sources to determine and meet their obligations under the federal Clean Air Act pursuant to the small business stationary source technical and

environmental compliance assistance program required by section 507 of that act and established in sections 3704.18, 3704.19, and 3706.19 of the Revised Code.

(Y)(1) Except as provided in divisions (Y)(2), (3), and (4) of this section, each sewage sludge facility shall pay a nonrefundable annual sludge fee equal to three dollars and fifty cents per dry ton of sewage sludge, including the dry tons of sewage sludge in materials derived from sewage sludge, that the sewage sludge facility treats or disposes of in this state. The annual volume of sewage sludge treated or disposed of by a sewage sludge facility shall be calculated using the first day of January through the thirty-first day of December of the calendar year preceding the date on which payment of the fee is due.

(2)(a) Except as provided in division (Y)(2)(d) of this section, each sewage sludge facility shall pay a minimum annual sewage sludge fee of one hundred dollars.

(b) The annual sludge fee required to be paid by a sewage sludge facility that treats or disposes of exceptional quality sludge in this state shall be thirty-five per cent less per dry ton of exceptional quality sludge than the fee assessed under division (Y)(1) of this section, subject to the following exceptions:

(i) Except as provided in division (Y)(2)(d) of this section, a sewage sludge facility that treats or disposes of exceptional quality sludge shall pay a minimum annual sewage sludge fee of one hundred dollars.

(ii) A sewage sludge facility that treats or disposes of exceptional quality sludge shall not be required to pay the annual sludge fee for treatment or disposal in this state of exceptional quality sludge generated outside of this state and contained in bags or other containers not greater than one hundred pounds in capacity.

A thirty-five per cent reduction for exceptional quality sludge applies to the maximum annual fees established under division (Y)(3) of this section.

(c) A sewage sludge facility that transfers sewage sludge to another sewage sludge facility in this state for further treatment prior to disposal in this state shall not be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred. In such a case, the sewage sludge facility that disposes of the sewage sludge shall pay the annual sludge fee. However, the facility transferring the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

In the case of a sewage sludge facility that treats sewage sludge in this state and transfers it out of this state to another entity for disposal, the

sewage sludge facility in this state shall be required to pay the annual sludge fee for the tons of sewage sludge that have been transferred.

(d) A sewage sludge facility that generates sewage sludge resulting from an average daily discharge flow of less than five thousand gallons per day is not subject to the fees assessed under division (Y) of this section.

(3) No sewage sludge facility required to pay the annual sludge fee shall be required to pay more than the maximum annual fee for each disposal method that the sewage sludge facility uses. The maximum annual fee does not include the additional amount that may be charged under division (Y)(5) of this section for late payment of the annual sludge fee. The maximum annual fee for the following methods of disposal of sewage sludge is as follows:

(a) Incineration: five thousand dollars;

(b) Preexisting land reclamation project or disposal in a landfill: five thousand dollars;

(c) Land application, land reclamation, surface disposal, or any other disposal method not specified in division (Y)(3)(a) or (b) of this section: twenty thousand dollars.

(4)(a) In the case of an entity that generates sewage sludge or a sewage sludge facility that treats sewage sludge and transfers the sewage sludge to an incineration facility for disposal, the incineration facility, and not the entity generating the sewage sludge or the sewage sludge facility treating the sewage sludge, shall pay the annual sludge fee for the tons of sewage sludge that are transferred. However, the entity or facility generating or treating the sewage sludge shall pay the one-hundred-dollar minimum fee required under division (Y)(2)(a) of this section.

(b) In the case of an entity that generates sewage sludge and transfers the sewage sludge to a landfill for disposal or to a sewage sludge facility for land reclamation or surface disposal, the entity generating the sewage sludge, and not the landfill or sewage sludge facility, shall pay the annual sludge fee for the tons of sewage sludge that are transferred.

(5) Not later than the first day of April of the calendar year following March 17, 2000, and each first day of April thereafter, the director shall issue invoices to persons who are required to pay the annual sludge fee. The invoice shall identify the nature and amount of the annual sludge fee assessed and state the first day of May as the deadline for receipt by the director of objections regarding the amount of the fee and the first day of July as the deadline for payment of the fee.

Not later than the first day of May following receipt of an invoice, a person required to pay the annual sludge fee may submit objections to the

director concerning the accuracy of information regarding the number of dry tons of sewage sludge used to calculate the amount of the annual sludge fee or regarding whether the sewage sludge qualifies for the exceptional quality sludge discount established in division (Y)(2)(b) of this section. The director may consider the objections and adjust the amount of the fee to ensure that it is accurate.

If the director does not adjust the amount of the annual sludge fee in response to a person's objections, the person may appeal the director's determination in accordance with Chapter 119. of the Revised Code.

Not later than the first day of June, the director shall notify the objecting person regarding whether the director has found the objections to be valid and the reasons for the finding. If the director finds the objections to be valid and adjusts the amount of the annual sludge fee accordingly, the director shall issue with the notification a new invoice to the person identifying the amount of the annual sludge fee assessed and stating the first day of July as the deadline for payment.

Not later than the first day of July, any person who is required to do so shall pay the annual sludge fee. Any person who is required to pay the fee, but who fails to do so on or before that date shall pay an additional amount that equals ten per cent of the required annual sludge fee.

(6) The director shall transmit all moneys collected under division (Y) of this section to the treasurer of state for deposit into the surface water protection fund created in section 6111.038 of the Revised Code. The moneys shall be used to defray the costs of administering and enforcing provisions in Chapter 6111. of the Revised Code and rules adopted under it that govern the use, storage, treatment, or disposal of sewage sludge.

(7) Beginning in fiscal year 2001, and every two years thereafter, the director shall review the total amount of moneys generated by the annual sludge fees to determine if that amount exceeded six hundred thousand dollars in either of the two preceding fiscal years. If the total amount of moneys in the fund exceeded six hundred thousand dollars in either fiscal year, the director, after review of the fee structure and consultation with affected persons, shall issue an order reducing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will not exceed six hundred thousand dollars in any fiscal year.

If, upon review of the fees under division (Y)(7) of this section and after the fees have been reduced, the director determines that the total amount of moneys collected and accumulated is less than six hundred thousand dollars, the director, after review of the fee structure and consultation with affected

persons, may issue an order increasing the amount of the fees levied under division (Y) of this section so that the estimated amount of moneys resulting from the fees will be approximately six hundred thousand dollars. Fees shall never be increased to an amount exceeding the amount specified in division (Y)(7) of this section.

Notwithstanding section 119.06 of the Revised Code, the director may issue an order under division (Y)(7) of this section without the necessity to hold an adjudicatory hearing in connection with the order. The issuance of an order under this division is not an act or action for purposes of section 3745.04 of the Revised Code.

(8) As used in division (Y) of this section:

(a) "Sewage sludge facility" means an entity that performs treatment on or is responsible for the disposal of sewage sludge.

(b) "Sewage sludge" means a solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works as defined in section 6111.01 of the Revised Code. "Sewage sludge" includes, but is not limited to, scum or solids removed in primary, secondary, or advanced wastewater treatment processes. "Sewage sludge" does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit and screenings generated during preliminary treatment of domestic sewage in a treatment works, animal manure, residue generated during treatment of animal manure, or domestic septage.

(c) "Exceptional quality sludge" means sewage sludge that meets all of the following qualifications:

(i) Satisfies the class A pathogen standards in 40 C.F.R. 503.32(a);

(ii) Satisfies one of the vector attraction reduction requirements in 40 C.F.R. 503.33(b)(1) to (b)(8);

(iii) Does not exceed the ceiling concentration limitations for metals listed in table one of 40 C.F.R. 503.13;

(iv) Does not exceed the concentration limitations for metals listed in table three of 40 C.F.R. 503.13.

(d) "Treatment" means the preparation of sewage sludge for final use or disposal and includes, but is not limited to, thickening, stabilization, and dewatering of sewage sludge.

(e) "Disposal" means the final use of sewage sludge, including, but not limited to, land application, land reclamation, surface disposal, or disposal in a landfill or an incinerator.

(f) "Land application" means the spraying or spreading of sewage sludge onto the land surface, the injection of sewage sludge below the land surface, or the incorporation of sewage sludge into the soil for the purposes

of conditioning the soil or fertilizing crops or vegetation grown in the soil.

(g) "Land reclamation" means the returning of disturbed land to productive use.

(h) "Surface disposal" means the placement of sludge on an area of land for disposal, including, but not limited to, monofills, surface impoundments, lagoons, waste piles, or dedicated disposal sites.

(i) "Incinerator" means an entity that disposes of sewage sludge through the combustion of organic matter and inorganic matter in sewage sludge by high temperatures in an enclosed device.

(j) "Incineration facility" includes all incinerators owned or operated by the same entity and located on a contiguous tract of land. Areas of land are considered to be contiguous even if they are separated by a public road or highway.

(k) "Annual sludge fee" means the fee assessed under division (Y)(1) of this section.

(l) "Landfill" means a sanitary landfill facility, as defined in rules adopted under section 3734.02 of the Revised Code, that is licensed under section 3734.05 of the Revised Code.

(m) "Preexisting land reclamation project" means a property-specific land reclamation project that has been in continuous operation for not less than five years pursuant to approval of the activity by the director and includes the implementation of a community outreach program concerning the activity.

Sec. 3746.02. (A) Nothing in this chapter applies to any of the following:

(1) Property for which a voluntary action under this chapter is precluded by federal law or regulations adopted under federal law, including, without limitation, any of the following federal laws or regulations adopted thereunder:

(a) The "Federal Water Pollution Control Act Amendments of 1972," 86 Stat. 886, 33 U.S.C.A. 1251, as amended;

(b) The "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, as amended;

(c) The "Toxic Substances Control Act," 90 Stat. 2003 (1976), 15 U.S.C.A. 2601, as amended;

(d) The "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2779, 42 U.S.C.A. 9601, as amended;

(e) The "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended.

(2) Those portions of property where closure of a hazardous waste

facility or solid waste facility is required under Chapter 3734. of the Revised Code or rules adopted under it;

(3) ~~Property or~~ Except for a class C release as defined in section 3737.87 of the Revised Code, properties regardless of ownership that are subject to remediation rules adopted under the authority of the division of fire marshal in the department of commerce, including remediation rules adopted under sections 3737.88, 3737.882, and 3737.889 of the Revised Code;

(4) Property that is subject to Chapter 1509. of the Revised Code;

(5) Any other property if the director of environmental protection has issued a letter notifying the owner or operator of the property that ~~he~~ the director will issue an enforcement order under Chapter 3704., 3734., or 6111. of the Revised Code, a release or threatened release of a hazardous substance or petroleum from or at the property poses a substantial threat to public health or safety or the environment, and the person subject to the order does not present sufficient evidence to the director that ~~he~~ the person has entered into the voluntary action program under this chapter and is proceeding expeditiously to address that threat. For the purposes of this division, the evidence constituting sufficient evidence of entry into the voluntary action program under this chapter shall be defined by the director by rules adopted under section 3746.04 of the Revised Code. Until such time as the director has adopted those rules, the director, at a minimum, shall consider the existence of a contract with a certified professional to appropriately respond to the threat named in the director's letter informing the person of ~~his~~ the director's intent to issue an enforcement order and the availability of financial resources to complete the contract to be sufficient evidence of entry into the program.

(B) The application of any provision of division (A) of this section to a portion of property does not preclude participation in the voluntary action program under this chapter in connection with other portions of the property where those provisions do not apply.

(C) As used in this section, "property" means any parcel of real property, or portion thereof, and any improvements thereto.

Sec. 3750.081. (A) Notwithstanding any provision in this chapter to the contrary, an owner or operator of a facility that is regulated under Chapter 1509. of the Revised Code who has filed a log in accordance with section 1509.10 of the Revised Code and a production statement in accordance with section 1509.11 of the Revised Code shall be deemed to have satisfied all of the inventory, notification, listing, and other submission and filing requirements established under this chapter, except for the release reporting

requirements established under section 3750.06 of the Revised Code.

(B) The emergency response commission and every local emergency planning committee and fire department in this state shall establish a means by which to access, view, and retrieve information, through the use of the internet or a computer disk, from the electronic database maintained by the division of ~~mineral oil and gas~~ resources management in the department of natural resources in accordance with section 1509.23 of the Revised Code. With respect to facilities regulated under Chapter 1509. of the Revised Code, the database shall be the means of providing and receiving the information described in division (A) of this section.

Sec. 3767.32. (A) No person, regardless of intent, shall deposit litter or cause litter to be deposited on any public property, on private property not owned by ~~him~~ the person, or in or on waters of the state unless one of the following applies:

(1) The person is directed to do so by a public official as part of a litter collection drive;

(2) Except as provided in division (B) of this section, the person deposits the litter in a litter receptacle in a manner that prevents its being carried away by the elements;

(3) The person is issued a permit or license covering the litter pursuant to Chapter 3734. or 6111. of the Revised Code.

(B) No person, without privilege to do so, shall knowingly deposit litter, or cause it to be deposited, in a litter receptacle located on any public property or on any private property not owned by ~~him~~ the person unless one of the following applies:

(1) The litter was generated or located on the property on which the litter receptacle is located;

(2) The person is directed to do so by a public official as part of a litter collection drive;

(3) The person is directed to do so by a person whom ~~he~~ the person reasonably believes to have the privilege to use the litter receptacle;

(4) The litter consists of any of the following:

(a) The contents of a litter bag or container of a type and size customarily carried and used in a motor vehicle;

(b) The contents of an ash tray of a type customarily installed or carried and used in a motor vehicle;

(c) Beverage containers and food sacks, wrappings, and containers of a type and in an amount that reasonably may be expected to be generated during routine commuting or business or recreational travel by a motor vehicle;

(d) Beverage containers, food sacks, wrappings, containers, and other materials of a type and in an amount that reasonably may be expected to be generated during a routine day by a person and deposited in a litter receptacle by a casual passerby.

(C)(1) As used in division (B)(1) of this section, "public property" includes any private property open to the public for the conduct of business, the provision of a service, or upon the payment of a fee, but does not include any private property to which the public otherwise does not have a right of access.

(2) As used in division (B)(4) of this section, "casual passerby" means a person who does not have depositing litter in a litter receptacle as ~~his~~ the person's primary reason for traveling to or by the property on which the litter receptacle is located.

(D) As used in this section:

(1) "Litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass, or anything else of an unsightly or unsanitary nature.

(2) "Deposit" means to throw, drop, discard, or place.

(3) "Litter receptacle" means a dumpster, trash can, trash bin, garbage can, or similar container in which litter is deposited for removal.

(E) This section may be enforced by any sheriff, deputy sheriff, police officer of a municipal corporation, police constable or officer of a township, or township or joint police district, wildlife officer, park officer, forest officer, preserve officer, conservancy district police officer, inspector of nuisances of a county, or any other law enforcement officer within ~~his~~ the law enforcement officer's jurisdiction.

Sec. 3769.08. (A) Any person holding a permit to conduct a horse-racing meeting may provide a place in the race meeting grounds or enclosure at which the permit holder may conduct and supervise the pari-mutuel system of wagering by patrons of legal age on the live racing programs and simulcast racing programs conducted by the permit holder.

The pari-mutuel method of wagering upon the live racing programs and simulcast racing programs held at or conducted within such race track, and at the time of such horse-racing meeting, or at other times authorized by the state racing commission, shall not be unlawful. No other place, except that provided and designated by the permit holder and except as provided in section 3769.26 of the Revised Code, nor any other method or system of betting or wagering, except the pari-mutuel system, shall be used or permitted by the permit holder; nor, except as provided in section 3769.089 or 3769.26 of the Revised Code, shall the pari-mutuel system of wagering

be conducted by the permit holder on any races except the races at the race track, grounds, or enclosure for which the person holds a permit. Each permit holder may retain as a commission an amount not to exceed eighteen per cent of the total of all moneys wagered.

The pari-mutuel wagering authorized by this section is subject to sections 3769.25 to 3769.28 of the Revised Code.

(B) At the close of each racing day, each permit holder authorized to conduct thoroughbred racing, out of the amount retained on that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs on that day and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

(1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;

(2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;

(4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct thoroughbred racing shall use for purse money a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment shall be in addition to the purse distribution from breakage specified in this section.

Subject to division (M) of this section, from the moneys paid to the tax commissioner by thoroughbred racing permit holders, one-half of one per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio fairs fund created by section 3769.082 of the Revised Code, one and one-eighth per cent of the total of all moneys so wagered on a racing day shall be paid into the Ohio thoroughbred race fund created by section 3769.083 of the Revised Code, and one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. The required payment to the state racing commission operating fund does not apply to county and independent fairs and agricultural societies. The remaining moneys may be retained by the permit

holder, except as provided in this section with respect to the odd cents redistribution. Amounts paid into the PASSPORT nursing home franchise permit fee fund pursuant to this section and section 3769.26 of the Revised Code shall be used solely for the support of the PASSPORT program as determined in appropriations made by the general assembly. If the PASSPORT program is abolished, the amount that would have been paid to the PASSPORT nursing home franchise permit fee fund under this chapter shall be paid to the general revenue fund of the state. As used in this chapter, "PASSPORT program" means the PASSPORT program created under section 173.40 of the Revised Code.

The total amount paid to the Ohio thoroughbred race fund under this section and division (A) of section 3769.087 of the Revised Code shall not exceed by more than six per cent the total amount paid to this fund under this section and that section during the immediately preceding calendar year.

Each year, the total amount calculated for payment into the Ohio fairs fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code shall be an amount calculated using the percentages specified in this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code.

A permit holder may contract with a thoroughbred horsemen's organization for the organization to act as a representative of all thoroughbred owners and trainers participating in a horse-racing meeting conducted by the permit holder. A "thoroughbred horsemen's organization" is any corporation or association that represents, through membership or otherwise, more than one-half of the aggregate of all thoroughbred owners and trainers who were licensed and actively participated in racing within this state during the preceding calendar year. Except as otherwise provided in this paragraph, any moneys received by a thoroughbred horsemen's organization shall be used exclusively for the benefit of thoroughbred owners and trainers racing in this state through the administrative purposes of the organization, benevolent activities on behalf of the horsemen, promotion of the horsemen's rights and interests, and promotion of equine research. A thoroughbred horsemen's organization may expend not more than an aggregate of five per cent of its annual gross receipts, or a larger amount as approved by the organization, for dues, assessments, and other payments to all other local, national, or international organizations having as their primary purposes the promotion of thoroughbred horse racing, thoroughbred horsemen's rights, and equine research.

(C) Except as otherwise provided in division (B) of this section, at the close of each racing day, each permit holder authorized to conduct harness

or quarter horse racing, out of the amount retained that day by the permit holder, shall pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all moneys wagered on live racing programs and shall separately compute and pay by check, draft, or money order to the tax commissioner, as a tax, a sum equal to the following percentages of the total of all money wagered on simulcast racing programs on that day:

- (1) One per cent of the first two hundred thousand dollars wagered, or any part of that amount;
- (2) Two per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (3) Three per cent of the next one hundred thousand dollars wagered, or any part of that amount;
- (4) Four per cent of all sums over four hundred thousand dollars wagered.

Except as otherwise provided in division (B) and subject to division (M) of this section, from the moneys paid to the tax commissioner by permit holders authorized to conduct harness or quarter horse racing, one-half of one per cent of all moneys wagered on that racing day shall be paid into the Ohio fairs fund; from the moneys paid to the tax commissioner by permit holders authorized to conduct harness racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio standardbred development fund; and from the moneys paid to the tax commissioner by permit holders authorized to conduct quarter horse racing, five-eighths of one per cent of all moneys wagered on that racing day shall be paid into the Ohio quarter horse development fund.

(D) In addition, subject to division (M) of this section, beginning on January 1, 1996, from the money paid to the tax commissioner as a tax under this section and division (A) of section 3769.087 of the Revised Code by harness horse permit holders, one-half of one per cent of the amount wagered on a racing day shall be paid into the Ohio standardbred development fund. Beginning January 1, 1998, the payment to the Ohio standardbred development fund required under this division does not apply to county agricultural societies or independent agricultural societies.

The total amount paid to the Ohio standardbred development fund under this division, division (C) of this section, and division (A) of section 3769.087 of the Revised Code and the total amount paid to the Ohio quarter horse development fund under this division and division (A) of that section shall not exceed by more than six per cent the total amount paid into the fund under this division, division (C) of this section, and division (A) of

section 3769.087 of the Revised Code in the immediately preceding calendar year.

(E) Subject to division (M) of this section, from the money paid as a tax under this chapter by harness and quarter horse permit holders, one-quarter of one per cent of the total of all moneys wagered on a racing day by each permit holder shall be paid into the state racing commission operating fund created by section 3769.03 of the Revised Code. This division does not apply to county and independent fairs and agricultural societies.

(F) Except as otherwise provided in section 3769.089 of the Revised Code, each permit holder authorized to conduct harness racing shall pay to the harness horsemen's purse pool a sum equal to fifty per cent of the pari-mutuel revenues retained by the permit holder as a commission after payment of the state tax. This fifty per cent payment is to be in addition to the purse distribution from breakage specified in this section.

(G) In addition, each permit holder authorized to conduct harness racing shall be allowed to retain the odd cents of all redistribution to be made on all mutual contributions exceeding a sum equal to the next lowest multiple of ten.

Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for purse money for Ohio sired, bred, and owned colts, for purse money for Ohio bred horses, and for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a harness horsemen's health and retirement fund, twenty-five per cent of that portion of that total sum of odd cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that twenty-five per cent shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(H) In addition, each permit holder authorized to conduct thoroughbred racing shall be allowed to retain the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten. Twenty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. Upon the formation of the corporation described in section 3769.21 of the Revised Code to establish a thoroughbred horsemen's health and retirement fund, forty-five per cent of that portion of that total sum of odd

cents shall be paid at the close of each racing day by the permit holder to that corporation to establish and fund the health and retirement fund. Until that corporation is formed, that forty-five per cent shall be paid by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county in which the permit holder operates race meetings, at the close of each racing day. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(I) In addition, each permit holder authorized to conduct quarter horse racing shall be allowed to retain the odd cents of all redistribution to be made on all mutuel contributions exceeding a sum equal to the next lowest multiple of ten, subject to a tax of twenty-five per cent on that portion of the total sum of such odd cents that is in excess of two thousand dollars during a calendar year, which tax shall be paid at the close of each racing day by the permit holder to the tax commissioner or the tax commissioner's agent in the county seat of the county within which the permit holder operates race meetings. Forty per cent of that portion of that total sum of such odd cents shall be used by the permit holder for increased purse money for horse races. The remaining thirty-five per cent of that portion of that total sum of odd cents shall be retained by the permit holder.

(J)(1) To encourage the improvement of racing facilities for the benefit of the public, breeders, and horse owners, and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from those improvements, the taxes paid by a permit holder to the state as provided for in this chapter shall be reduced by three-fourths of one per cent of the total amount wagered for those permit holders who make capital improvements to existing race tracks or construct new race tracks. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the taxes levied under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of this section and section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this division. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this division. Otherwise, the permit holder shall receive the full reduction provided for in this division. The amount of the allowable reduction not received shall be carried forward and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this division.

If more than one permit holder is authorized to conduct racing at the facility that is being built or improved, the cost of the new race track or capital improvement shall be allocated between or among all the permit holders in the ratio that the permit holders' number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a new race track or a capital improvement shall start from the day racing is first conducted following the date actual construction of the new race track or each capital improvement is completed and the construction cost has been approved by the racing commission, unless otherwise provided in this section. A reduction for a new race track or a capital improvement shall continue for a period of twenty-five years for new race tracks and for fifteen years for capital improvements if the construction of the capital improvement or new race track commenced prior to March 29, 1988, and for a period of ten years for new race tracks or capital improvements if the construction of the capital improvement or new race track commenced on or after March 29, 1988, but before ~~the effective date of this amendment~~ June 6, 2001, or until the total tax reduction reaches seventy per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder, whichever occurs first. A reduction for a new race track or a capital improvement approved after ~~the effective date of this amendment~~ June 6, 2001, shall continue until the total tax reduction reaches one hundred per cent of the approved cost of the new race track or capital improvement, as allocated to each permit holder.

A reduction granted for a new race track or a capital improvement, the application for which was approved by the racing commission after March 29, 1988, but before ~~the effective date of this amendment~~ June 6, 2001, shall not commence nor shall the ten-year period begin to run until all prior tax reductions with respect to the same race track have ended. The total tax reduction because of capital improvements shall not during any one year exceed for all permit holders using any one track three-fourths of one per cent of the total amount wagered, regardless of the number of capital improvements made. Several capital improvements to a race track may be consolidated in an application if the racing commission approved the application prior to March 29, 1988. No permit holder may receive a tax reduction for a capital improvement approved by the racing commission on or after March 29, 1988, at a race track until all tax reductions have ended for all prior capital improvements approved by the racing commission under this section or section 3769.20 of the Revised Code at that race track. If there are two or more permit holders operating meetings at the same track, they may consolidate their applications. The racing commission shall notify

the tax commissioner when the reduction of tax begins and when it ends.

Each fiscal year the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this division and in progress at each race track, indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(2) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the new race track or capital improvement, including a schedule for its construction and completion, and set forth the costs and expenses incurred in connection with it. The racing commission shall not approve an application unless the permit holder shows that a contract for the new race track or capital improvement has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the new race track or capital improvement will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend towards the improvement of racing in this state.

(3) If a new race track or capital improvement is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of one hundred thousand dollars or ten per cent of the approved cost, whichever is greater. After the initial authorization, the permit holder shall present copies of paid bills. If the permit holder is in substantial compliance with the schedule for construction and completion of the new race track or capital improvement, the racing commission may authorize the continuation of the tax reduction upon the presentation of the additional paid bills. The total amount of the tax reduction authorized shall not exceed the percentage of the approved cost of the new race track or capital improvement specified in division (J)(1) of this section. The racing commission may terminate any tax reduction immediately if a permit holder fails to complete the new race track or capital improvement, or to substantially comply with the schedule for construction and completion of the new race track or capital

improvement. If a permit holder fails to complete a new race track or capital improvement, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced. The normal tax paid by the permit holder shall be increased by three-fourths of one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced.

(4) As used in this section:

(a) "Capital improvement" means an addition, replacement, or remodeling of a structural unit of a race track facility costing at least one hundred thousand dollars, including, but not limited to, the construction of barns used exclusively for the race track facility, backstretch facilities for horsemen, paddock facilities, new pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, the installation of permanent new heating or air conditioning, roof replacement or restoration, installations of a permanent nature forming a part of the track structure, and construction of buildings that are located on a permit holder's premises. "Capital improvement" does not include the cost of replacement of equipment that is not permanently installed, ordinary repairs, painting, and maintenance required to keep a race track facility in ordinary operating condition.

(b) "New race track" includes the reconstruction of a race track damaged by fire or other cause that has been declared by the racing commission, as a result of the damage, to be an inadequate facility for the safe operation of horse racing.

(c) "Approved cost" includes all debt service and interest costs that are associated with a capital improvement or new race track and that the racing commission approves for a tax reduction under division (J) of this section.

(5) The racing commission shall not approve an application for a tax reduction under this section if it has reasonable cause to believe that the actions or negligence of the permit holder substantially contributed to the damage suffered by the track due to fire or other cause. The racing commission shall obtain any data or information available from a fire marshal, law enforcement official, or insurance company concerning any fire or other damage suffered by a track, prior to approving an application for a tax reduction.

(6) The approved cost to which a tax reduction applies shall be determined by generally accepted accounting principles and verified by an audit of the permit holder's records upon completion of the project by the racing commission, or by an independent certified public accountant

selected by the permit holder and approved by the commission.

(K) No other license or excise tax or fee, except as provided in sections 3769.01 to 3769.14 of the Revised Code, shall be assessed or collected from such licensee by any county, township, district, municipal corporation, or other body having power to assess or collect a tax or fee. That portion of the tax paid under this section by permit holders for racing conducted at and during the course of an agricultural exposition or fair, and that portion of the tax that would have been paid by eligible permit holders into the PASSPORT nursing home franchise permit fee fund as a result of racing conducted at and during the course of an agricultural exposition or fair, shall be deposited into the state treasury to the credit of the horse racing tax fund, which is hereby created for the use of the agricultural societies of the several counties in which the taxes originate. The state racing commission shall determine eligible permit holders for purposes of the preceding sentence, taking into account the breed of horse, the racing dates, the geographic proximity to the fair, and the best interests of Ohio racing. On the first day of any month on which there is money in the fund, the tax commissioner shall provide for payment to the treasurer of each agricultural society the amount of the taxes collected under this section upon racing conducted at and during the course of any exposition or fair conducted by the society.

(L) From the tax paid under this section by harness track permit holders, the tax commissioner shall pay into the Ohio thoroughbred race fund a sum equal to a percentage of the amount wagered upon which the tax is paid. The percentage shall be determined by the tax commissioner and shall be rounded to the nearest one-hundredth. The percentage shall be such that, when multiplied by the amount wagered upon which tax was paid by the harness track permit holders in the most recent year for which final figures are available, it results in a sum that substantially equals the same amount of tax paid by the tax commissioner during that year into the Ohio fairs fund from taxes paid by thoroughbred permit holders. This division does not apply to county and independent fairs and agricultural societies.

(M) Twenty-five per cent of the taxes levied on thoroughbred racing permit holders, harness racing permit holders, and quarter horse racing permit holders under this section, division (A) of section 3769.087 of the Revised Code, and division (F)(2) of section 3769.26 of the Revised Code shall be paid into the PASSPORT nursing home franchise permit fee fund. The tax commissioner shall pay any money remaining, after the payment into the PASSPORT nursing home franchise permit fee fund and the reductions provided for in division (J) of this section and in section 3769.20 of the Revised Code, into the Ohio fairs fund, Ohio thoroughbred race fund,

Ohio standardbred development fund, Ohio quarter horse fund, and state racing commission operating fund as prescribed in this section and division (A) of section 3769.087 of the Revised Code. The tax commissioner shall thereafter use and apply the balance of the money paid as a tax by any permit holder to cover any shortage in the accounts of such funds resulting from an insufficient payment as a tax by any other permit holder. The moneys received by the tax commissioner shall be deposited weekly and paid by the tax commissioner into the funds to cover the total aggregate amount due from all permit holders to the funds, as calculated under this section and division (A) of section 3769.087 of the Revised Code, as applicable. If, after the payment into the PASSPORT nursing home franchise permit fee fund, sufficient funds are not available from the tax deposited by the tax commissioner to pay the required amounts into the Ohio fairs fund, Ohio standardbred development fund, Ohio thoroughbred race fund, Ohio quarter horse fund, and the state racing commission operating fund, the tax commissioner shall prorate on a proportional basis the amount paid to each of the funds. Any shortage to the funds as a result of a proration shall be applied against future deposits for the same calendar year when funds are available. After this application, the tax commissioner shall pay any remaining money paid as a tax by all permit holders into the PASSPORT nursing home franchise permit fee fund. This division does not apply to permit holders conducting racing at the course of an agricultural exposition or fair as described in division (K) of this section.

Sec. 3769.20. (A) To encourage the renovation of existing racing facilities for the benefit of the public, breeders, and horse owners and to increase the revenue to the state from the increase in pari-mutuel wagering resulting from such improvement, the taxes paid by a permit holder to the state, in excess of the amount paid into the PASSPORT nursing home franchise permit fee fund, shall be reduced by one per cent of the total amount wagered for those permit holders who carry out a major capital improvement project. The percentage of the reduction that may be taken each racing day shall equal seventy-five per cent of the amount of the taxes levied under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code, as applicable, divided by the calculated amount each fund should receive under divisions (B) and (C) of section 3769.08, section 3769.087, and division (F)(2) of section 3769.26 of the Revised Code and the reduction provided for in this section. If the resulting percentage is less than one, that percentage shall be multiplied by the amount of the reduction provided for in this section. Otherwise, the permit holder shall receive the full reduction provided for in

this section. The amount of the allowable reduction not received shall be carried forward and added to any other reduction balance and applied against future tax liability. After any reductions expire, any reduction carried forward shall be treated as a reduction as provided for in this section. If the amount of allowable reduction exceeds the amount of taxes derived from a permit holder, the amount of the allowable reduction not used may be carried forward and applied against future tax liability.

If more than one permit holder is authorized to conduct racing at the facility that is being improved, the cost of the major capital improvement project shall be allocated between or among all the permit holders in the ratio that each permit holder's number of racing days bears to the total number of racing days conducted at the facility.

A reduction for a major capital improvement project shall start from the day racing is first conducted following the date on which the major capital improvement project is completed and the construction cost has been approved by the state racing commission, except as otherwise provided in division (E) of this section, and shall continue until the total tax reduction equals the cost of the major capital improvement project plus debt service applicable to the project. In no event, however, shall any tax reduction, excluding any reduction balances, be permitted under this section after December 31, ~~2014~~ 2017. The total tax reduction because of the major capital improvement project shall not during any one year exceed for all permit holders using any one track one per cent of the total amount wagered. The racing commission shall notify the tax commissioner when the reduction of tax begins and when it ends.

(B) Each fiscal year, the racing commission shall submit a report to the tax commissioner, the office of budget and management, and the legislative service commission. The report shall identify each capital improvement project undertaken under this section and in progress at each race track, indicate the total cost of each project, state the tax reduction that resulted from each project during the immediately preceding fiscal year, estimate the tax reduction that will result from each project during the current fiscal year, state the total tax reduction that resulted from all such projects at all race tracks during the immediately preceding fiscal year, and estimate the total tax reduction that will result from all such projects at all race tracks during the current fiscal year.

(C) The tax reduction granted pursuant to this section shall be in addition to any tax reductions for capital improvements and new race tracks provided for in section 3769.08 of the Revised Code and approved by the racing commission.

(D) In order to qualify for the reduction in tax, a permit holder shall apply to the racing commission in such form as the commission may require and shall provide full details of the major capital improvement project, including plans and specifications, a schedule for the project's construction and completion, and a breakdown of proposed costs. In addition, the permit holder shall have commenced construction of the major capital improvement project or shall have had the application for the project approved by the racing commission prior to March 29, 1988. The racing commission shall not approve an application unless the permit holder shows that a contract for the major capital improvement project has been let under an unrestricted competitive bidding procedure, unless the contract is exempted by the controlling board because of its unusual nature. In determining whether to approve an application, the racing commission shall consider whether the major capital improvement project will promote the safety, convenience, and comfort of the racing public and horse owners and generally tend toward the improvement of racing in this state.

(E) If the major capital improvement project is approved by the racing commission and construction has started, the tax reduction may be authorized by the commission upon presentation of copies of paid bills in excess of five hundred thousand dollars. After the initial authorization, the permit holder shall present copies of paid bills in the amount of not less than five hundred thousand dollars. If the permit holder is in substantial compliance with the schedule for construction and completion of the major capital improvement project, the racing commission may authorize the continuance of the tax reduction upon the presentation of the additional paid bills in increments of five hundred thousand dollars. The racing commission may terminate the tax reduction if a permit holder fails to complete the major capital improvement project or fails to comply substantially with the schedule for construction and completion of the major capital improvement project. If the time for completion of the major capital improvement project is delayed by acts of God, strikes, or the unavailability of labor or materials, the time for completion as set forth in the schedule shall be extended by the period of the delay. If a permit holder fails to complete the major capital improvement project, the racing commission shall order the permit holder to repay to the state the total amount of tax reduced, unless the permit holder has spent at least six million dollars on the project. The normal tax paid by the permit holder under section 3769.08 of the Revised Code shall be increased by one per cent of the total amount wagered until the total amount of the additional tax collected equals the total amount of tax reduced. Any action taken by the racing commission pursuant to this section in

terminating the tax adjustment or requiring repayment of the amount of tax reduced shall be subject to Chapter 119. of the Revised Code.

(F) As used in this section, "major capital improvement project" means the renovation, reconstruction, or remodeling, costing at least six million dollars, of a race track facility, including, but not limited to, the construction of barns used exclusively for that race track facility, backstretch facilities for horsemen, paddock facilities, pari-mutuel and totalizator equipment and appurtenances to that equipment purchased by the track, new access roads, new parking areas, the complete reconstruction, reshaping, and leveling of the racing surface and appurtenances, grandstand enclosure, installation of permanent new heating or air conditioning, roof replacement, and installations of a permanent nature forming a part of the track structure.

(G) The cost and expenses to which the tax reduction granted under this section applies shall be determined by generally accepted accounting principles and be verified by an audit of the permit holder's records, upon completion of the major capital improvement project, either by the racing commission or by an independent certified public accountant selected by the permit holder and approved by the commission.

(H) This section and section 3769.201 of the Revised Code govern any tax reduction granted to a permit holder for the cost to the permit holder of any cleanup, repair, or improvement required as a result of damage caused by the 1997 Ohio river flood to the place, track, or enclosure for which the permit is issued.

Sec. 3769.26. (A)(1) Except as otherwise provided in division (B) of this section, each track in existence on September 27, 1994, regardless of the number of permit holders authorized to conduct race meetings at the track, may establish, with the approval of the state racing commission and the appropriate local legislative authority, not more than two satellite facilities at which it may conduct pari-mutuel wagering on horse races conducted either inside or outside this state and simulcast by a simulcast host to the satellite facilities.

(2) Prior to a track's establishing satellite facilities under this section, the permit holders at that track shall agree among themselves regarding their respective rights and obligations with respect to those satellite facilities.

(3)(a) Any track that desires to establish a satellite facility shall provide written notification of its intent to the state racing commission and to the appropriate local legislative authority that is required to approve the satellite facility, together with detailed plans and specifications for the satellite facility. The commission shall deliver copies of this notification to all other tracks in this state, and the commission shall, within forty-five days after

receiving the notification, hold a hearing on the track's intent to establish a satellite facility. At this hearing the commission shall consider the evidence presented and determine whether the request for establishment of a satellite facility shall be approved.

The commission shall not approve a track's request to establish a satellite facility if the owner of the premises where the satellite facility is proposed to be located or if the proposed operator of the satellite facility has been convicted of or has pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator of a satellite facility. As used in division (A)(3)(a) of this section, "gambling offense" has the same meaning as in section 2915.01 of the Revised Code and "operator" means the individual who is responsible for the day-to-day operations of a satellite facility. The commission shall conduct a background investigation on each person who is the owner of a premises where a satellite facility is proposed to be located or who is proposed to be the operator or an employee of a satellite facility. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code that specify the specific information the commission shall collect in conducting such a background investigation.

No track shall knowingly contract with a person as the owner of the premises where a satellite facility is located, or knowingly employ a person as the operator or an employee of a satellite facility, who has been convicted of or pleaded guilty to a gambling offense that is a felony or any other felony under the laws of this state, any other state, or the United States that the commission determines to be related to fitness to be the owner of such a premises or to be the operator or an employee of a satellite facility. The commission may impose a fine in an amount not to exceed ten thousand dollars on any track that violates any of these prohibitions.

(b) Each track that receives the notification described in division (A)(3)(a) of this section shall notify the commission and the track that desires to establish the satellite facility, within thirty days after receiving the notification from the commission, indicating whether or not it desires to participate in the joint ownership of the facility. Ownership shall be distributed equally among the tracks that choose to participate in the joint ownership of the facility unless the participating tracks agree to and contract otherwise. Tracks that fail to respond to the commission and the track that desires to establish the satellite facility within this thirty-day period regarding the ownership of the particular satellite facility are not eligible to participate in its ownership.

(B) If, within three years after September 27, 1994, a track in existence on September 27, 1994, does not establish both of the satellite facilities it is authorized to establish under division (A) of this section, another track, with the approval of the racing commission, may establish in accordance with this section a number of additional satellite facilities that does not exceed the number of satellite facilities that the first track did not establish. However, no more than fourteen satellite facilities may be established in this state.

(C) Except as otherwise provided in this division, each permit holder in this state shall allow the races that it conducts, and the races conducted outside this state that it receives as a simulcast host, to be simulcast to all satellite facilities operating in this state and shall take all action necessary to supply its simulcast and wagering information to these satellite facilities. A permit holder at a track where the average daily amount wagered for all race meetings during calendar year 1990 did not exceed two hundred fifty thousand dollars may elect not to simulcast its races to the satellite facilities. If a permit holder at such a track chooses to simulcast its races to satellite facilities, it shall allow its races to be simulcast to all satellite facilities operating in this state. Except as otherwise provided in this division, each satellite facility shall receive simulcasts of and conduct pari-mutuel wagering on all live racing programs being conducted at any track in this state and on all agreed simulcast racing programs, as provided in division (D) of section 3769.089 of the Revised Code, conducted in other states that are received by simulcast in this state, without regard to the breed of horse competing in the race or the time of day of the race.

No satellite facility may receive simulcasts of horse races during the same hours that a county fair or independent fair located within the same county as the satellite facility is conducting pari-mutuel wagering on horse races at that county or independent fair.

Except as otherwise provided in this division, the commission shall not approve the establishment of a satellite facility within a radius of fifty miles of any track. The commission may approve the establishment of a satellite facility at a location within a radius of at least thirty-five but not more than fifty miles from one or more tracks if all of the holders of permits issued for those tracks consent in writing to the establishment of the satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of thirty-five miles of more than one race track if all holders of permits issued for those tracks consent in writing to the establishment of the satellite facility and, if the tracks are located completely within one county and the proposed satellite facility will be located within

that county, if both the legislative authority of the municipal corporation in that county with the largest population, and the appropriate legislative authority that is required to approve the satellite facility under division (A)(1) of this section, approve the establishment of the new satellite facility. The commission may approve the establishment of a satellite facility at a location within a radius of less than twenty miles from an existing satellite facility if the owner of the existing satellite facility consents in writing to the establishment of the new satellite facility.

A satellite facility shall not receive simulcasts of horse races conducted outside this state on any day when no simulcast host is operating.

(D) Each simulcast host is responsible for paying all costs associated with the up-link for simulcasts. Each satellite facility is responsible for paying all costs associated with the reception of simulcasts and the operation of the satellite facility.

(E) All money wagered at the simulcast host, and all money wagered at all satellite facilities on races simulcast from the simulcast host, shall be included in a common pari-mutuel pool at the simulcast host. Except as otherwise provided in division (F)(6) of this section, the payment shall be the same for all winning tickets whether a wager is placed at a simulcast host or a satellite facility. Wagers placed at a satellite facility shall conform in denomination, character, terms, conditions, and in all other respects to wagers placed at the simulcast host for the same race.

(F)(1) As used in division (F) of this section, "effective rate" means the effective gross tax percentage applicable at the simulcast host, determined in accordance with sections 3769.08 and 3769.087 of the Revised Code, after combining the money wagered at the simulcast host with the money wagered at satellite facilities on races simulcast from the host track.

(2) For the purposes of calculating the amount of taxes to be paid and the amount of commissions to be retained by permit holders, fifty per cent of the amount wagered at satellite facilities on a live racing program simulcast from a simulcast host shall be allocated to the permit holder's live race wagering at that simulcast host that conducts the live racing program, and fifty per cent of the amount wagered at satellite facilities on simulcast racing programs conducted outside this state shall be allocated to, and apportioned equally among, the permit holders acting as simulcast hosts for the out-of-state simulcast racing programs. The remainder of the amount wagered at a satellite facility on races simulcast from a simulcast host shall be allocated to the satellite facility. In computing the tax due on the amount allocated to the satellite facility, if there is more than one simulcast host for out-of-state simulcast racing programs, the effective rate applied by the

satellite facility shall be the tax rate applicable to the simulcast host that pays the highest effective rate under section 3769.08 of the Revised Code on such simulcast racing programs.

(3) The portion of the amount wagered that is allocated to a simulcast host under division (F)(2) of this section shall be treated, for the purposes of calculating the amount of taxes to be paid and commissions to be retained, as having been wagered at the simulcast host on a live racing program or on a simulcast racing program. The permit holder at the simulcast host shall pay, by check, draft, or money order to the state tax commissioner, as a tax, the tax specified in sections 3769.08 and 3769.087 of the Revised Code, as applicable, except that the tax shall be calculated using the effective rate, and the permit holder may retain as a commission the percentage of the amount wagered as specified in those sections. From the tax collected, the tax commissioner shall make distributions to the respective funds, and in the proper amounts, as required by sections 3769.08 and 3769.087 of the Revised Code, as applicable.

(4) From the portion of the amount wagered that is allocated to a satellite facility under division (F)(2) of this section, the satellite facility may retain as a commission the amount specified in section 3769.08 or 3769.087 of the Revised Code, as applicable. The portion of the amount wagered that is allocated to a satellite facility shall be subject to tax at the effective rate as follows:

(a) One per cent of such amount allocated to the satellite facility shall be paid as a tax each racing day to the tax commissioner for deposit into the PASSPORT nursing home franchise permit fee fund.

(b) The remaining balance of the taxes calculated at the effective rate, after payment of the tax specified in division (F)(4)(a) of this section, shall be retained by the satellite facility to pay for those costs associated with the reception of the simulcasts.

(5) From the commission retained by a satellite facility after the deduction of the tax paid at the effective rate under division (F)(4) of this section, the satellite facility shall retain an amount equal to two and three-eighths per cent of the amount wagered that day on simulcast racing programs and the balance shall be divided as follows:

(a) One-half shall be paid to the owner of the satellite facility;

(b) One-half shall be paid to the state racing commission for deposit into the Ohio combined simulcast horse racing purse fund.

(6) In addition to the commission retained under this section, a satellite facility shall retain two and one-half per cent of the amount that would otherwise be paid on each winning wager unless the retention of this amount

would either cause or add to a minus pool. As used in division (F)(6) of this section, "minus pool" means a wagering pool in which a winning wager is paid off at less than one hundred ten per cent of the amount of the wager. The amount retained shall be paid each racing day to the tax commissioner for deposit into the ~~PASSPORT~~ nursing home franchise permit fee fund.

(7) At the close of each day, each satellite facility shall pay, by check, draft, or money order, or by wire transfer of funds, out of the money retained on that day to the collection and settlement agent the required fee to be paid by the simulcast host to the tracks, racing associations, or state regulatory agencies located outside this state for simulcasts into this state computed and based on one-half of the amount wagered at the satellite facility that day on interstate simulcast racing programs.

(G) No license, fee, or excise tax, other than as specified in division (F)(6) of this section, shall be assessed upon or collected from a satellite facility, the owners of a satellite facility, or the holders of permits issued for a track that has established a satellite facility by any county, township, municipal corporation, district, or other body having the authority to assess or collect a tax or fee.

(H) In no case shall that portion of the commissions designated for purses from satellite facilities be less than that portion of those commissions designated for purses at the simulcast host.

(I) It is the intention of the general assembly in enacting this section not to adversely affect the amounts paid into the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code. Therefore, each track that acts as a simulcast host under this section shall calculate, on a semi-annual basis during calendar years 1994, 1995, and 1996, its average daily contribution to the Ohio thoroughbred race fund created under section 3769.083 of the Revised Code on those days on which the track conducted live horse racing. If this average daily contribution to the fund is less than the average daily contribution from the same track to the fund during the same six-month period of calendar year 1992, there shall be contributed to the fund an amount equal to the average daily shortfall multiplied by the number of days of live racing conducted during the six-month period in calendar year 1994, 1995, or 1996, as applicable. The amount of such contribution shall be allocated among the simulcast host, the purse program at the simulcast host, and the satellite facilities for which the track served as the simulcast host, on a pro rata basis in proportion to the amounts contributed by them to the fund during such six-month period in calendar year 1994, 1995, or 1996, as applicable.

Sec. 3770.03. (A) The state lottery commission shall promulgate rules

under which a statewide lottery may be conducted, which includes, and since the original enactment of this section has included, the authority for the commission to operate video lottery terminal games. Any reference in this chapter to tickets shall not be construed to in any way limit the authority of the commission to operate video lottery terminal games. Nothing in this chapter shall restrict the authority of the commission to promulgate rules related to the operation of games utilizing video lottery terminals as described in section 3770.21 of the Revised Code. The rules shall be promulgated pursuant to Chapter 119. of the Revised Code, except that instant game rules shall be promulgated pursuant to section 111.15 of the Revised Code but are not subject to division (D) of that section. Subjects covered in these rules shall include, but need not be limited to, the following:

(1) The type of lottery to be conducted;

(2) The prices of tickets in the lottery;

(3) The type of notices that shall appear on lottery tickets, including one that shall appear if the word "education" is used in any advertising for a statewide lottery, which must include information as to the percentage that lottery profits contribute to all education funding in the state;

(4) The number, nature, and value of prize awards, the manner and frequency of prize drawings, and the manner in which prizes shall be awarded to holders of winning tickets.

(B) The commission shall promulgate rules, in addition to those described in division (A) of this section, pursuant to Chapter 119. of the Revised Code under which a statewide lottery and statewide joint lottery games may be conducted. Subjects covered in these rules shall include, but not be limited to, the following:

(1) The locations at which lottery tickets may be sold and the manner in which they are to be sold. These rules may authorize the sale of lottery tickets by commission personnel or other licensed individuals from traveling show wagons at the state fair, and at any other expositions the director of the commission considers acceptable. These rules shall prohibit commission personnel or other licensed individuals from soliciting from an exposition the right to sell lottery tickets at that exposition, but shall allow commission personnel or other licensed individuals to sell lottery tickets at an exposition if the exposition requests commission personnel or licensed individuals to do so. These rules may also address the accessibility of sales agent locations to commission products in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C.A. 12101 et seq.

(2) The manner in which lottery sales revenues are to be collected,

including authorization for the director to impose penalties for failure by lottery sales agents to transfer revenues to the commission in a timely manner;

(3) The amount of compensation to be paid licensed lottery sales agents;

(4) The substantive criteria for the licensing of lottery sales agents consistent with section 3770.05 of the Revised Code, and procedures for revoking or suspending their licenses consistent with Chapter 119. of the Revised Code. If circumstances, such as the nonpayment of funds owed by a lottery sales agent, or other circumstances related to the public safety, convenience, or trust, require immediate action, the director may suspend a license without affording an opportunity for a prior hearing under section 119.07 of the Revised Code.

(5) Special game rules to implement any agreements signed by the governor that the director enters into with other lottery jurisdictions under division (J) of section 3770.02 of the Revised Code to conduct statewide joint lottery games. The rules shall require that the entire net proceeds of those games that remain, after associated operating expenses, prize disbursements, lottery sales agent bonuses, commissions, and reimbursements, and any other expenses necessary to comply with the agreements or the rules are deducted from the gross proceeds of those games, be transferred to the lottery profits education fund under division (B) of section 3770.06 of the Revised Code.

(6) Any other subjects the commission determines are necessary for the operation of video lottery terminal games, including the establishment of any fees, fines, or payment schedules.

(C) Chapter 2915. of the Revised Code does not apply to, affect, or prohibit lotteries conducted pursuant to this chapter.

(D) The commission may promulgate rules, in addition to those described in divisions (A) and (B) of this section, that establish standards governing the display of advertising and celebrity images on lottery tickets and on other items that are used in the conduct of, or to promote, the statewide lottery and statewide joint lottery games. Any revenue derived from the sale of advertising displayed on lottery tickets and on those other items shall be considered, for purposes of section 3770.06 of the Revised Code, to be related proceeds in connection with the statewide lottery or gross proceeds from statewide joint lottery games, as applicable.

(E)(1) The commission shall meet with the director at least once each month and shall convene other meetings at the request of the chairperson or any five of the members. No action taken by the commission shall be binding unless at least five of the members present vote in favor of the

action. A written record shall be made of the proceedings of each meeting and shall be transmitted forthwith to the governor, the president of the senate, the senate minority leader, the speaker of the house of representatives, and the house minority leader.

(2) The director shall present to the commission a report each month, showing the total revenues, prize disbursements, and operating expenses of the state lottery for the preceding month. As soon as practicable after the end of each fiscal year, the commission shall prepare and transmit to the governor and the general assembly a report of lottery revenues, prize disbursements, and operating expenses for the preceding fiscal year and any recommendations for legislation considered necessary by the commission.

Sec. 3770.031. The notice that the state lottery commission determines shall appear on lottery tickets under division (A)(3) of section 3770.03 of the Revised Code to provide information as to what percentage that lottery profits contribute to all education funding in the state also shall appear on any television advertising for the Ohio lottery and on the first page of the web site for the Ohio lottery.

Sec. 3770.05. (A) As used in this section, "person" means any person, association, corporation, partnership, club, trust, estate, society, receiver, trustee, person acting in a fiduciary or representative capacity, instrumentality of the state or any of its political subdivisions, or any other combination of individuals meeting the requirements set forth in this section or established by rule or order of the state lottery commission.

(B) The director of the state lottery commission may license any person as a lottery sales agent. No license shall be issued to any person or group of persons to engage in the sale of lottery tickets as the person's or group's sole occupation or business.

Before issuing any license to a lottery sales agent, the director shall consider all of the following:

(1) The financial responsibility and security of the applicant and the applicant's business or activity;

(2) The accessibility of the applicant's place of business or activity to the public;

(3) The sufficiency of existing licensed agents to serve the public interest;

(4) The volume of expected sales by the applicant;

(5) Any other factors pertaining to the public interest, convenience, or trust.

(C) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall

suspend or revoke, a license if the applicant or licensee:

(1) Has been convicted of a felony or has been convicted of a crime involving moral turpitude;

(2) Has been convicted of an offense that involves illegal gambling;

(3) Has been found guilty of fraud or misrepresentation in any connection;

(4) Has been found to have violated any rule or order of the commission; or

(5) Has been convicted of illegal trafficking in supplemental nutrition assistance program benefits.

(D) Except as otherwise provided in division (F) of this section, the director of the state lottery commission shall refuse to grant, or shall suspend or revoke, a license if the applicant or licensee is a corporation and any of the following applies:

(1) Any of the corporation's directors, officers, or controlling shareholders has been found guilty of any of the activities specified in divisions (C)(1) to (5) of this section;

(2) It appears to the director of the state lottery commission that, due to the experience, character, or general fitness of any director, officer, or controlling shareholder of the corporation, the granting of a license as a lottery sales agent would be inconsistent with the public interest, convenience, or trust;

(3) The corporation is not the owner or lessee of the business at which it would conduct a lottery sales agency pursuant to the license applied for;

(4) Any person, firm, association, or corporation other than the applicant or licensee shares or will share in the profits of the applicant or licensee, other than receiving dividends or distributions as a shareholder, or participates or will participate in the management of the affairs of the applicant or licensee.

(E)(1) The director of the state lottery commission shall refuse to grant a license to an applicant for a lottery sales agent license and shall revoke a lottery sales agent license if the applicant or licensee is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(2) The director shall refuse to grant a license to an applicant for a lottery sales agent license that is a corporation and shall revoke the lottery sales agent license of a corporation if the corporation is or has been convicted of a violation of division (A) or (C)(1) of section 2913.46 of the Revised Code.

(F) The director of the state lottery commission shall request the bureau

of criminal identification and investigation, the department of public safety, or any other state, local, or federal agency to supply the director with the criminal records of any applicant for a lottery sales agent license, and may periodically request the criminal records of any person to whom a lottery sales agent license has been issued. At or prior to the time of making such a request, the director shall require an applicant or licensee to obtain fingerprint impressions on fingerprint cards prescribed by the superintendent of the bureau of criminal identification and investigation at a qualified law enforcement agency, and the director shall cause those fingerprint cards to be forwarded to the bureau of criminal identification and investigation, to the federal bureau of investigation, or to both bureaus. The commission shall assume the cost of obtaining the fingerprint cards.

The director shall pay to each agency supplying criminal records for each investigation a reasonable fee, as determined by the agency.

The commission may adopt uniform rules specifying time periods after which the persons described in divisions (C)(1) to (5) and (D)(1) to (4) of this section may be issued a license and establishing requirements for those persons to seek a court order to have records sealed in accordance with law.

(G)(1) Each applicant for a lottery sales agent license shall do both of the following:

(a) Pay fees to the state lottery commission, ~~at the time the application is submitted, a fee in an amount that the director of the state lottery commission determines if required by rule adopted by the director under Chapter 119. of the Revised Code and that the controlling board approves the fees;~~

(b) Prior to approval of the application, obtain a surety bond in an amount the director determines by rule adopted under Chapter 119. of the Revised Code or, alternatively, with the director's approval, deposit the same amount into a dedicated account for the benefit of the state lottery. The director also may approve the obtaining of a surety bond to cover part of the amount required, together with a dedicated account deposit to cover the remainder of the amount required.

A surety bond may be with any company that complies with the bonding and surety laws of this state and the requirements established by rules of the commission pursuant to this chapter. A dedicated account deposit shall be conducted in accordance with policies and procedures the director establishes.

A surety bond, dedicated account, or both, as applicable, may be used to pay for the lottery sales agent's failure to make prompt and accurate payments for lottery ticket sales, for missing or stolen lottery tickets, ~~or~~ for

damage to equipment or materials issued to the lottery sales agent, or to pay for expenses the commission incurs in connection with the lottery sales agent's license.

(2) A lottery sales agent license is effective for one year.

A licensed lottery sales agent, on or before the date established by the director, shall renew the agent's license and provide at that time evidence to the director that the surety bond, dedicated account deposit, or both, required under division (G)(1)(b) of this section has been renewed or is active, whichever applies.

Before the commission renews a lottery sales agent license, the lottery sales agent shall submit a renewal fee to the commission ~~in an amount that the director determines, if one is required~~ by rule adopted by the director under Chapter 119. of the Revised Code and ~~that~~ the controlling board approves the renewal fee. The renewal fee shall not exceed the actual cost of administering the license renewal and processing changes reflected in the renewal application. The renewal of the license is effective for up to one year.

(3) A lottery sales agent license shall be complete, accurate, and current at all times during the term of the license. Any changes to an original license application or a renewal application may subject the applicant or lottery sales agent, as applicable, to paying an administrative fee that shall be in an amount that the director determines by rule adopted under Chapter 119. of the Revised Code, that the controlling board approves, and that shall not exceed the actual cost of administering and processing the changes to an application.

(4) The relationship between the commission and a lottery sales agent is one of trust. A lottery sales agent collects funds on behalf of the commission through the sale of lottery tickets for which the agent receives a compensation.

(H) Pending a final resolution of any question arising under this section, the director of the state lottery commission may issue a temporary lottery sales agent license, subject to the terms and conditions the director considers appropriate.

(I) If a lottery sales agent's rental payments for the lottery sales agent's premises are determined, in whole or in part, by the amount of retail sales the lottery sales agent makes, and if the rental agreement does not expressly provide that the amount of those retail sales includes the amounts the lottery sales agent receives from lottery ticket sales, only the amounts the lottery sales agent receives as compensation from the state lottery commission for selling lottery tickets shall be considered to be amounts the lottery sales

agent receives from the retail sales the lottery sales agent makes, for the purpose of computing the lottery sales agent's rental payments.

Sec. 3772.032. (A) The permanent joint committee on gaming and wagering is established. The committee consists of six members. The speaker of the house of representatives shall appoint to the committee three members of the house of representatives and the president of the senate shall appoint to the committee three members of the senate. Not more than two members appointed from each chamber may be members of the same political party. The chairperson shall be from the opposite ~~party~~ house as the chairperson of the joint committee on agency rule review. If the chairperson is to be from the house of representatives, the speaker of the house of representatives shall designate a member as the chairperson and the president of the senate shall designate a member as the vice-chairperson. If the chairperson is to be from the senate, the president of the senate shall designate a member as the chairperson and the speaker of the house of representatives shall designate a member as the vice-chairperson.

(B) The committee shall:

(1) Review all constitutional amendments, laws, and rules governing the operation and administration of casino gaming and all authorized gaming and wagering activities and recommend to the general assembly and commission any changes it may find desirable with respect to the language, structure, and organization of those amendments, laws, or rules;

(2) Make an annual report to the governor and to the general assembly with respect ~~of~~ to the operation and administration of casino gaming;

(3) Review all changes of fees and penalties as provided in this chapter and rules adopted thereunder; and

(4) Study all proposed changes to the constitution and laws of this state and to the rules adopted by the commission governing the operation and administration of casino gaming, and report to the general assembly on their adequacy and desirability as a matter of public policy.

(C) Any study, or any expense incurred, in furtherance of the committee's objectives shall be paid for from, or out of, the casino control commission fund or other appropriation provided by law. The members shall receive no additional compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

Sec. 3772.062. (A) The executive director of the commission shall enter into an agreement with the department of alcohol and drug addiction services under which the department provides a program of gambling and addiction services on behalf of the commission.

(B) The executive director of the commission, in conjunction with the

department of alcohol and drug addiction services and the state lottery commission, shall establish, operate, and publicize an in-state, toll-free telephone number Ohio residents may call to obtain basic information about problem gambling, the gambling addiction services available to problem gamblers, and how a problem gambler may obtain help. The telephone number shall be staffed twenty-four hours per day, seven days a week, to respond to inquiries and provide that information. The costs of establishing, operating, and publicizing the telephone number shall be paid for with money in the problem casino gambling and addictions fund.

Sec. 3781.183. If the board of building standards adopts rules under sections 3781.06 to 3781.18 of the Revised Code concerning the requirements an adult group home seeking licensure as an adult care facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code, the board shall adopt the rules in consultation with the directors of mental health and of aging and any interested party designated by the directors of mental health and of aging.

Sec. 3791.043. If the board of building standards adopts rules under section 3791.04 of the Revised Code concerning the requirements an adult group home seeking licensure as an adult care facility must meet under section ~~3722.02~~ 5119.71 of the Revised Code, the board shall adopt the rules in consultation with the directors of mental health and aging and any interested party designated by the directors of mental health and aging.

Sec. 3793.04. The department of alcohol and drug addiction services shall develop, administer, and revise as necessary a comprehensive statewide alcohol and drug addiction services plan for the implementation of this chapter. The plan shall emphasize abstinence from the use of alcohol and drugs of abuse as the primary goal of alcohol and drug addiction services. The council on alcohol and drug addiction services shall advise the department in the development and implementation of the plan.

The plan shall provide for the allocation and distribution of ~~state and federal~~ funds appropriated to the department by the general assembly for service ~~services~~ furnished by alcohol and drug addiction programs under contract with boards of alcohol, drug addiction, and mental health services and for distribution of the funds to such boards. The ~~plan~~ department shall exclude from the allocation and distribution any funds that are transferred to the department of job and family services to pay the nonfederal share of alcohol and drug addiction services covered by the medicaid program.

The plan shall specify the methodology that the department will use for determining how the funds will be allocated and distributed. A portion of the funds shall be allocated on the basis of the ratio of the population of each

alcohol, drug addiction, and mental health service district to the total population of the state as determined from the most recent federal census or the most recent official estimate made by the United States census bureau.

The plan shall ensure that alcohol and drug addiction services of a high quality are accessible to, and responsive to the needs of, all persons, especially those who are members of underserved groups, including, but not limited to, African Americans, Hispanics, native Americans, Asians, juvenile and adult offenders, women, and persons with special services needs due to age or disability. The plan shall include a program to promote and protect the rights of those who receive services.

To aid in formulating the plan and in evaluating the effectiveness and results of alcohol and drug addiction services, the department, in consultation with the department of mental health, shall establish and maintain an information system or systems. The department of alcohol and drug addiction services shall specify the information that must be provided by boards of alcohol, drug addiction, and mental health services and by alcohol and drug addiction programs for inclusion in the system. The department shall not collect any personal information from the boards except as required or permitted by state or federal law for purposes related to payment, health care operations, program and service evaluation, reporting activities, research, system administration, and oversight.

In consultation with boards, programs, and persons receiving services, the department shall establish guidelines for the use of ~~state and federal funds allocated and distributed under this section~~ and for the boards' development of plans for services required by sections 340.033 and 3793.05 of the Revised Code.

In any fiscal year, the department shall spend, or allocate to boards, for methadone maintenance programs or any similar programs not more than eight per cent of the total amount appropriated to the department for the fiscal year.

Sec. 3793.06. (A) ~~The department of alcohol and drug addiction services shall evaluate and certify all~~ Each alcohol and drug addiction ~~programs in the state. Each~~ program shall apply to the department of alcohol and drug addiction services for certification. No program shall be eligible to receive state or federal funds unless it has been certified by the department.

(B) No person shall represent in any manner that a program is certified by the department if the program is not certified at the time the representation is made.

(C) Pursuant to Chapter 119. of the Revised Code and in consultation with members or representatives of boards of alcohol, drug addiction, and

mental health services, programs, individuals who receive alcohol and drug addiction services, and the department of mental health, the department shall adopt rules that establish all of the following:

(1) Minimum standards for the operation of programs, including, but not limited to, the following:

(a) Requirements regarding physical facilities of programs;

(b) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;

(c) Requirements regarding the rights of recipients of services and procedures to protect these rights.

(2) Standards for evaluating programs;

(3) Standards and procedures for granting full or conditional certification to a program;

(4) Standards and procedures for revoking the certification of a program that does not continue to meet the minimum standards established pursuant to this section.

(D) Rules adopted under division (C) of this section shall specify the limitations to be placed on a program that is granted conditional certification.

(E) The department may visit and evaluate any program to determine whether it meets the minimum standards for certification ~~established pursuant to division (C) of this section~~. In the case of a program that has a contract with or proposes to contract with a board of alcohol, drug addiction, and mental health services, the department shall conduct the visit and evaluation in cooperation with the board. ~~¶~~

(F) Subject to section 3793.061 of the Revised Code, the department shall determine whether an applicant's program meets the minimum standards for certification. If the department determines that the program meets the minimum standards, it shall certify or recertify the program.

~~(F)~~ (G) If the department determines that a program that has a contract with a board or proposes to contract with a board does not meet the minimum standards for certification, it shall identify the areas in which the program does not meet the standards, specify what action is necessary to meet the standards, and offer technical assistance to the board to enable it to assist the program in meeting the standards. The department shall give the program a reasonable time within which to demonstrate that the program meets the minimum standards or to bring the program into compliance with the standards. If the department concludes that the program continues to fail to meet minimum standards, it shall deny certification and may request that the board reallocate the funds that the board is allocating to that program to

another program that is certified. If the board does not reallocate the funds within a reasonable time, the department may withhold from the board the funds that the board is allocating to the program and allocate the funds directly to a recovery program certified by the department.

The department shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this division. The rules shall specify the notice and hearing procedures to be followed prior to denial of certification or reallocation of funds.

~~(G)~~(H) The department may withhold from a board all or part of the state and federal funds allocated for a program certified under this section in the event of failure of that program to comply with this chapter, Chapter 340. of the Revised Code, rules adopted by the department, or other provisions of state or federal law, including federal regulations.

If the department proposes to withhold funds, it shall identify the areas of the program's noncompliance and the action necessary to achieve compliance and shall offer technical assistance to the board to enable it to assist the program to achieve compliance. The department shall allow a reasonable time within which the board or program shall demonstrate that the program is in compliance or the program shall bring itself into compliance. Before withholding funds, the department shall hold a hearing on the question of whether the program is in, or can be brought into, compliance. If, based on the hearing and other evidence, the department determines that compliance has not been, or cannot be, achieved, the department may withhold the funds and allocate all or part of the withheld funds to a certified program that is in compliance. That program shall use the funds to provide the services of the program that is not in compliance, until such time as it is in compliance.

The department shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.

~~(H)~~(I) The department shall maintain a current list of alcohol and drug addiction programs certified by the department under division (A) of this section and shall provide a copy of the current list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list of certified alcohol and drug addiction programs shall identify each certified program by its name, its address, and the county in which it is located.

Sec. 3793.061. (A) In lieu of a determination by the department of alcohol and drug addiction services of whether an alcohol and drug addiction program satisfies the standards for certification under section 3793.06 of the Revised Code, the department shall accept appropriate

accreditation of an applicant's alcohol and other drug addiction services, integrated mental health and alcohol and other drug addiction services, or integrated alcohol and other drug addiction and physical health services being provided in this state from any of the following national accrediting organizations as evidence that the applicant satisfies the standards for certification:

(1) The joint commission;

(2) The commission on accreditation of rehabilitation facilities;

(3) The council on accreditation.

(B) If the department determines that an applicant's accreditation is current, is appropriate for the program for which the applicant is seeking certification, and the applicant meets any other requirements established under this section or in rules adopted under this section, the department shall certify or recertify the program. Except as provided in division (C)(2) of this section, the department shall issue the certification or recertification without further evaluation of the program.

(C) For purposes of this section, all of the following apply:

(1) The department may review the accrediting organizations listed in division (A) of this section to evaluate whether the accreditation standards and processes used by the organizations are consistent with service delivery models the department considers appropriate for alcohol and other drug addiction services, physical health services, or both. The department may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The department may visit or otherwise evaluate an alcohol and drug addiction program at any time based on cause, including complaints made by or on behalf of consumers and confirmed or alleged deficiencies brought to the attention of the department.

(3) The department shall require an alcohol and drug addiction program to notify the department not later than ten days after any change in the program's accreditation status. The program may notify the department by providing a copy of the relevant document the program received from the accrediting organization.

(4) The department shall require an alcohol and drug addiction program to submit to the department reports of major unusual incidents.

(5) The department may require an alcohol and drug addiction program to submit to the department cost reports pertaining to the program.

(D) The department shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the department shall do all of the following:

(1) Specify the documentation that must be submitted as evidence of holding appropriate accreditation;

(2) Establish a process by which the department may review the accreditation standards and processes used by the national accrediting organizations listed in division (A) of this section;

(3) Specify the circumstances under which reports of major unusual incidents and program cost reports must be submitted to the department;

(4) Specify the circumstances under which the department may visit or otherwise evaluate an alcohol and drug addiction program for cause;

(5) Establish a process by which the department, based on deficiencies identified as a result of visiting or evaluating an alcohol drug addiction program under division (C)(2) of this section, may take any of a range of corrective actions, with the most stringent being revocation of the program's certification.

Sec. 3793.21. (A) As used in this section, "administrative function" means a function related to one or more of the following:

(1) Continuous quality improvement;

(2) Utilization review;

(3) Resource development;

(4) Fiscal administration;

(5) General administration;

(6) Any other function related to administration that is required by Chapter 340. of the Revised Code.

(B) Each board of alcohol, drug addiction, and mental health services shall submit an annual report to the department of alcohol and drug addiction services specifying how the board used ~~state and federal~~ the funds allocated and distributed to the board, ~~according to the methodology the department specifies~~ under section 3793.04 of the Revised Code; for administrative functions in the year preceding the report's submission. The director of alcohol and drug addiction shall establish the date by which the report must be submitted each year.

Sec. 3901.3814. Sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code do not apply to the following:

(A) Policies offering coverage that is regulated under Chapters 3935. and 3937. of the Revised Code;

(B) An employer's self-insurance plan and any of its administrators, as defined in section 3959.01 of the Revised Code, to the extent that federal law supersedes, preempts, prohibits, or otherwise precludes the application of any provisions of those sections to the plan and its administrators;

(C) A third-party payer for coverage provided under the medicare

advantage program operated under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(D) A third-party payer for coverage provided under the medicaid program operated under Title XIX of the "Social Security Act," except that if a federal waiver applied for under section 5111.178 of the Revised Code is granted or the director of job and family services determines that this provision can be implemented without a waiver, sections 3901.38 and 3901.381 to 3901.3813 of the Revised Code apply to claims submitted electronically or non-electronically that are made with respect to coverage of medicaid recipients by health insuring corporations licensed under Chapter 1751. of the Revised Code, instead of the prompt payment requirements of 42 C.F.R. 447.46;

(E) A third-party payer for coverage provided under the tricare program offered by the United States department of defense.

~~(F) A third-party payer for coverage provided under the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~

Sec. 3901.56. An insurer may offer a wellness or health improvement program that provides rewards or incentives, including merchandise; gift cards; debit cards; premium discounts or rebates; contributions to a health savings account; modifications to copayment, deductible, or coinsurance amounts; or any combination of these incentives, to encourage participation or to reward participation in the program.

A wellness or health improvement program offered by an insurer under this section shall not be construed to violate division (E) of section 1751.31 or division (G) of section 3901.21 of the Revised Code if the program is disclosed in the policy or plan.

The insured may be required to provide verification, such as a statement from their physician, that a medical condition makes it unreasonably difficult or medically inadvisable for the individual to participate in the wellness or health improvement program.

Nothing in this section shall prohibit an insurer from offering incentives or rewards to members for adherence to wellness or health improvement programs if otherwise allowed by federal law.

Nothing under division (C)(1) of section 3923.571 or section 3924.25 of the Revised Code shall be construed as prohibiting an insurer from offering a wellness or health improvement program or restricting the amount an employee is charged for coverage under a group policy after the application of any premium discounts or rebates, or modifying otherwise applicable copayments or deductibles for adherence to wellness or health improvement

programs.

For purposes of this section, "insurer" means a life insurance company, sickness and accident insurer, multiple employer welfare arrangement, public employee benefit plan, or health insuring corporation.

Sec. 3903.01. As used in sections 3903.01 to 3903.59 of the Revised Code:

(A) "Admitted assets" means investment in assets which will be admitted by the superintendent of insurance pursuant to the law of this state.

(B) "Affiliate" has the same meaning as "affiliate of" or "affiliated with," as defined in section 3901.32 of the Revised Code.

(C) "Assets" means all property, real and personal, of every nature and kind whatsoever or any interest therein.

~~(C)~~(D) "Ancillary state" means any state other than a domiciliary state.

~~(D)~~(E) "Commodity contract" means any of the following:

(1) A contract for the purchase or sale of a commodity for future delivery on, or subject to the rules of, a board of trade designated as a contract market by the commodity futures trading commission under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended, or a board of trade outside the United States;

(2) An agreement that is subject to regulation under section 19 of the "Commodity Exchange Act," 7 U.S.C. 23, as amended, and that is commonly known to the commodities trade as a margin account, margin contract, leverage account, or leverage contract;

(3) An agreement or transaction that is subject to regulation under section 4c(b) of the "Commodity Exchange Act," 7 U.S.C. 6c(b), as amended, and that is commonly known to the commodities trade as a commodity option;

(4) Any combination of agreements or transactions described in division (E) of this section;

(5) Any option to enter into an agreement or transaction described in division (E) of this section.

(F) "Creditor" means a person having any claim, whether matured or unmatured, liquidated or unliquidated, secured or unsecured, absolute, fixed, or contingent.

~~(E)~~(G) "Delinquency proceeding" means any proceeding commenced against an insurer for the purpose of liquidating, rehabilitating, reorganizing, or conserving the insurer, and any summary proceeding under section 3903.09 or 3903.10 of the Revised Code. "Formal delinquency proceeding" means any liquidation or rehabilitation proceeding.

~~(F)~~(H) "Doing business" includes any of the following acts, whether

effected by mail or otherwise:

(1) The issuance or delivery of contracts of insurance to persons resident in this state;

(2) The solicitation of applications for such contracts, or other negotiations preliminary to the execution of such contracts;

(3) The collection of premiums, membership fees, assessments, or other consideration for such contracts;

(4) The transaction of matters subsequent to execution of such contracts and arising out of them;

(5) Operating under a license or certificate of authority, as an insurer, issued by the department of insurance.

~~(G)~~(I) "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

~~(H)~~(J) "Fair consideration" is given for property or obligation when either of the following apply:

(1) When in exchange for such property or obligation, as a fair equivalent therefor, and in good faith, property is conveyed, services are rendered, an obligation is incurred, or an antecedent debt is satisfied;

(2) When such property or obligation is received in good faith to secure a present advance or antecedent debt in an amount not disproportionately small as compared to the value of the property or obligation obtained.

~~(I)~~(K) "Foreign country" means any other jurisdiction not in any state.

~~(J)~~(L) "Forward contract" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(M) "Guaranty association" means the Ohio insurance guaranty association created by section 3955.06 of the Revised Code and any other similar entity hereafter created by the general assembly for the payment of claims of insolvent insurers. "Foreign guaranty association" means any similar entities now in existence in or hereafter created by the legislature of any other state.

~~(K)~~(N) "Insolvency" or "insolvent" means:

(1) For an insurer issuing only assessable fire insurance policies either of the following:

(a) The inability to pay any obligation within thirty days after it becomes payable;

(b) If an assessment is made within thirty days after such date, the inability to pay the obligation thirty days following the date specified in the first assessment notice issued after the date of loss.

(2) For any other insurer, that it is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities plus the greater of either of the following:

- (a) Any capital and surplus required by law for its organization;
- (b) The total par or stated value of its authorized and issued capital stock.

(3) As to any insurer licensed to do business in this state as of the effective date of sections 3903.01 to 3903.59 of the Revised Code that does not meet the standard established under division ~~(K)~~(N)(2) of this section, the term "insolvency" or "insolvent" means, for a period not to exceed three years from the effective date of sections 3903.01 to 3903.59 of the Revised Code, that it is unable to pay its obligations when they are due or that its admitted assets do not exceed its liabilities plus any required capital contribution ordered by the superintendent under provisions of Title XXXIX of the Revised Code.

(4) For purposes of divisions ~~(K)~~(N)(2) to (4) of this section, "liabilities" includes, but is not limited to, reserves required by statute or by rules of the superintendent or specific requirements imposed by the superintendent upon a subject company at the time of admission or subsequent thereto.

~~(H)~~(O) "Insurer" means any person who has done, purports to do, is doing, or is licensed to do an insurance business, and is or has been subject to the authority of, or to liquidation, rehabilitation, reorganization, supervision, or conservation by, any insurance commissioner, superintendent, or equivalent official. For purposes of sections 3903.01 to 3903.59 of the Revised Code, any other persons included under section 3903.03 of the Revised Code are deemed to be insurers.

~~(M)~~(P) "Netting agreement" means:

(1) A contract or agreement, including a master agreement, and any terms and conditions incorporated by reference in such a contract or agreement, that provides for the netting, liquidation, setoff, termination, acceleration, or close out under or in connection with a qualified financial contract, or any present or future payment or delivery obligations or entitlements under a qualified financial contract, including liquidation or close-out values relating to those obligations or entitlements;

(2) A master agreement, together with all schedules, confirmations, definitions, and addenda to the agreement and transactions under the agreement, which shall be treated as one netting agreement, and any bridge agreement for one or more master agreements;

(3) Any security agreement or arrangement, credit support document, or guarantee or reimbursement obligation related to any contract or agreement

described in division (P) of this section.

Any contract or agreement described in division (P) of this section relating to agreements or transactions that are not qualified financial contracts shall be deemed to be a netting agreement only with respect to those agreements or transactions that are qualified financial contracts.

(Q) "Preferred claim" means any claim with respect to which the terms of sections 3903.01 to 3903.59 of the Revised Code accord priority of payment from the assets of the insurer.

~~(N)~~(R) "Qualified financial contract" means any commodity contract, forward contract, repurchase agreement, securities contract, swap agreement, and any similar agreement that the superintendent may determine by rule or order to be a qualified financial contract for purposes of this chapter.

(S) "Reciprocal state" means any state other than this state in which in substance and effect division (A) of section 3903.18, and sections 3903.52, 3903.53, and 3903.55 to 3903.57 of the Revised Code are in force, in which provisions are in force requiring that the superintendent or equivalent official be the receiver, liquidator, rehabilitator, or conservator of a delinquent insurer, and in which some provision exists for the avoidance of fraudulent conveyances and preferential transfers.

~~(O)~~(T) "Repurchase agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(U) "Secured claim" means any claim secured by mortgage, trust deed, security agreement, pledge, deposit as security, escrow, or otherwise, but not including special deposit claims or claims against assets. The term also includes claims which have become liens upon specific assets by reason of judicial process.

~~(P)~~(V) "Securities contract" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(W) "Special deposit claim" means any claim secured by a deposit made pursuant to statute for the security or benefit of a limited class or classes of persons, but not including any claim secured by assets.

~~(Q)~~(X) "State" has the meaning set forth in division (G) of section 1.59 of the Revised Code.

~~(R)~~(Y) "Superintendent" or "superintendent of insurance" means the superintendent of insurance of this state, or, when the context requires, the superintendent or commissioner of insurance, or equivalent official, of another state.

~~(S)~~(Z) "Swap agreement" has the same meaning as in the federal "Deposit Insurance Act," 64 Stat. 884, 12 U.S.C. 1821(e)(8)(D), as now and hereafter amended.

(AA) "Transfer" includes the sale and every other and different mode, direct or indirect, of disposing of or of parting with property or with an interest in property, or with the possession of property or of fixing a lien upon property or upon an interest in property, absolutely or conditionally, voluntarily, or by or without judicial proceedings. The retention of a security title to property delivered to a debtor shall be deemed a transfer suffered by the debtor.

Sec. 3903.301. (A) Notwithstanding any other provision under sections 3903.01 to 3903.59 of the Revised Code, no person shall be stayed or prohibited from exercising any of the following rights:

(1) A contractual right to cause the termination, liquidation, acceleration, or close out of obligations under, or in connection with, a netting agreement or qualified financial contract with an insurer because of either of the following:

(a) The insolvency, financial condition, or default of the insurer at any time;

(b) The commencement of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code.

(2) Any right under a pledge, security, collateral, reimbursement, or guarantee agreement or arrangement or any similar security arrangement or credit enhancement relating to a netting agreement or qualified financial contract;

(3) Subject to section 3903.30 of the Revised Code, any right to set off or net out any termination value, payment amount, or other transfer obligation arising under or in connection with a qualified financial contract in which the counterparty or its guarantor is organized under the laws of the United States, a state, or a foreign jurisdiction that the securities valuation office of the national association of insurance commissioners approves as eligible for netting.

(B) If a counterparty to a netting agreement or qualified financial contract with an insurer that is subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code terminates, liquidates, accelerates, or closes out the agreement or contract, damages shall be measured as of the date or dates of the termination, liquidation, acceleration, or close out. The amount of a claim for damages shall be actual direct compensatory damages.

(C) Upon termination of a netting agreement or qualified financial

contract, any net or settlement amount that a nondefaulting party owes to an insurer against which an application or petition has been filed under sections 3903.01 to 3903.59 of the Revised Code shall be transferred to, or on the order of, the receiver for the insurer.

This division applies regardless of whether the insurer is the defaulting party and applies notwithstanding any walkaway clause in the netting agreement or qualified financial contract.

For purposes of this division, a limited two-way payment or first method provision in a netting agreement or qualified financial contract with a defaulting insurer shall be deemed to be a full two-way payment or second method provision as against the defaulting insurer.

Any property or amount transferred under this division shall be a general asset of the insurer except to the extent it is subject to a secondary lien or encumbrance, or to rights of netting or setoff.

(D) In transferring a netting agreement or qualified financial contract of an insurer that is subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code, the receiver shall do either of the following:

(1) Transfer to one party, other than an insurer subject to a proceeding under sections 3903.01 to 3903.59 of the Revised Code, all netting agreements and qualified financial contracts between a counterparty, or any affiliate of the counterparty, and the insurer that is the subject of the proceeding. The transfer shall include all rights and obligations of each party under each netting agreement and qualified financial contract, and all property, including any guarantees or other credit enhancement, securing any claims of the parties under each agreement or contract.

(2) Transfer none of the netting agreements or qualified financial contracts, including the rights, obligations, and property associated with those agreements and contracts as described in division (D)(1) of this section, with respect to the counterparty and any affiliate of the counterparty.

(E) If a receiver transfers a netting agreement or qualified financial contract, the receiver shall use its best efforts to notify any person who is a party to the transferred agreement or contract of the transfer by noon, of the receiver's local time, on the business day following the transfer.

(F)(1) Notwithstanding any other provision of sections 3903.01 to 3903.59 of the Revised Code and except as otherwise provided in division (F)(2) of this section, a receiver shall not avoid a transfer of money or other property that is made before the commencement of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code and that arises under or in connection with either of the following:

(a) A netting agreement or qualified financial contract:

(b) Any pledge, security, collateral, or guarantee agreement or other similar security arrangement or credit support document relating to a netting agreement or qualified financial contract.

(2) A receiver may avoid a transfer under sections 3903.26 to 3903.28 of the Revised Code if the transfer was made with actual intent to hinder, delay, or defraud the insurer, a receiver appointed for the insurer, or existing or future creditors.

(G)(1) In exercising any right of disaffirmance or repudiation with respect to a netting agreement or qualified financial contract to which an insurer is a party, the receiver for the insurer shall do either of the following:

(a) Disaffirm or repudiate all netting agreements and qualified financial contracts between the insurer and a counterparty or any affiliate of the counterparty:

(b) Disaffirm or repudiate none of those netting agreements or qualified financial contracts with respect to the counterparty or any affiliate of the counterparty.

(2) Notwithstanding any other provision of sections 3903.01 to 3903.59 of the Revised Code, if a counterparty's claim against the estate of the insurer arising from the receiver's disaffirmance or repudiation of a netting agreement or qualified financial contract has not been previously affirmed in the liquidation or immediately preceding conservation or rehabilitation case, that claim shall be considered as if it had arisen before the filing date of the petition for liquidation. If a conservation or rehabilitation proceeding is converted to a liquidation proceeding, that claim shall be considered as if it had arisen before the filing date of the petition for conservation or rehabilitation. The amount of the claim shall be the actual direct compensatory damages determined as of the date of the disaffirmance or repudiation.

(H) All rights of a counterparty under sections 3903.01 to 3903.59 of the Revised Code shall apply to netting agreements and qualified financial contracts entered into on behalf of the general account or separate accounts if the assets of each separate account are available only to counterparties to netting agreements and qualified financial contracts entered into on behalf of that separate account.

(I) This section shall not apply to the affiliates of an insurer that is the subject of a formal delinquency proceeding under sections 3903.01 to 3903.59 of the Revised Code.

(J) As used in this section:

(1) "Actual direct compensatory damages" includes normal and

reasonable costs of cover or other reasonable measures of damages utilized in the derivatives, securities, or other market for the contract and agreement claims. "Actual direct compensatory damages" does not include punitive or exemplary damages, damages for lost profit or lost opportunity, or damages for pain and suffering.

(2) "Business day" means any day, excluding Saturday, Sunday, and any day on which the New York stock exchange or the federal reserve bank of New York is closed.

(3) "Contractual right" includes any of the following:

(a) Any right set forth in a rule or bylaw of a derivatives clearing organization, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(9)(A), as amended; a multilateral clearing organization; a national securities exchange; a national securities association; a securities clearing agency; a contract market designated under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a derivatives transaction execution facility, including a swap execution facility, registered under the "Commodity Exchange Act," 7 U.S.C. 1 et seq., as amended; a security-based swap execution facility registered under the "Securities Exchange Act of 1934," 15 U.S.C. 78a et seq., as amended; or a board of trade, as defined in the "Commodity Exchange Act," 7 U.S.C. 1a(2);

(b) Any right set forth in a resolution of the governing board of any entity listed in division (J)(3)(a) of this section;

(c) Any right, regardless of whether evidenced in writing, arising under statutory law, common law, or law merchant, or by reason of normal business practice.

(4) "Receiver" means a receiver, conservator, rehabilitator, or liquidator, as applicable.

(5) "Walkaway clause" means a provision under which a party to a netting agreement or qualified financial contract that, after calculation of a value of a party's position or an amount due to or from one of the parties in accordance with its terms upon termination, liquidation, or acceleration of the netting agreement or qualified financial contract is not obligated to pay or does not have a payment obligation extinguished under the agreement or contract, in whole or in part, solely because the party is a nondefaulting party.

Sec. 3923.28. (A) Every policy of group sickness and accident insurance providing hospital, surgical, or medical expense coverage for other than specific diseases or accidents only, and delivered, issued for delivery, or renewed in this state on or after January 1, 1979, and that provides coverage for mental or emotional disorders, shall provide benefits for services on an

outpatient basis for each eligible person under the policy who resides in this state for mental or emotional disorders, or for evaluations, that are at least equal to five hundred fifty dollars in any calendar year or twelve-month period. The services shall be legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health, whether performed in an office, in a hospital, or in a community mental health facility so long as the hospital or community mental health facility is approved by the joint commission on accreditation of healthcare organizations, the council on accreditation for children and family services, or the rehabilitation accreditation commission; ~~or, until two years after June 6, 2001, certified by the department of mental health as being in compliance with standards established under division (H) of section 5119.01 of the Revised Code.~~

(B) Outpatient benefits offered under division (A) of this section shall be subject to reasonable contract limitations and may be subject to reasonable deductibles and co-insurance costs. Persons entitled to such benefit under more than one service or insurance contract may be limited to a single five-hundred-fifty-dollar outpatient benefit for services under all contracts.

(C) In order to qualify for participation under division (A) of this section, every facility specified in such division shall have in effect a plan for utilization review and a plan for peer review and every person specified in such division shall have in effect a plan for peer review. Such plans shall have the purpose of ensuring high quality patient care and effective and efficient utilization of available health facilities and services.

(D) Nothing in this section shall be construed to require an insurer to pay benefits which are greater than usual, customary, and reasonable.

(E)(1) Services performed under the clinical supervision of a health care professional identified in division (A) of this section, in order to be reimbursable under the coverage required in division (A) of this section, shall meet both of the following requirements:

(a) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(b) The plan shall be reviewed and approved by the health care

professional every three months.

(2) Payment of benefits for services reimbursable under division (E)(1) of this section shall not be restricted to services described in the treatment plan or conditioned upon standards of clinical supervision that are more restrictive than standards of a health care professional described in division (A) of this section, which at least equal the requirements of division (E)(1) of this section.

(F) The benefits provided by this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.281 of the Revised Code for diagnostic and treatment services for biologically based mental illnesses. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3923.281. (A) As used in this section:

(1) "Biologically based mental illness" means schizophrenia, schizoaffective disorder, major depressive disorder, bipolar disorder, paranoia and other psychotic disorders, obsessive-compulsive disorder, and panic disorder, as these terms are defined in the most recent edition of the diagnostic and statistical manual of mental disorders published by the American psychiatric association.

(2) "Policy of sickness and accident insurance" has the same meaning as in section 3923.01 of the Revised Code, but excludes any hospital indemnity, medicare supplement, long-term care, disability income, one-time-limited-duration policy of not longer than six months, supplemental benefit, or other policy that provides coverage for specific diseases or accidents only; any policy that provides coverage for workers' compensation claims compensable pursuant to Chapters 4121. and 4123. of the Revised Code; and any policy that provides coverage to beneficiaries enrolled in Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, known as the medical assistance program or medicaid, as provided by the Ohio department of job and family services under Chapter 5111. of the Revised Code; ~~and any policy that provides coverage to beneficiaries enrolled in the children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~

(B) Notwithstanding section 3901.71 of the Revised Code, and subject to division (E) of this section, every policy of sickness and accident insurance shall provide benefits for the diagnosis and treatment of biologically based mental illnesses on the same terms and conditions as, and shall provide benefits no less extensive than, those provided under the policy of sickness and accident insurance for the treatment and diagnosis of

all other physical diseases and disorders, if both of the following apply:

(1) The biologically based mental illness is clinically diagnosed by a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health.

(2) The prescribed treatment is not experimental or investigational, having proven its clinical effectiveness in accordance with generally accepted medical standards.

(C) Division (B) of this section applies to all coverages and terms and conditions of the policy of sickness and accident insurance, including, but not limited to, coverage of inpatient hospital services, outpatient services, and medication; maximum lifetime benefits; copayments; and individual and family deductibles.

(D) Nothing in this section shall be construed as prohibiting a sickness and accident insurance company from taking any of the following actions:

(1) Negotiating separately with mental health care providers with regard to reimbursement rates and the delivery of health care services;

(2) Offering policies that provide benefits solely for the diagnosis and treatment of biologically based mental illnesses;

(3) Managing the provision of benefits for the diagnosis or treatment of biologically based mental illnesses through the use of pre-admission screening, by requiring beneficiaries to obtain authorization prior to treatment, or through the use of any other mechanism designed to limit coverage to that treatment determined to be necessary;

(4) Enforcing the terms and conditions of a policy of sickness and accident insurance.

(E) An insurer that offers any policy of sickness and accident insurance is not required to provide benefits for the diagnosis and treatment of biologically based mental illnesses pursuant to division (B) of this section if all of the following apply:

(1) The insurer submits documentation certified by an independent member of the American academy of actuaries to the superintendent of insurance showing that incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to

increase by more than one per cent per year.

(2) The insurer submits a signed letter from an independent member of the American academy of actuaries to the superintendent of insurance opining that the increase described in division (E)(1) of this section could reasonably justify an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

(3) The superintendent of insurance makes the following determinations from the documentation and opinion submitted pursuant to divisions (E)(1) and (2) of this section:

(a) Incurred claims for diagnostic and treatment services for biologically based mental illnesses for a period of at least six months independently caused the insurer's costs for claims and administrative expenses for the coverage of all other physical diseases and disorders to increase by more than one per cent per year.

(b) The increase in costs reasonably justifies an increase of more than one per cent in the annual premiums or rates charged by the insurer for the coverage of all other physical diseases and disorders.

Any determination made by the superintendent under this division is subject to Chapter 119. of the Revised Code.

Sec. 3923.30. Every person, the state and any of its instrumentalities, any county, township, school district, or other political subdivisions and any of its instrumentalities, and any municipal corporation and any of its instrumentalities, which provides payment for health care benefits for any of its employees resident in this state, which benefits are not provided by contract with an insurer qualified to provide sickness and accident insurance, or a health insuring corporation, shall include the following benefits in its plan of health care benefits commencing on or after January 1, 1979:

(A) If such plan of health care benefits provides payment for the treatment of mental or nervous disorders, then such plan shall provide benefits for services on an outpatient basis for each eligible employee and dependent for mental or emotional disorders, or for evaluations, that are at least equal to the following:

(1) Payments not less than five hundred fifty dollars in a twelve-month period, for services legally performed by or under the clinical supervision of a physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery; a psychologist licensed under Chapter 4732. of the Revised Code; a professional clinical counselor, professional counselor, or independent social worker licensed

under Chapter 4757. of the Revised Code; or a clinical nurse specialist licensed under Chapter 4723. of the Revised Code whose nursing specialty is mental health, whether performed in an office, in a hospital, or in a community mental health facility so long as the hospital or community mental health facility is approved by the joint commission on accreditation of healthcare organizations, the council on accreditation for children and family services, or the rehabilitation accreditation commission, ~~or, until two years after June 6, 2001, certified by the department of mental health as being in compliance with standards established under division (H) of section 5119.01 of the Revised Code;~~

(2) Such benefit shall be subject to reasonable limitations, and may be subject to reasonable deductibles and co-insurance costs.

(3) In order to qualify for participation under this division, every facility specified in this division shall have in effect a plan for utilization review and a plan for peer review and every person specified in this division shall have in effect a plan for peer review. Such plans shall have the purpose of ensuring high quality patient care and effective and efficient utilization of available health facilities and services.

(4) Such payment for benefits shall not be greater than usual, customary, and reasonable.

(5)(a) Services performed by or under the clinical supervision of a health care professional identified in division (A)(1) of this section, in order to be reimbursable under the coverage required in division (A) of this section, shall meet both of the following requirements:

(i) The services shall be performed in accordance with a treatment plan that describes the expected duration, frequency, and type of services to be performed;

(ii) The plan shall be reviewed and approved by the health care professional every three months.

(b) Payment of benefits for services reimbursable under division (A)(5)(a) of the section shall not be restricted to services described in the treatment plan or conditioned upon standards of a licensed physician or licensed psychologist, which at least equal the requirements of division (A)(5)(a) of this section.

(B) Payment for benefits for alcoholism treatment for outpatient, inpatient, and intermediate primary care for each eligible employee and dependent that are at least equal to the following:

(1) Payments not less than five hundred fifty dollars in a twelve-month period for services legally performed by or under the clinical supervision of a health care professional identified in division (A)(1) of this section,

whether performed in an office, or in a hospital or a community mental health facility or alcoholism treatment facility so long as the hospital, community mental health facility, or alcoholism treatment facility is approved by the joint commission on accreditation of hospitals or certified by the department of health;

(2) The benefits provided under this division shall be subject to reasonable limitations and may be subject to reasonable deductibles and co-insurance costs.

(3) A health care professional shall every three months certify a patient's need for continued services performed by such facilities.

(4) In order to qualify for participation under this division, every facility specified in this division shall have in effect a plan for utilization review and a plan for peer review and every person specified in this division shall have in effect a plan for peer review. Such plans shall have the purpose of ensuring high quality patient care and efficient utilization of available health facilities and services. Such person or facilities shall also have in effect a program of rehabilitation or a program of rehabilitation and detoxification.

(5) Nothing in this section shall be construed to require reimbursement for benefits which is greater than usual, customary, and reasonable.

(C) The benefits provided by division (A) of this section for mental and emotional disorders shall not be reduced by the cost of benefits provided pursuant to section 3923.282 of the Revised Code for diagnostic and treatment services for biologically based mental illness. This section does not apply to benefits for diagnostic and treatment services for biologically based mental illnesses.

Sec. 3924.10. (A) The board of directors of the Ohio health reinsurance program may make recommendations to the superintendent of insurance, and the superintendent may adopt or amend by rule adopted in accordance with Chapter 119. of the Revised Code, the OHC basic, standard, and carrier reimbursement plans which, when offered by a carrier, are eligible for reinsurance under the program. The superintendent shall establish the form and level of coverage to be made available by carriers in their OHC plans. The plans shall include benefit levels, deductibles, coinsurance factors, exclusions, and limitations for the plans. The forms and levels of coverage shall specify which components of health benefit plans offered by a carrier may be reinsured. The OHC plans are subject to division (C) of section 3924.02 of the Revised Code and to the provisions in Chapters 1751., 1753., 3923., and any other chapter of the Revised Code that require coverage or the offer of coverage of a health care service or benefit.

(B) Prior to adopting any rule that makes changes to the OHC basic or

standard plan, the superintendent shall conduct an actuarial analysis of the cost impact of the proposed rule. ~~The superintendent may consider recommendations of the Ohio health care coverage and quality council established under section 3923.90 of the Revised Code.~~ The plans may include cost containment features including any of the following:

- (1) Utilization review of health care services, including review of the medical necessity of hospital and physician services;
- (2) Case management benefit alternatives;
- (3) Selective contracting with hospitals, physicians, and other health care providers;
- (4) Reasonable benefit differentials applicable to participating and nonparticipating providers;
- (5) Employee assistance program options that provide preventive and early intervention mental health and substance abuse services;
- (6) Other provisions for the cost-effective management of the plans.

(C) OHC plans established for use by health insuring corporations shall be consistent with the basic method of operation of such corporations.

(D) Each carrier shall certify to the superintendent of insurance, in the form and manner prescribed by the superintendent, that the OHC plans filed by the carrier are in substantial compliance with the provisions of the OHC plans designed or adopted under this section. Upon receipt by the superintendent of the certification, the carrier may use the certified plans.

(E) Each carrier shall, on and after sixty days after the date that the program becomes operational and as a condition of transacting business in this state, renew coverage provided to any individual or group under its OHC plans.

(F) The OHC plans in effect as of June 1, 2009, shall remain in effect until those plans are amended or new plans are adopted in accordance with this section.

Sec. 3937.41. (A) As used in this section:

(1) "Ambulance" has the same meaning as in section 4765.01 of the Revised Code and also includes private ambulance companies under contract to a municipal corporation, township, or county.

(2) "Emergency vehicle" means any of the following:

(a) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a municipal, township, or county department or public utility corporation and that is identified as such as required by law, the director of public safety, or local authorities;

(b) Any motor vehicle, as defined in section 4511.01 of the Revised Code, when commandeered by a police officer;

(c) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a qualified nonprofit corporation police department established pursuant to section 1702.80 of the Revised Code and that is identified as an emergency vehicle;

(d) Any vehicle, as defined in section 4511.01 of the Revised Code, that is an emergency vehicle of a proprietary police department or security department of a hospital operated by a public hospital agency or a nonprofit hospital agency that employs police officers under section 4973.17 of the Revised Code, and that is identified as an emergency vehicle.

(3) "Firefighter" means any regular, paid, member of a lawfully constituted fire department of a municipal corporation or township.

(4) "Law enforcement officer" means any of the following:

(a) A sheriff, deputy sheriff, constable, marshal, deputy marshal, municipal police officer, police officer of a township or joint township police district, state highway patrol trooper, or member of a police force employed by a metropolitan housing authority under division (D) of section 3735.31 of the Revised Code;

(b) A police officer employed by a qualified nonprofit police department pursuant to section 1702.80 of the Revised Code, or police officer employed by a proprietary police department or security department of a hospital operated by a public hospital agency or nonprofit hospital agency pursuant to section 4973.17 of the Revised Code;

(c) An officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;

(d) A veterans' home police officer appointed under section 5907.02 of the Revised Code;

(e) A member of a police force employed by a regional transit authority under division (Y) of section 306.35 of the Revised Code.

(5) "Motor vehicle accident" means any accident involving a motor vehicle which results in bodily injury to any person, or damage to the property of any person.

(6) "Investigator" means an investigator of the bureau of criminal identification and investigation as defined in section 2903.11 of the Revised Code.

(B) No insurer shall consider the circumstance that an applicant or policyholder has been involved in a motor vehicle accident while in the pursuit of the applicant's or policyholder's official duties as a law

enforcement officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, while operating a vehicle engaged in mowing or snow and ice removal as a county, township, or department of transportation employee, or while operating a vehicle while engaged in the pursuit of the applicant's or policyholder's official duties as a member of the motor carrier enforcement unit of the state highway patrol under section 5503.34 of the Revised Code, as a basis for doing either of the following:

(1) Refusing to issue or deliver a policy of insurance upon a private automobile, or increasing the rate to be charged for such a policy;

(2) Increasing the premium rate, canceling, or failing to renew an existing policy of insurance upon a private automobile.

(C) Any applicant or policyholder affected by an action of an insurer in violation of this section may appeal to the superintendent of insurance. After a hearing held upon not less than ten days' notice to the applicant or policyholder and to the insurer and if the superintendent determines that the insurer has violated this section, the superintendent may direct the issuance of a policy, decrease the premium rate on a policy, or reinstate insurance coverage.

(D) The employer of the law enforcement officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, except as otherwise provided in division (F) of this section, shall certify to the state highway patrol or law enforcement agency that investigates the accident whether the officer, firefighter, investigator, or operator of an emergency vehicle or ambulance, operator of a vehicle engaged in mowing or snow and ice removal, or operator of a vehicle who is a member of the motor carrier enforcement unit, was engaged in the performance of the person's official duties as such employee at the time of the accident. The employer shall designate an official authorized to make the certifications. The state highway patrol or law enforcement agency shall include the certification in any report of the accident forwarded to the department of public safety pursuant to sections 5502.11 and 5502.12 of the Revised Code and shall forward the certification to the department if received after the report of the accident has been forwarded to the department. The registrar of motor vehicles shall not include an accident in a certified abstract of information under division (A) of section 4509.05 of the Revised Code, if the person involved has been so certified as having been engaged in the performance of the person's official duties at the time of the accident.

(E) Division (B) of this section does not apply to an insurer whose

policy covers the motor vehicle at the time the motor vehicle is involved in an accident described in division (B) of this section.

(F) Division (B) of this section does not apply if an applicant or policyholder, on the basis of the applicant's or policyholder's involvement in an accident described in that division, is convicted of or pleads guilty or no contest to a violation of section 4511.19 of the Revised Code or a municipal OVI ordinance as defined in section 4511.181 of the Revised Code.

Sec. 3963.01. As used in this chapter:

(A) "Affiliate" means any person or entity that has ownership or control of a contracting entity, is owned or controlled by a contracting entity, or is under common ownership or control with a contracting entity.

(B) "Basic health care services" has the same meaning as in division (A) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

(C) "Contracting entity" means any person that has a primary business purpose of contracting with participating providers for the delivery of health care services.

(D) "Credentialing" means the process of assessing and validating the qualifications of a provider applying to be approved by a contracting entity to provide basic health care services, specialty health care services, or supplemental health care services to enrollees.

(E) "Edit" means adjusting one or more procedure codes billed by a participating provider on a claim for payment or a practice that results in any of the following:

(1) Payment for some, but not all of the procedure codes originally billed by a participating provider;

(2) Payment for a different procedure code than the procedure code originally billed by a participating provider;

(3) A reduced payment as a result of services provided to an enrollee that are claimed under more than one procedure code on the same service date.

(F) "Electronic claims transport" means to accept and digitize claims or to accept claims already digitized, to place those claims into a format that complies with the electronic transaction standards issued by the United States department of health and human services pursuant to the "Health Insurance Portability and Accountability Act of 1996," 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as those electronic standards are applicable to the parties and as those electronic standards are updated from time to time, and to electronically transmit those claims to the appropriate contracting entity,

payer, or third-party administrator.

(G) "Enrollee" means any person eligible for health care benefits under a health benefit plan, including an eligible recipient of medicaid under Chapter 5111. of the Revised Code, and includes all of the following terms:

(1) "Enrollee" and "subscriber" as defined by section 1751.01 of the Revised Code;

(2) "Member" as defined by section 1739.01 of the Revised Code;

(3) "Insured" and "plan member" pursuant to Chapter 3923. of the Revised Code;

(4) "Beneficiary" as defined by section 3901.38 of the Revised Code.

(H) "Health care contract" means a contract entered into, materially amended, or renewed between a contracting entity and a participating provider for the delivery of basic health care services, specialty health care services, or supplemental health care services to enrollees.

(I) "Health care services" means basic health care services, specialty health care services, and supplemental health care services.

(J) "Material amendment" means an amendment to a health care contract that decreases the participating provider's payment or compensation, changes the administrative procedures in a way that may reasonably be expected to significantly increase the provider's administrative expenses, or adds a new product. A material amendment does not include any of the following:

(1) A decrease in payment or compensation resulting solely from a change in a published fee schedule upon which the payment or compensation is based and the date of applicability is clearly identified in the contract;

(2) A decrease in payment or compensation that was anticipated under the terms of the contract, if the amount and date of applicability of the decrease is clearly identified in the contract;

(3) An administrative change that may significantly increase the provider's administrative expense, the specific applicability of which is clearly identified in the contract;

(4) Changes to an existing prior authorization, precertification, notification, or referral program that do not substantially increase the provider's administrative expense;

(5) Changes to an edit program or to specific edits if the participating provider is provided notice of the changes pursuant to division (A)(1) of section 3963.04 of the Revised Code and the notice includes information sufficient for the provider to determine the effect of the change;

(6) Changes to a health care contract described in division (B) of section

3963.04 of the Revised Code.

(K) "Participating provider" means a provider that has a health care contract with a contracting entity and is entitled to reimbursement for health care services rendered to an enrollee under the health care contract.

(L) "Payer" means any person that assumes the financial risk for the payment of claims under a health care contract or the reimbursement for health care services provided to enrollees by participating providers pursuant to a health care contract.

(M) "Primary enrollee" means a person who is responsible for making payments for participation in a health care plan or an enrollee whose employment or other status is the basis of eligibility for enrollment in a health care plan.

(N) "Procedure codes" includes the American medical association's current procedural terminology code, the American dental association's current dental terminology, and the centers for medicare and medicaid services health care common procedure coding system.

(O) "Product" means one of the following types of categories of coverage for which a participating provider may be obligated to provide health care services pursuant to a health care contract:

(1) A health maintenance organization or other product provided by a health insuring corporation;

(2) A preferred provider organization;

(3) Medicare;

(4) Medicaid ~~or the children's buy-in program established under section 5101.5211 to 5101.5216 of the Revised Code;~~

(5) Workers' compensation.

(P) "Provider" means a physician, podiatrist, dentist, chiropractor, optometrist, psychologist, physician assistant, advanced practice nurse, occupational therapist, massage therapist, physical therapist, professional counselor, professional clinical counselor, hearing aid dealer, orthotist, prosthetist, home health agency, hospice care program, or hospital, or a provider organization or physician-hospital organization that is acting exclusively as an administrator on behalf of a provider to facilitate the provider's participation in health care contracts. "Provider" does not mean a pharmacist, pharmacy, nursing home, or a provider organization or physician-hospital organization that leases the provider organization's or physician-hospital organization's network to a third party or contracts directly with employers or health and welfare funds.

(Q) "Specialty health care services" has the same meaning as in section 1751.01 of the Revised Code, except that it does not include any services

listed in division (B) of section 1751.01 of the Revised Code that are provided by a pharmacist or a nursing home.

(R) "Supplemental health care services" has the same meaning as in division (B) of section 1751.01 of the Revised Code, except that it does not include any services listed in that division that are provided by a pharmacist or nursing home.

Sec. 3963.11. (A) No contracting entity shall do any of the following:

(1) Offer to a provider ~~other than a hospital~~ a health care contract that includes a most favored nation clause;

(2) Enter into a health care contract with a provider ~~other than a hospital~~ that includes a most favored nation clause;

(3) Amend or renew an existing health care contract previously entered into with a provider ~~other than a hospital~~ so that the contract as amended or renewed adds or continues to include a most favored nation clause.

~~(B) This section shall not go into effect until three years after the effective date of this section.~~

~~(C)~~(B) As used in this section:

(1) "Contracting entity," "health care contract," "health care services," "participating provider," and "provider" have the same meanings as in section 3963.01 of the Revised Code.

(2) "Most favored nation clause" means a provision in a health care contract that does any of the following:

(a) Prohibits, or grants a contracting entity an option to prohibit, the participating provider from contracting with another contracting entity to provide health care services at a lower price than the payment specified in the contract;

(b) Requires, or grants a contracting entity an option to require, the participating provider to accept a lower payment in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(c) Requires, or grants a contracting entity an option to require, termination or renegotiation of the existing health care contract in the event the participating provider agrees to provide health care services to any other contracting entity at a lower price;

(d) Requires the participating provider to disclose the participating provider's contractual reimbursement rates with other contracting entities.

Sec. 4113.11. (A) As specified in division (B) of this section and except as provided in divisions (C) and ~~(F)~~(E) of this section, all employers that employ ten or more employees shall adopt and maintain a cafeteria plan that allows the employer's employees to pay for health insurance coverage by a

salary reduction arrangement as permitted under section 125 of the Internal Revenue Code.

(B) Employers shall comply with the requirements of division (A) of this section as follows:

(1) For employers that employ more than five hundred employees, by not later than January 1, 2011, or six months after the superintendent of insurance adopts rules as required by division ~~(E)~~(D) of this section, whichever is later;

(2) For employers that employ one hundred fifty to five hundred employees, by not later than July 1, 2011, or twelve months after the superintendent adopts rules as required by division ~~(E)~~(D) of this section, whichever is later;

(3) For employers that employ ten to one hundred forty-nine employees, by not later than January 1, 2012, or eighteen months after the superintendent adopts rules as required by division ~~(E)~~(D) of this section, whichever is later.

(C) This section shall not apply to employers that, through other means than provided under this section, offer health insurance coverage, reimburse for health insurance coverage, or provide employees with opportunities to pay for health insurance with pre-tax dollars through other salary reduction arrangements.

~~(D) The health care coverage and quality council created under section 3923.90 of the Revised Code shall make recommendations to the superintendent for both of the following:~~

~~(1) Development of strategies to educate, assist, and conduct outreach to employers to simplify administrative processes with respect to creating and maintaining cafeteria plans, including, but not limited to, providing employers with model cafeteria plan documents and technical assistance on creating and maintaining cafeteria plans that conform with state and federal law;~~

~~(2) Development of strategies to educate, assist, and conduct outreach to employees with respect to finding, selecting, and purchasing a health insurance plan to be paid for through their employer's cafeteria plan under this section.~~

~~(E)(1) The superintendent shall adopt rules in accordance with Chapter 119. of the Revised Code to implement and enforce this section, including the strategies recommended by the council pursuant to division (D) of this section.~~

(2) Prior to adopting rules under this division, the superintendent shall consult any federal agency that has oversight of cafeteria plans and

employee welfare benefit plans, including the internal revenue service and the United States department of labor, and receive written confirmation that the rules adopted will permit employers to establish cafeteria plans in accordance with federal law. The written confirmation shall include a determination that individual policies purchased pursuant to this section do not need to comply with the group market rules established by the "Health Insurance Portability and Accountability Act of 1996."

~~(F)~~(E) The requirement provided in division (A) of this section does not apply if the superintendent does not receive written confirmation pursuant to division ~~(E)~~(D)(2) of this section that individual policies purchased pursuant to this section do not need to comply with the group market rules established by the "Health Insurance Portability and Accountability Act of 1996."

~~(G)~~(F) Nothing in this section shall be construed as requiring an employer to establish a cafeteria plan in a manner that would violate federal law, including the "Employee Retirement Income Security Act of 1974," the "Consolidated Omnibus Budget Reconciliation Act of 1985," or the "Health Insurance Portability and Accountability Act of 1996."

~~(H)~~(G) As used in this section:

(1) "Cafeteria plan" has the same meaning as in section 125 of the Internal Revenue Code.

(2) "Employer" has the same meaning as in section 4113.51 of the Revised Code.

(3) "Employee" means an individual employed for consideration who works twenty-five or more hours per week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment, except for a public employee employed by a township or municipal corporation. In that case, "employee" means an individual hired with the expectation that the employee will work more than one thousand five hundred hours in any year unless full-time employment is defined differently in an applicable collective bargaining agreement.

Sec. 4113.61. (A)(1) If a subcontractor or material supplier submits an application or request for payment or an invoice for materials to a contractor in sufficient time to allow the contractor to include the application, request, or invoice in the contractor's own pay request submitted to an owner, the contractor, within ten calendar days after receipt of payment from the owner for improvements to property, shall pay to the:

(a) Subcontractor, an amount that is equal to the percentage of completion of the subcontractor's contract allowed by the owner for the amount of labor or work performed;

(b) Material supplier, an amount that is equal to all or that portion of the

invoice for materials which represents the materials furnished by the material supplier.

The contractor may reduce the amount paid by any retainage provision contained in the contract, invoice, or purchase order between the contractor and the subcontractor or material supplier, and may withhold amounts that may be necessary to resolve disputed liens or claims involving the work or labor performed or material furnished by the subcontractor or material supplier.

If the contractor fails to comply with division (A)(1) of this section, the contractor shall pay the subcontractor or material supplier, in addition to the payment due, interest in the amount of eighteen per cent per annum of the payment due, beginning on the eleventh day following the receipt of payment from the owner and ending on the date of full payment of the payment due plus interest to the subcontractor or material supplier.

(2) If a lower tier subcontractor or lower tier material supplier submits an application or request for payment or an invoice for materials to a subcontractor, material supplier, or other lower tier subcontractor or lower tier material supplier in sufficient time to allow the subcontractor, material supplier, or other lower tier subcontractor or lower tier material supplier to include the application, request, or invoice in the subcontractor's, material supplier's, or other lower tier subcontractor's or lower tier material supplier's own pay request submitted to a contractor, other subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier, the subcontractor, material supplier, or other lower tier subcontractor or lower tier material supplier, within ten calendar days after receipt of payment from the contractor, other subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier for improvements to property, shall pay to the:

(a) Lower tier subcontractor, an amount that is equal to the percentage of completion of the lower tier subcontractor's contract allowed by the owner for the amount of labor or work performed;

(b) Lower tier material supplier, an amount that is equal to all or that portion of the invoice for materials which represents the materials furnished by the lower tier material supplier.

The subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier may reduce the amount paid by any retainage provision contained in the contract, invoice, or purchase order between the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and the lower tier subcontractor or lower tier material supplier, and may withhold amounts that may be necessary to resolve

disputed liens or claims involving the work or labor performed or material furnished by the lower tier subcontractor or lower tier material supplier.

If the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier fails to comply with division (A)(2) of this section, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay the lower tier subcontractor or lower tier material supplier, in addition to the payment due, interest in the amount of eighteen per cent per annum of the payment due, beginning on the eleventh day following the receipt of payment from the contractor, other subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and ending on the date of full payment of the payment due plus interest to the lower tier subcontractor or lower tier material supplier.

(3) If a contractor receives any final retainage from the owner for improvements to property, the contractor shall pay from that retainage each subcontractor and material supplier the subcontractor's or material supplier's proportion of the retainage, within ten calendar days after receipt of the retainage from the owner, or within the time period provided in a contract, invoice, or purchase order between the contractor and the subcontractor or material supplier, whichever time period is shorter, provided that the contractor has determined that the subcontractor's or material supplier's work, labor, and materials have been satisfactorily performed or furnished and that the owner has approved the subcontractor's or material supplier's work, labor, and materials.

If the contractor fails to pay a subcontractor or material supplier within the appropriate time period, the contractor shall pay the subcontractor or material supplier, in addition to the retainage due, interest in the amount of eighteen per cent per annum of the retainage due, beginning on the eleventh day following the receipt of the retainage from the owner and ending on the date of full payment of the retainage due plus interest to the subcontractor or material supplier.

(4) If a subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier receives any final retainage from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier for improvements to property, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay from that retainage each lower tier subcontractor or lower tier the lower tier subcontractor's or lower tier material supplier's proportion of the retainage, within ten calendar days after receipt of payment from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier, or within the time period provided in a contract, invoice, or purchase order

between the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier and the lower tier subcontractor or lower tier material supplier, whichever time period is shorter, provided that the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has determined that the lower tier subcontractor's or lower tier material supplier's work, labor, and materials have been satisfactorily performed or furnished and that the owner has approved the lower tier subcontractor's or lower tier material supplier's work, labor, and materials.

If the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier fails to pay the lower tier subcontractor or lower tier material supplier within the appropriate time period, the subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier shall pay the lower tier subcontractor or lower tier material supplier, in addition to the retainage due, interest in the amount of eighteen per cent per annum of the retainage due, beginning on the eleventh day following the receipt of the retainage from the contractor or other subcontractor, lower tier subcontractor, or lower tier material supplier and ending on the date of full payment of the retainage due plus interest to the lower tier subcontractor or lower tier material supplier.

(5) A contractor, subcontractor, or lower tier subcontractor shall pay a laborer wages due within ten days of payment of any application or request for payment or the receipt of any retainage from an owner, contractor, subcontractor, or lower tier subcontractor.

If the contractor, subcontractor, or lower tier subcontractor fails to pay the laborer wages due within the appropriate time period, the contractor, subcontractor, or lower tier subcontractor shall pay the laborer, in addition to the wages due, interest in the amount of eighteen per cent per annum of the wages due, beginning on the eleventh day following the receipt of payment from the owner, contractor, subcontractor, or lower tier subcontractor and ending on the date of full payment of the wages due plus interest to the laborer.

(B)(1) If a contractor, subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has not made payment in compliance with division (A)(1), (2), (3), (4), or (5) of this section within thirty days after payment is due, a subcontractor, material supplier, lower tier subcontractor, lower tier material supplier, or laborer may file a civil action to recover the amount due plus the interest provided in those divisions. If the court finds in the civil action that a contractor, subcontractor, material supplier, lower tier subcontractor, or lower tier material supplier has not made payment in compliance with those divisions,

the court shall award the interest specified in those divisions, in addition to the amount due. Except as provided in division (B)(3) of this section, the court shall award the prevailing party reasonable attorney fees and court costs.

(2) In making a determination to award attorney fees under division (B)(1) of this section, the court shall consider all relevant factors, including but not limited to the following:

(a) The presence or absence of good faith allegations or defenses asserted by the parties;

(b) The proportion of the amount of recovery as it relates to the amount demanded;

(c) The nature of the services rendered and the time expended in rendering the services.

(3) The court shall not award attorney fees under division (B)(1) of this section if the court determines, following a hearing on the payment of attorney fees, that the payment of attorney fees to the prevailing party would be inequitable.

(C) This section does not apply to any construction or improvement of any single-, two-, or three-family detached dwelling houses.

(D)(1) No provision of this section regarding entitlement to interest, attorney fees, or court costs may be waived by agreement and any such term in any contract or agreement is void and unenforceable as against public policy.

(2) This section shall not be construed as impairing or affecting, in any way, the terms and conditions of any contract, invoice, purchase order, or any other agreement between a contractor and a subcontractor or a material supplier or between a subcontractor and another subcontractor, a material supplier, a lower tier subcontractor, or a lower tier material supplier, except that if such terms and conditions contain time periods which are longer than any of the time periods specified in divisions (A)(1), (2), (3), (4), and (5) of this section or interest at a percentage less than the interest stated in those divisions, then the provisions of this section shall prevail over such terms and conditions.

(E) Notwithstanding the definition of lower tier material supplier in this section, a person is not a lower tier material supplier unless the materials supplied by the person are:

(1) Furnished with the intent, as evidenced by the contract of sale, the delivery order, delivery to the site, or by other evidence that the materials are to be used on a particular structure or improvement;

(2) Incorporated in the improvement or consumed as normal wastage in

the course of the improvement; or

(3) Specifically fabricated for incorporation in the improvement and not readily resalable in the ordinary course of the fabricator's business even if not actually incorporated in the improvement.

(F) As used in this section:

(1) "Contractor" means any person who undertakes to construct, alter, erect, improve, repair, demolish, remove, dig, or drill any part of a structure or improvement under a contract with an owner, ~~or~~ a "construction manager" or "construction manager at risk" as ~~that term is~~ those terms are defined in section 9.33 of the Revised Code, or a "design-build firm" as that term is defined in section 153.65 of the Revised Code.

(2) "Laborer," "material supplier," "subcontractor," and "wages" have the same meanings as in section 1311.01 of the Revised Code.

(3) "Lower tier subcontractor" means a subcontractor who is not in privity of contract with a contractor but is in privity of contract with another subcontractor.

(4) "Lower tier material supplier" means a material supplier who is not in privity of contract with a contractor but is in privity of contract with another subcontractor or a material supplier.

(5) "Wages due" means the wages due to a laborer as of the date a contractor or subcontractor receives payment for any application or request for payment or retainage from any owner, contractor, or subcontractor.

(6) "Owner" includes the state, and a county, township, municipal corporation, school district, or other political subdivision of the state, and any public agency, authority, board, commission, instrumentality, or special district of or in the state or a county, township, municipal corporation, school district, or other political subdivision of the state, and any officer or agent thereof and relates to all the interests either legal or equitable, which a person may have in the real estate upon which improvements are made, including interests held by any person under contracts of purchase, whether in writing or otherwise.

Sec. 4115.03. As used in sections 4115.03 to 4115.16 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.

(B) "Construction" means ~~either~~ any of the following:

(1) ~~Any~~ Except as provided in division (B)(3) of this section, any new construction of ~~any~~ a public improvement, the total overall project cost of which is fairly estimated to be more than ~~fifty thousand dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code~~ the following amounts and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(a) One hundred twenty-five thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter;

(b) Two hundred thousand dollars, beginning when the time period described in division (B)(1)(a) of this section expires and continuing for one year thereafter;

(c) Two hundred fifty thousand dollars, beginning when the time period described in division (B)(1)(b) of this section expires.

(2) ~~Any~~ Except as provided in division (B)(4) of this section, any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of ~~any~~ a public improvement, the total overall project cost of which is fairly estimated to be more than ~~fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code~~ the following amounts and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority;

(a) Thirty-eight thousand dollars, beginning on the effective date of this amendment and continuing for one year thereafter;

(b) Sixty thousand dollars, beginning when the time period described in division (B)(2)(a) of this section expires and continuing for one year thereafter;

(c) Seventy-five thousand dollars, beginning when the time period described in division (B)(2)(b) of this section expires.

(3) Any new construction of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge construction, the total overall project cost of which is fairly estimated to be more than seventy-eight thousand two hundred fifty-eight dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(4) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of a public improvement that involves roads, streets, alleys, sewers, ditches, and other works connected to road or bridge

construction, the total overall project cost of which is fairly estimated to be more than twenty-three thousand four hundred forty-seven dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 1515.08 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 1515.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.

(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

(1) The basic hourly rate of pay;

(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;

(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:

(a) Medical or hospital care or insurance to provide such;

(b) Pensions on retirement or death or insurance to provide such;

(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;

(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;

(e) Life insurance;

(f) Disability and sickness insurance;

(g) Accident insurance;

(h) Vacation and holiday pay;

(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;

(j) Other bona fide fringe benefits.

None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.

(F) "Interested party," with respect to a particular contract for construction of a public improvement, means:

(1) Any person who submits a bid for the purpose of securing the award of a the contract for construction of the public improvement;

(2) Any person acting as a subcontractor of a person ~~mentioned~~ described in division (F)(1) of this section;

(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person ~~mentioned~~ described in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;

(4) Any association having as members any of the persons ~~mentioned~~ described in division (F)(1) or (2) of this section.

(G) Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.

Sec. 4115.033. No public authority shall subdivide a public improvement project into component parts or projects, the cost of which is fairly estimated to be less than the threshold levels set forth in ~~divisions~~ division (B)(1) and (2) of section 4115.03 of the Revised Code, unless the projects are conceptually separate and unrelated to each other, or encompass independent and unrelated needs of the public authority.

Sec. 4115.034. On January 1, 1996, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold levels for which public improvement projects are subject to sections 4115.03 to 4115.16 of the Revised Code as set forth in divisions

(B)~~(1)~~(3) and ~~(2)~~(4) of section 4115.03 of the Revised Code. The director shall adjust those amounts according to the average increase or decrease for each of the two years immediately preceding the adjustment as set forth in the United States department of commerce, bureau of the census implicit price deflator for construction, provided that no increase or decrease for any year shall exceed three per cent of the threshold level in existence at the time of the adjustment.

Sec. 4115.04. (A)(1) Every public authority authorized to contract for or construct with its own forces a public improvement, before advertising for bids or undertaking such construction with its own forces, shall have the director of commerce determine the prevailing rates of wages of mechanics and laborers in accordance with section 4115.05 of the Revised Code for the class of work called for by the public improvement, in the locality where the work is to be performed. Except as provided in division (A)(2) of this section, that schedule of wages shall be attached to and made part of the specifications for the work, and shall be printed on the bidding blanks where the work is done by contract. A copy of the bidding blank shall be filed with the director before the contract is awarded. A minimum rate of wages for common laborers, on work coming under the jurisdiction of the department of transportation, shall be fixed in each county of the state by the department of transportation, in accordance with section 4115.05 of the Revised Code.

(2) In the case of contracts that are administered by the department of natural resources, the director of natural resources or the director's designee shall include language in the contracts requiring wage rate determinations and updates to be obtained directly from the department of commerce through electronic or other means as appropriate. Contracts that include this requirement are exempt from the requirements established in division (A)(1) of this section that involve attaching the schedule of wages to the specifications for the work, making the schedule part of those specifications, and printing the schedule on the bidding blanks where the work is done by contract.

(B) Sections 4115.03 to 4115.16 of the Revised Code do not apply to:

(1) Public improvements in any case where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in constructing such improvements, provided that the federal government or any of its agencies prescribes predetermined minimum wages to be paid to mechanics and laborers employed in the construction of such improvements;

(2) A participant in a work activity, developmental activity, or an alternative work activity under sections 5107.40 to 5107.69 of the Revised

Code when a public authority directly uses the labor of the participant to construct a public improvement if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(3) Public improvements undertaken by, or under contract for, the board of education of any school district or the governing board of any educational service center;

(4) Public improvements undertaken by, or under contract for, a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code if none of the funds used in constructing the improvements are the proceeds of bonds or other obligations that are secured by the full faith and credit of the state, a county, a township, or a municipal corporation and none of the funds used in constructing the improvements, including funds used to repay any amounts borrowed to construct the improvements, are funds that have been appropriated for that purpose by the state, a board of county commissioners, a township, or a municipal corporation from funds generated by the levy of a tax, provided that a county hospital or municipal hospital may elect to apply sections 4115.03 to 4115.16 of the Revised Code to a public improvement undertaken by, or under contract for, the hospital;

(5) Any project described in divisions (D)(1)(a) to (D)(1)(e) of section 176.05 of the Revised Code;

(6) Public improvements undertaken by, or under contract for, a port authority as defined in section 4582.01 or 4582.21 of the Revised Code;

(7) Any portion of a public improvement undertaken and completed solely with labor donated by the individuals performing the labor, by a labor organization and its members, or by a contractor or subcontractor that donates all labor and materials for that portion of the public improvement project.

(C) Under no circumstances shall a public authority apply the prevailing wage requirements of this chapter to a public improvement that is exempt under division (B)(3) of this section.

Sec. 4115.05. The prevailing rate of wages to be paid for a legal day's work, as prescribed in section 4115.04 of the Revised Code, to laborers, workers, or mechanics upon public works shall not be less at any time during the life of a contract for the public work than the prevailing rate of wages then payable in the same trade or occupation in the locality where such public work is being performed, under collective bargaining agreements or understandings, between employers and bona fide organizations of labor in force at the date the contract for the public work, relating to the trade or occupation, was made, and collective bargaining

agreements or understandings successor thereto.

Serving laborers, helpers, assistants and apprentices shall not be classified as common labor and shall be paid not less at any time during the life of a contract for the public work than the prevailing rate of wages then payable for such labor in the locality where the public work is being performed, under or as a result of collective bargaining agreements or understandings between employers and bona fide organizations of labor in force at the date the contract for the public work, requiring the employment of serving laborers, helpers, assistants, or apprentices, was made, and collective bargaining agreements or understandings successor thereto.

Apprentices will be permitted to work only under a bona fide apprenticeship program if such program exists and is registered with the Ohio apprenticeship council.

The allowable ratio of apprentices to skilled workers permitted to work shall not be greater than the ratio allowed the contractor or subcontractor in the collective bargaining agreement or understanding referred to in this section under which the work is being performed. A contractor, subcontractor, or public authority that exceeds the permissible ratio of apprentices to skilled workers by two or fewer apprentices for not more than two days in any thirty-day period shall not be found in violation of this provision with regard to that excess number of apprentices.

For purposes of establishing the prevailing rate of wages, a labor organization that is a party to a collective bargaining agreement, contract, or understanding, including any successor agreement, contract, or understanding, that establishes wages for a trade or occupation typically employed on public improvements shall file with the director of commerce all relevant portions of any such agreement, contract, or understanding to which the labor organization is a party. The filing shall occur within ninety days after the agreement, contract, or understanding is executed, except that the relevant portion of any agreement, contract, or understanding to which a labor organization is a party on the effective date of this amendment shall be filed within ninety days after the effective date of this amendment. The labor organization shall certify under penalty of law that the portion of the agreement, contract, or understanding filed under this section contains, in full, all provisions of the agreement, contract, or understanding concerning wages paid to persons and the apprentice to skilled worker ratio under the agreement, contract, or understanding.

In the event there is no such collective bargaining agreement or understanding in the immediate locality, then the prevailing rates of wages in the nearest locality in which such collective bargaining agreements or

understandings are in effect shall be the prevailing rate of wages, in such locality, for the various occupations covered by sections 4115.03 to 4115.16 of the Revised Code.

The prevailing rate of wages to be paid for a legal day's work, to laborers, workers, or mechanics, upon any material to be used in or in connection with a public work, shall be not less than the prevailing rate of wages payable for a day's work in the same trade or occupation in the locality within the state where such public work is being performed and where the material in its final or completed form is to be situated, erected, or used.

Every contract for a public work shall contain a provision that each laborer, worker, or mechanic, employed by such contractor, subcontractor, or other person about or upon such public work, shall be paid the prevailing rate of wages provided in this section.

No contractor or subcontractor under a contract for a public work shall sublet any of the work covered by such contract unless specifically authorized to do so by the contract.

Where contracts are not awarded or construction undertaken within ninety days from the date of the establishment of the prevailing rate of wages, there shall be a redetermination of the prevailing rate of wages before the contract is awarded. ~~Upon receipt from the director of commerce of a notice of a change in prevailing wage rates, a~~ A public authority shall, within seven working days after ~~receipt thereof~~ receiving from the director a notice of a change in the prevailing wage rate, notify all affected contractors and subcontractors with whom the public authority has contracts for a public improvement of the changes and require the contractors to make the necessary adjustments in the prevailing wage rates.

If, upon receipt of the relevant portions of a collective bargaining agreement, contract, or understanding, the director determines that the prevailing wage rate has changed in the locality in which an ongoing project is being constructed, any change in that rate shall take effect two weeks after the director receives the relevant portions of the agreement, contract, or understanding showing that the prevailing wage rate has changed.

If the director determines that a contractor or subcontractor has violated sections 4115.03 to 4115.16 of the Revised Code because the public authority has not notified the contractor or subcontractor as required by this section, the public authority is liable for any back wages, fines, damages, court costs, and attorney's fees associated with the enforcement of said sections by the director for the period of time running until the public authority gives the required notice to the contractor or subcontractor.

On the occasion of the first pay date under a contract, the contractor or subcontractor shall furnish each employee not covered by a collective bargaining agreement or understanding between employers and bona fide organizations of labor with individual written notification of the job classification to which the employee is assigned, the prevailing wage determined to be applicable to that classification, separated into the hourly rate of pay and the fringe payments, and the identity of the prevailing wage coordinator appointed by the public authority. The contractor or subcontractor shall furnish the same notification to each affected employee every time the job classification of the employee is changed.

Sec. 4115.10. (A) No person, firm, corporation, or public authority that constructs a public improvement with its own forces, the total overall project cost of which is fairly estimated to be more than the amounts set forth in division (B)~~(1) or (2)~~ of section 4115.03 of the Revised Code, adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code, as appropriate, shall violate the wage provisions of sections 4115.03 to 4115.16 of the Revised Code, or suffer, permit, or require any employee to work for less than the rate of wages so fixed, or violate the provisions of section 4115.07 of the Revised Code. Any employee upon any public improvement, except an employee to whom or on behalf of whom restitution is made pursuant to division (C) of section 4115.13 of the Revised Code, who is paid less than the fixed rate of wages applicable thereto may recover from such person, firm, corporation, or public authority that constructs a public improvement with its own forces the difference between the fixed rate of wages and the amount paid to the employee and in addition thereto a sum equal to twenty-five per cent of that difference. The person, firm, corporation, or public authority who fails to pay the rate of wages so fixed also shall pay a penalty to the director of seventy-five per cent of the difference between the fixed rate of wages and the amount paid to the employees on the public improvement. The director shall deposit all moneys received from penalties paid to the director pursuant to this section into the penalty enforcement labor operating fund; ~~which is hereby created in the state treasury~~. The director shall use the fund for the enforcement of sections 4115.03 to 4115.16 of the Revised Code. The employee may file suit for recovery within ninety days of the director's determination of a violation of sections 4115.03 to 4115.16 of the Revised Code or is barred from further action under this division. Where the employee prevails in a suit, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(B) Any employee upon any public improvement who is paid less than

the prevailing rate of wages applicable thereto may file a complaint in writing with the director upon a form furnished by the director. The complaint shall include documented evidence to demonstrate that the employee was paid less than the prevailing wage in violation of this chapter. Upon receipt of a properly completed written complaint of any employee paid less than the prevailing rate of wages applicable, the director shall take an assignment of a claim in trust for the assigning employee and bring any legal action necessary to collect the claim. The employer shall pay the costs and reasonable attorney's fees allowed by the court if the employer is found in violation of sections 4115.03 to 4115.16 of the Revised Code.

(C) If after investigation pursuant to section 4115.13 of the Revised Code, the director determines there is a violation of sections 4115.03 to 4115.16 of the Revised Code and a period of sixty days has elapsed from the date of the determination, and if:

(1) No employee has brought suit pursuant to division (A) of this section;

(2) No employee has requested that the director take an assignment of a wage claim pursuant to division (B) of this section;

The director shall bring any legal action necessary to collect any amounts owed to employees and the director. The director shall pay over to the affected employees the amounts collected to which the affected employees are entitled under division (A) of this section. In any action in which the director prevails, the employer shall pay the costs and reasonable attorney's fees allowed by the court.

(D) Where persons are employed and their rate of wages has been determined as provided in section 4115.04 of the Revised Code, no person, either for self or any other person, shall request, demand, or receive, either before or after the person is engaged, that the person so engaged pay back, return, donate, contribute, or give any part or all of the person's wages, salary, or thing of value, to any person, upon the statement, representation, or understanding that failure to comply with such request or demand will prevent the procuring or retaining of employment, and no person shall, directly or indirectly, aid, request, or authorize any other person to violate this section. This division does not apply to any agent or representative of a duly constituted labor organization acting in the collection of dues or assessments of such organization.

(E) The director shall enforce sections 4115.03 to 4115.16 of the Revised Code.

(F) For the purpose of supplementing existing resources and to assist in enforcing division (E) of this section, the director may contract with a

person registered as a public accountant under Chapter 4701. of the Revised Code to conduct an audit of a person, firm, corporation, or public authority.

(G) No contractor or subcontractor shall be responsible for the payment of the penalties provided in division (A) of this section resulting from a violation of sections 4115.03 to 4115.16 of the Revised Code by its subcontractor, provided that the contractor or subcontractor has made a good faith effort to ensure that its subcontractor complied with the requirements of sections 4115.03 to 4115.16 of the Revised Code.

Sec. 4115.101. There is hereby created the prevailing wage custodial fund, which shall be in the custody of the treasurer of state but shall not be part of the state treasury. The director of commerce shall deposit to the fund all money paid by employers to the director that are held in trust for employees to whom prevailing wages are due and owing. The director shall make disbursements from the fund in accordance with this chapter to employees affected by violations of this chapter. If the director determines that any funds in the prevailing wage custodial fund are not returnable to employees as required under this section, then the director shall certify to the treasurer of state the amount of the funds that are not returnable. Upon the receipt of a certification from the director in accordance with this section, the treasurer of state shall transfer the certified amount of the funds from the prevailing wage custodial fund to the labor operating fund.

Sec. 4115.13. (A) Upon the director's own motion or within five days of the filing of a properly completed complaint under section 4115.10 or 4115.16 of the Revised Code, the director of commerce, or a representative designated by the director, shall investigate any alleged violation of sections 4115.03 to 4115.16 of the Revised Code.

(B) At the conclusion of the investigation, the director or a designated representative shall make a ~~recommendation~~ determination as to whether the alleged violation was committed. If the director or designated representative ~~recommends~~ determines that the alleged violation was an intentional violation, the director or designated representative shall give written notice by certified mail of that ~~recommendation~~ determination to the contractor, subcontractor, or officer of the contractor or subcontractor which also shall state that the contractor, subcontractor, or officer of the contractor or subcontractor may file with the director an appeal of the ~~recommendation~~ determination within thirty days after the date the notice was received. If the contractor, subcontractor, or officer of the contractor or subcontractor timely appeals the ~~recommendation~~ determination, within sixty days of the filing of the appeal, the director or designated representative shall schedule the appeal for a hearing. If the contractor, subcontractor, or officer of the

contractor or subcontractor fails to timely appeal the ~~recommendation~~ determination, the director or designated representative shall adopt the ~~recommendation~~ determination as a finding of fact for purposes of division (D) of this section. The director or designated representative, in the performance of any duty or execution of any power prescribed by sections 4115.03 to 4115.16 of the Revised Code, may hold hearings, and such hearings shall be held within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed, or in Franklin county, whichever county the person alleged to have committed the violation chooses. For the purpose of the hearing, the director may designate a hearing examiner who shall, after notice to all interested parties, conduct a hearing and make findings of fact and recommendations to the director. The director shall make a decision, which shall be sent to the affected parties. The director or designated representative may make decisions, based upon findings of fact, as are found necessary to enforce sections 4115.03 to 4115.16 of the Revised Code.

(C) If any underpayment by a contractor or subcontractor was the result of a misinterpretation of the statute, or an erroneous preparation of the payroll documents, the director or designated representative may make a decision ordering the employer to make restitution to the employees, or on their behalf, the plans, funds, or programs for any type of fringe benefits described in the applicable wage determination. In accordance with the finding of the director that any underpayment was the result of a misinterpretation of the statute, or an erroneous preparation of the payroll documents, employers who make restitution are not subject to any further proceedings pursuant to sections 4115.03 to 4115.16 of the Revised Code.

If a contractor's or subcontractor's underpayment to an employee is less than one thousand dollars, the contractor or subcontractor is not subject to any further proceedings under sections 4115.03 to 4115.16 of the Revised Code for that underpayment if the contractor or subcontractor makes full restitution to the affected employee.

(D) If the director or designated representative makes a decision, based upon findings of fact, that a contractor, subcontractor, or officer of a contractor or subcontractor has intentionally violated sections 4115.03 to 4115.16 of the Revised Code, the contractor, subcontractor, or officer of a contractor or subcontractor is prohibited from contracting directly or indirectly with any public authority for the construction of a public improvement or from performing any work on the same as provided in section 4115.133 of the Revised Code. A contractor, subcontractor, or officer of a contractor or subcontractor may appeal the decision, within sixty

days after the decision, to the court of common pleas of the county in which the first hearing involving the violation was heard. If the contractor, subcontractor, or officer of a contractor or subcontractor does not timely appeal the ~~recommendation~~ determination of the director or designated representative under division (B) of this section, the contractor, subcontractor, or officer of a contractor or subcontractor may appeal the findings of fact, within sixty days after the ~~recommendations~~ determinations are adopted as findings of fact, to the court of common pleas within the county in which the violation of sections 4115.03 to 4115.16 of the Revised Code is alleged to have been committed or in Franklin county, whichever county the person alleged to have committed the violation chooses.

(E) No appeal to the court from the decision of the director may be had by the contractor or subcontractor unless the contractor or subcontractor files a bond with the court in the amount of the restitution, conditioned upon payment should the decision of the director be upheld.

(F) No statement of a contractor, subcontractor, or officer of a contractor or subcontractor and no determination, recommendation, or finding of fact issued under this section is admissible as evidence in a criminal action brought under this chapter against the contractor, subcontractor, or officer of a contractor or subcontractor.

(G) In determining whether a contractor, subcontractor, or officer of a contractor or subcontractor intentionally violated sections 4115.03 to 4115.16 of the Revised Code, the director may consider as evidence either of the following:

(1) The fact that the director, prior to the commission of the violation under consideration, issued notification to the contractor, subcontractor, or officer of a contractor or subcontractor of the same or a similar violation, provided that the commission of the same or a similar violation of sections 4115.03 to 4115.16 of the Revised Code at a subsequent time does not create a presumption that the subsequent violation was intentional;

(2) The fact that, prior to the commission of the violation, the contractor, subcontractor, or officer of a contractor or subcontractor used reasonable efforts to ascertain the correct interpretation of sections 4115.03 to 4115.16 of the Revised Code from the director or 4115.04 or 4115.131 of the Revised Code, provided that a violation is presumed not to be intentional where a contractor, subcontractor, or officer of a contractor or subcontractor complies with a decision the director or designated representative issues pursuant to a request made under section 4115.131 of the Revised Code.

(H) As used in this section, "intentional violation" means a willful, knowing, or deliberate failure to comply with any provision of sections

4115.03 to 4115.16 of the Revised Code, and includes, but is not limited to, the following actions when conducted in the manner described in this division:

(1) An intentional failure to submit reports as required under division (C) of section 4115.071 of the Revised Code or knowingly submitting false or erroneous reports;

(2) An intentional misclassification of employees for the purpose of reducing wages;

(3) An intentional misclassification of employees as independent contractors or as apprentices;

(4) An intentional failure to pay the prevailing wage;

(5) An intentional failure to comply with the allowable ratio of apprentices to skilled workers as required under section 4115.05 of the Revised Code and by rules adopted by the director pursuant to section 4115.12 of the Revised Code;

(6) Intentionally allowing an officer of a contractor or subcontractor who is known to be prohibited from contracting directly or indirectly with a public authority for the construction of a public improvement or from performing any work on the same pursuant to section 4115.133 of the Revised Code to perform work on a public improvement.

Sec. 4115.16. (A) An interested party may file a complaint with the director of commerce alleging a specific violation of sections 4115.03 to 4115.16 of the Revised Code by a specific contractor or subcontractor. The complaint shall be in writing on a form furnished by the director and shall include sufficient evidence to justify the complaint. The director, upon receipt of a properly completed complaint, shall investigate pursuant to section 4115.13 of the Revised Code. The director shall not investigate any complaint filed under this section that fails to allege a specific violation or that lacks sufficient evidence to justify the complaint. If the director determines that no violation has occurred or that the violation was not intentional, the interested party may appeal the decision to the court of common pleas of the county where the violation is alleged to have occurred.

(B) ~~If~~ Except as otherwise provided in this section, the director or the designated representative shall conclude the investigation conducted under section 4115.13 of the Revised Code and make a determination not later than one hundred twenty days after the complaint is filed. The director or the designated representative may take additional time, of up to ninety days, to conclude the investigation and make a determination if the parties to the complaint are given notice of the extension before the initial one-hundred-twenty-day period expires. The director or the designated

representative may take more time than that which is provided in this section to conclude the investigation and make a determination if the director, or the designated representative, and all parties to the complaint agree to a different time frame.

If the director has not ruled on the merits of the complaint within ~~sixty days after its filing~~, the time provided under this section the interested party may file a complaint in the court of common pleas of the county in which the violation is alleged to have occurred. The complaint may make the contracting public authority a party to the action, but not the director. Contemporaneous with service of the complaint, the interested party shall deliver a copy of the complaint to the director. Upon receipt thereof, the director shall cease investigating or otherwise acting upon the complaint filed pursuant to division (A) of this section. The court in which the complaint is filed pursuant to this division shall hear and decide the case, and upon finding that a violation has occurred, shall make such orders as will prevent further violation and afford to injured persons the relief specified under sections 4115.03 to 4115.16 of the Revised Code. The court's finding that a violation has occurred shall have the same consequences as a like determination by the director. The court may order the director to take such action as will prevent further violation and afford to injured persons the remedies specified under sections 4115.03 to 4115.16 of the Revised Code. Upon receipt of any order of the court pursuant to this section, the director shall undertake enforcement action without further investigation or hearings.

(C) The director shall make available to the parties to any appeal or action pursuant to this section all files, documents, affidavits, or other information in the director's possession that pertain to the matter. The rules generally applicable to civil actions in the courts of this state shall govern all appeals or actions under this section. Any determination of a court under this section is subject to appellate review.

(D) Where, pursuant to this section, a court finds a violation of sections 4115.03 to 4115.16 of the Revised Code, the court shall award attorney fees and court costs to the prevailing party. In the event the court finds that no violation has occurred, the court may award court costs and ~~attorney~~ attorney fees to the prevailing party, other than to the director or the public authority, where the court finds the action brought was unreasonable or without foundation, even though not brought in subjective bad faith.

Sec. 4116.01. As used in sections 4116.01 to 4116.04 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the

state, or any political subdivision of the state, or any institution supported in whole or in part by public funds, authorized to enter into a contract for the construction of a public improvement or to construct a public improvement by the direct employment of labor. "Public authority" shall not mean any municipal corporation that has adopted a charter under sections three and seven of article XVIII of the Ohio ~~constitution~~ Constitution, unless the specific contract for a public improvement includes state funds appropriated for the purposes of that public improvement.

(B) "Construction" means all of the following:

(1) Any new construction of any public improvement performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority;

(3) Construction on any project, facility, or project facility to which section ~~122.452~~, 122.80, ~~165.031~~, 166.02, ~~1551.13~~, or 1728.07, ~~or 3706.042~~ of the Revised Code applies;

(4) Construction on any project as defined in section 122.39 of the Revised Code, any project as defined in section 165.01 of the Revised Code, any energy resource development facility as defined in section 1551.01 of the Revised Code, or any project as defined in section 3706.01 of the Revised Code.

(C) "Public improvement" means all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and other structures or works constructed by a public authority or by any person who, pursuant to a contract with a public authority, constructs any structure or work for a public authority. When a public authority rents or leases a newly constructed structure within six months after completion of its construction, all work performed on that structure to suit it for occupancy by a public authority is a "public improvement."

(D) "Interested party," with respect to a particular public improvement, means all of the following:

(1) Any person who submits a bid for the purpose of securing the award of a contract for the public improvement;

(2) Any person acting as a subcontractor of a person mentioned in division (D)(1) of this section;

(3) Any association having as members any of the persons mentioned in division (D)(1) or (2) of this section;

(4) Any employee of a person mentioned in division (D)(1), (2), or (3) of this section;

(5) Any individual who is a resident of the jurisdiction of the public authority for whom products or services for a public improvement are being procured or for whom work on a public improvement is being performed.

Sec. 4117.01. As used in this chapter:

(A) "Person," in addition to those included in division (C) of section 1.59 of the Revised Code, includes employee organizations, public employees, and public employers.

(B) "Public employer" means the state or any political subdivision of the state located entirely within the state, including, without limitation, any municipal corporation with a population of at least five thousand according to the most recent federal decennial census; county; township with a population of at least five thousand in the unincorporated area of the township according to the most recent federal decennial census; school district; governing authority of a community school established under Chapter 3314. of the Revised Code; college preparatory boarding school established under Chapter 3328. of the Revised Code or its operator; state institution of higher learning; public or special district; state agency, authority, commission, or board; or other branch of public employment. "Public employer" does not include the nonprofit corporation formed under section 187.01 of the Revised Code.

(C) "Public employee" means any person holding a position by appointment or employment in the service of a public employer, including any person working pursuant to a contract between a public employer and a private employer and over whom the national labor relations board has declined jurisdiction on the basis that the involved employees are employees of a public employer, except:

(1) Persons holding elective office;

(2) Employees of the general assembly and employees of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;

(3) Employees on the staff of the governor or the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the governor or the chief executive;

(4) Persons who are members of the Ohio organized militia, while training or performing duty under section 5919.29 or 5923.12 of the Revised Code;

(5) Employees of the state employment relations board, including those

employees of the state employment relations board utilized by the state personnel board of review in the exercise of the powers and the performance of the duties and functions of the state personnel board of review;

(6) Confidential employees;

(7) Management level employees;

(8) Employees and officers of the courts, assistants to the attorney general, assistant prosecuting attorneys, and employees of the clerks of courts who perform a judicial function;

(9) Employees of a public official who act in a fiduciary capacity, appointed pursuant to section 124.11 of the Revised Code;

(10) Supervisors;

(11) Students whose primary purpose is educational training, including graduate assistants or associates, residents, interns, or other students working as part-time public employees less than fifty per cent of the normal year in the employee's bargaining unit;

(12) Employees of county boards of election;

(13) Seasonal and casual employees as determined by the state employment relations board;

(14) Part-time faculty members of an institution of higher education;

(15) Participants in a work activity, developmental activity, or alternative work activity under sections 5107.40 to 5107.69 of the Revised Code who perform a service for a public employer that the public employer needs but is not performed by an employee of the public employer if the participant is not engaged in paid employment or subsidized employment pursuant to the activity;

(16) Employees included in the career professional service of the department of transportation under section 5501.20 of the Revised Code;

(17) Employees of community-based correctional facilities and district community-based correctional facilities created under sections 2301.51 to 2301.58 of the Revised Code who are not subject to a collective bargaining agreement on June 1, 2005.

(D) "Employee organization" means any labor or bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment.

(E) "Exclusive representative" means the employee organization certified or recognized as an exclusive representative under section 4117.05 of the Revised Code.

(F) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote,

discharge, assign, reward, or discipline other public employees; to responsibly direct them; to adjust their grievances; or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment, provided that:

(1) Employees of school districts who are department chairpersons or consulting teachers shall not be deemed supervisors;

(2) With respect to members of a police or fire department, no person shall be deemed a supervisor except the chief of the department or those individuals who, in the absence of the chief, are authorized to exercise the authority and perform the duties of the chief of the department. Where prior to June 1, 1982, a public employer pursuant to a judicial decision, rendered in litigation to which the public employer was a party, has declined to engage in collective bargaining with members of a police or fire department on the basis that those members are supervisors, those members of a police or fire department do not have the rights specified in this chapter for the purposes of future collective bargaining. The state employment relations board shall decide all disputes concerning the application of division (F)(2) of this section.

(3) With respect to faculty members of a state institution of higher education, heads of departments or divisions are supervisors; however, no other faculty member or group of faculty members is a supervisor solely because the faculty member or group of faculty members participate in decisions with respect to courses, curriculum, personnel, or other matters of academic policy;

(4) No teacher as defined in section 3319.09 of the Revised Code shall be designated as a supervisor or a management level employee unless the teacher is employed under a contract governed by section 3319.01, 3319.011, or 3319.02 of the Revised Code and is assigned to a position for which a license deemed to be for administrators under state board rules is required pursuant to section 3319.22 of the Revised Code.

(G) "To bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the representatives of its employees to negotiate in good faith at reasonable times and places with respect to wages, hours, terms, and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement. "To bargain collectively" includes executing a written contract incorporating the terms of any agreement reached. The obligation to bargain collectively does not

mean that either party is compelled to agree to a proposal nor does it require the making of a concession.

(H) "Strike" means continuous concerted action in failing to report to duty; willful absence from one's position; or stoppage of work in whole from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Strike" does not include a stoppage of work by employees in good faith because of dangerous or unhealthful working conditions at the place of employment that are abnormal to the place of employment.

(I) "Unauthorized strike" includes, but is not limited to, concerted action during the term or extended term of a collective bargaining agreement or during the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code in failing to report to duty; willful absence from one's position; stoppage of work; slowdown, or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment. "Unauthorized strike" includes any such action, absence, stoppage, slowdown, or abstinence when done partially or intermittently, whether during or after the expiration of the term or extended term of a collective bargaining agreement or during or after the pendency of the settlement procedures set forth in section 4117.14 of the Revised Code.

(J) "Professional employee" means any employee engaged in work that is predominantly intellectual, involving the consistent exercise of discretion and judgment in its performance and requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized intellectual instruction and is performing related work under the supervision of a professional person to become qualified as a professional employee.

(K) "Confidential employee" means any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the employer.

(L) "Management level employee" means an individual who formulates policy on behalf of the public employer, who responsibly directs the

implementation of policy, or who may reasonably be required on behalf of the public employer to assist in the preparation for the conduct of collective negotiations, administer collectively negotiated agreements, or have a major role in personnel administration. Assistant superintendents, principals, and assistant principals whose employment is governed by section 3319.02 of the Revised Code are management level employees. With respect to members of a faculty of a state institution of higher education, no person is a management level employee because of the person's involvement in the formulation or implementation of academic or institution policy.

(M) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

(N) "Member of a police department" means a person who is in the employ of a police department of a municipal corporation as a full-time regular police officer as the result of an appointment from a duly established civil service eligibility list or under section 737.15 or 737.16 of the Revised Code, a full-time deputy sheriff appointed under section 311.04 of the Revised Code, a township constable appointed under section 509.01 of the Revised Code, or a member of a township or joint police district police department appointed under section 505.49 of the Revised Code.

(O) "Members of the state highway patrol" means highway patrol troopers and radio operators appointed under section 5503.01 of the Revised Code.

(P) "Member of a fire department" means a person who is in the employ of a fire department of a municipal corporation or a township as a fire cadet, full-time regular firefighter, or promoted rank as the result of an appointment from a duly established civil service eligibility list or under section 505.38, 709.012, or 737.22 of the Revised Code.

(Q) "Day" means calendar day.

Sec. 4117.03. (A) Public employees have the right to:

(1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing;

(2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;

(3) Representation by an employee organization;

(4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements;

(5) Present grievances and have them adjusted, without the intervention

of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment.

(B) Persons on active duty or acting in any capacity as members of the organized militia do not have collective bargaining rights.

(C) Except as provided in division (D) of this section, nothing in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division (C) of section 4117.01 of the Revised Code.

(D) A public employer shall not engage in collective bargaining or other forms of collective negotiations with the employees of county boards of elections referred to in division (C)(12) of section 4117.01 of the Revised Code.

(E) Employees of public schools may bargain collectively for health care benefits; ~~however, all health care benefits shall include best practices prescribed by the school employees health care board, in accordance with section 9.901 of the Revised Code.~~

Sec. 4121.03. (A) The governor shall appoint from among the members of the industrial commission the chairperson of the industrial commission. The chairperson shall serve as chairperson at the pleasure of the governor. The chairperson is the head of the commission and its chief executive officer.

(B) The chairperson shall appoint, after consultation with other commission members and obtaining the approval of at least one other commission member, an executive director of the commission. The executive director shall serve at the pleasure of the chairperson. The executive director, under the direction of the chairperson, shall perform all of the following duties:

- (1) Act as chief administrative officer for the commission;
- (2) Ensure that all commission personnel follow the rules of the commission;
- (3) Ensure that all orders, awards, and determinations are properly heard and signed, prior to attesting to the documents;
- (4) Coordinate, to the fullest extent possible, commission activities with the bureau of workers' compensation activities;
- (5) Do all things necessary for the efficient and effective implementation of the duties of the commission.

The responsibilities assigned to the executive director of the commission do not relieve the chairperson from final responsibility for the proper performance of the acts specified in this division.

(C) The chairperson shall do all of the following:

(1) Except as otherwise provided in this division, employ, promote, supervise, remove, and establish the compensation of all employees as needed in connection with the performance of the commission's duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code and may assign to them their duties to the extent necessary to achieve the most efficient performance of its functions, and to that end may establish, change, or abolish positions, and assign and reassign duties and responsibilities of every employee of the commission. The civil service status of any person employed by the commission prior to November 3, 1989, is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(2) Hire district and staff hearing officers after consultation with other commission members and obtaining the approval of at least one other commission member;

(3) Hire staff and district hearing officers when the chairperson finds appropriate after obtaining the approval of at least one other commission member;

(4) Maintain the office for the commission in Columbus;

(5) To the maximum extent possible, use electronic data processing equipment for the issuance of orders immediately following a hearing, scheduling of hearings and medical examinations, tracking of claims, retrieval of information, and any other matter within the commission's jurisdiction, and shall provide and input information into the electronic data processing equipment as necessary to effect the success of the claims tracking system established pursuant to division (B)(15) of section 4121.121 of the Revised Code;

(6) Exercise all administrative and nonadjudicatory powers and duties conferred upon the commission by Chapters 4121., 4123., 4127., and 4131. of the Revised Code;

(7) Approve all contracts for special services.

(D) The chairperson is responsible for all administrative matters and

may secure for the commission facilities, equipment, and supplies necessary to house the commission, any employees, and files and records under the commission's control and to discharge any duty imposed upon the commission by law, the expense thereof to be audited and paid in the same manner as other state expenses. For that purpose, the chairperson, separately from the budget prepared by the administrator of workers' compensation ~~and the budget prepared by the director of the workers' compensation council,~~ shall prepare and submit to the office of budget and management a budget for each biennium according to sections 101.532 and 107.03 of the Revised Code. The budget submitted shall cover the costs of the commission and staff and district hearing officers in the discharge of any duty imposed upon the chairperson, the commission, and hearing officers by law.

(E) A majority of the commission constitutes a quorum to transact business. No vacancy impairs the rights of the remaining members to exercise all of the powers of the commission, so long as a majority remains. Any investigation, inquiry, or hearing that the commission may hold or undertake may be held or undertaken by or before any one member of the commission, or before one of the deputies of the commission, except as otherwise provided in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code. Every order made by a member, or by a deputy, when approved and confirmed by a majority of the members, and so shown on its record of proceedings, is the order of the commission. The commission may hold sessions at any place within the state. The commission is responsible for all of the following:

(1) Establishing the overall adjudicatory policy and management of the commission under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code, except for those administrative matters within the jurisdiction of the chairperson, bureau of workers' compensation, and the administrator of workers' compensation under those chapters;

(2) Hearing appeals and reconsiderations under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(3) Engaging in rulemaking where required by this chapter or Chapter 4123., 4127., or 4131. of the Revised Code.

Sec. 4121.12. (A) There is hereby created the bureau of workers' compensation board of directors consisting of eleven members to be appointed by the governor with the advice and consent of the senate. One member shall be an individual who, on account of the individual's previous vocation, employment, or affiliations, can be classed as a representative of employees; two members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as

representatives of employee organizations and at least one of these two individuals shall be a member of the executive committee of the largest statewide labor federation; three members shall be individuals who, on account of their previous vocation, employment, or affiliations, can be classed as representatives of employers, one of whom represents self-insuring employers, one of whom is a state fund employer who employs one hundred or more employees, and one of whom is a state fund employer who employs less than one hundred employees; two members shall be individuals who, on account of their vocation, employment, or affiliations, can be classed as investment and securities experts who have direct experience in the management, analysis, supervision, or investment of assets and are residents of this state; one member who shall be a certified public accountant; one member who shall be an actuary who is a member in good standing with the American academy of actuaries or who is an associate or fellow with the casualty actuarial society; and one member shall represent the public and also be an individual who, on account of the individual's previous vocation, employment, or affiliations, cannot be classed as either predominantly representative of employees or of employers. The governor shall select the chairperson of the board who shall serve as chairperson at the pleasure of the governor.

None of the members of the board, within one year immediately preceding the member's appointment, shall have been employed by the bureau of workers' compensation or by any person, partnership, or corporation that has provided to the bureau services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(B) Of the initial appointments made to the board, the governor shall appoint the member who represents employees, one member who represents employers, and the member who represents the public to a term ending one year after June 11, 2007; one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is a certified public accountant to a term ending two years after June 11, 2007; and one member who represents employers, one member who represents employee organizations, one member who is an investment and securities expert, and the member who is an actuary to a term ending three years after June 11, 2007. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

Members may be reappointed. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member's predecessor was appointed shall hold office as a member for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until a successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(C) In making appointments to the board, the governor shall select the members from the list of names submitted by the workers' compensation board of directors nominating committee pursuant to this division. The nominating committee shall submit to the governor a list containing four separate names for each of the members on the board. Within fourteen days after the submission of the list, the governor shall appoint individuals from the list.

At least thirty days prior to a vacancy occurring as a result of the expiration of a term and within thirty days after other vacancies occurring on the board, the nominating committee shall submit an initial list containing four names for each vacancy. Within fourteen days after the submission of the initial list, the governor either shall appoint individuals from that list or request the nominating committee to submit another list of four names for each member the governor has not appointed from the initial list, which list the nominating committee shall submit to the governor within fourteen days after the governor's request. The governor then shall appoint, within seven days after the submission of the second list, one of the individuals from either list to fill the vacancy for which the governor has not made an appointment from the initial list. If the governor appoints an individual to fill a vacancy occurring as a result of the expiration of a term, the individual appointed shall begin serving as a member of the board when the term for which the individual's predecessor was appointed expires or immediately upon appointment by the governor, whichever occurs later. With respect to the filling of vacancies, the nominating committee shall provide the governor with a list of four individuals who are, in the judgment of the nominating committee, the most fully qualified to accede to membership on the board.

In order for the name of an individual to be submitted to the governor under this division, the nominating committee shall approve the individual by an affirmative vote of a majority of its members.

(D) All members of the board shall receive their reasonable and necessary expenses pursuant to section 126.31 of the Revised Code while engaged in the performance of their duties as members and also shall receive an annual salary not to exceed sixty thousand dollars in total,

payable on the following basis:

(1) Except as provided in division (D)(2) of this section, a member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the board and shall receive no payment during a month in which the member attends no meeting of the board.

(2) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of the board, regardless of the number of meetings held by the board during a year or the number of meetings in excess of twelve within a year that the member attends.

(3) Except as provided in division (D)(4) of this section, if a member serves on the workers' compensation audit committee, workers' compensation actuarial committee, or the workers' compensation investment committee, the member shall receive two thousand five hundred dollars during a month in which the member attends one or more meetings of the committee on which the member serves and shall receive no payment during any month in which the member attends no meeting of that committee.

(4) A member may receive no more than thirty thousand dollars per year to compensate the member for attending meetings of any of the committees specified in division (D)(3) of this section, regardless of the number of meetings held by a committee during a year or the number of committees on which a member serves.

The chairperson of the board shall set the meeting dates of the board as necessary to perform the duties of the board under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The board shall meet at least twelve times a year. The administrator of workers' compensation shall provide professional and clerical assistance to the board, as the board considers appropriate.

(E) Before entering upon the duties of office, each appointed member of the board shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code and file in the office of the secretary of state the bond required under section 4121.127 of the Revised Code.

(F) The board shall:

(1) Establish the overall administrative policy for the bureau for the purposes of this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(2) Review progress of the bureau in meeting its cost and quality objectives and in complying with this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(3) Submit an annual report to the president of the senate, the speaker of

the house of representatives, and the governor, ~~and the workers' compensation council~~ and include all of the following in that report:

- (a) An evaluation of the cost and quality objectives of the bureau;
 - (b) A statement of the net assets available for the provision of compensation and benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as of the last day of the fiscal year;
 - (c) A statement of any changes that occurred in the net assets available, including employer premiums and net investment income, for the provision of compensation and benefits and payment of administrative expenses, between the first and last day of the fiscal year immediately preceding the date of the report;
 - (d) The following information for each of the six consecutive fiscal years occurring previous to the report:
 - (i) A schedule of the net assets available for compensation and benefits;
 - (ii) The annual cost of the payment of compensation and benefits;
 - (iii) Annual administrative expenses incurred;
 - (iv) Annual employer premiums allocated for the provision of compensation and benefits.
 - (e) A description of any significant changes that occurred during the six years for which the board provided the information required under division (F)(3)(d) of this section that affect the ability of the board to compare that information from year to year.
- (4) Review all independent financial audits of the bureau. The administrator shall provide access to records of the bureau to facilitate the review required under this division.
 - (5) Study issues as requested by the administrator or the governor;
 - (6) Contract with all of the following:
 - (a) An independent actuarial firm to assist the board in making recommendations to the administrator regarding premium rates;
 - (b) An outside investment counsel to assist the workers' compensation investment committee in fulfilling its duties;
 - (c) An independent fiduciary counsel to assist the board in the performance of its duties.
 - (7) Approve the investment policy developed by the workers' compensation investment committee pursuant to section 4121.129 of the Revised Code if the policy satisfies the requirements specified in section 4123.442 of the Revised Code.
 - (8) Review and publish the investment policy no less than annually and make copies available to interested parties.
 - (9) Prohibit, on a prospective basis, any specific investment it finds to

be contrary to the investment policy approved by the board.

(10) Vote to open each investment class and allow the administrator to invest in an investment class only if the board, by a majority vote, opens that class;

(11) After opening a class but prior to the administrator investing in that class, adopt rules establishing due diligence standards for employees of the bureau to follow when investing in that class and establish policies and procedures to review and monitor the performance and value of each investment class;

(12) Submit a report annually on the performance and value of each investment class to the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives; ~~and the workers' compensation council.~~

(13) Advise and consent on all of the following:

(a) Administrative rules the administrator submits to it pursuant to division (B)(5) of section 4121.121 of the Revised Code for the classification of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating;

(b) The duties and authority conferred upon the administrator pursuant to section 4121.37 of the Revised Code;

(c) Rules the administrator adopts for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and 4121.442 of the Revised Code;

(d) Rules the administrator submits to it pursuant to Chapter 4167. of the Revised Code regarding the public employment risk reduction program and the protection of public health care workers from exposure incidents.

As used in this division, "public health care worker" and "exposure incident" have the same meanings as in section 4167.25 of the Revised Code.

(14) Perform all duties required under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(15) Meet with the governor on an annual basis to discuss the administrator's performance of the duties specified in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code;

(16) Develop and participate in a bureau of workers' compensation board of directors education program that consists of all of the following:

(a) An orientation component for newly appointed members;

(b) A continuing education component for board members who have served for at least one year;

(c) A curriculum that includes education about each of the following topics:

- (i) Board member duties and responsibilities;
- (ii) Compensation and benefits paid pursuant to this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;
- (iii) Ethics;
- (iv) Governance processes and procedures;
- (v) Actuarial soundness;
- (vi) Investments;
- (vii) Any other subject matter the board believes is reasonably related to the duties of a board member.

~~(17) Submit the program developed pursuant to division (F)(16) of this section to the workers' compensation council for approval;~~

~~(18)~~ Hold all sessions, classes, and other events for the program developed pursuant to division (F)(16) of this section in this state.

(G) The board may do both of the following:

- (1) Vote to close any investment class;
- (2) Create any committees in addition to the workers' compensation audit committee, the workers' compensation actuarial committee, and the workers' compensation investment committee that the board determines are necessary to assist the board in performing its duties.

(H) The office of a member of the board who is convicted of or pleads guilty to a felony, a theft offense as defined in section 2913.01 of the Revised Code, or a violation of section 102.02, 102.03, 102.04, 2921.02, 2921.11, 2921.13, 2921.31, 2921.41, 2921.42, 2921.43, or 2921.44 of the Revised Code shall be deemed vacant. The vacancy shall be filled in the same manner as the original appointment. A person who has pleaded guilty to or been convicted of an offense of that nature is ineligible to be a member of the board. A member who receives a bill of indictment for any of the offenses specified in this section shall be automatically suspended from the board pending resolution of the criminal matter.

(I) For the purposes of division (G)(1) of section 121.22 of the Revised Code, the meeting between the governor and the board to review the administrator's performance as required under division (F)(15) of this section shall be considered a meeting regarding the employment of the administrator.

Sec. 4121.121. (A) There is hereby created the bureau of workers' compensation, which shall be administered by the administrator of workers' compensation. A person appointed to the position of administrator shall possess significant management experience in effectively managing an

organization or organizations of substantial size and complexity. A person appointed to the position of administrator also shall possess a minimum of five years of experience in the field of workers' compensation insurance or in another insurance industry, except as otherwise provided when the conditions specified in division (C) of this section are satisfied. The governor shall appoint the administrator as provided in section 121.03 of the Revised Code, and the administrator shall serve at the pleasure of the governor. The governor shall fix the administrator's salary on the basis of the administrator's experience and the administrator's responsibilities and duties under this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code. The governor shall not appoint to the position of administrator any person who has, or whose spouse has, given a contribution to the campaign committee of the governor in an amount greater than one thousand dollars during the two-year period immediately preceding the date of the appointment of the administrator.

The administrator shall hold no other public office and shall devote full time to the duties of administrator. Before entering upon the duties of the office, the administrator shall take an oath of office as required by sections 3.22 and 3.23 of the Revised Code, and shall file in the office of the secretary of state, a bond signed by the administrator and by surety approved by the governor, for the sum of fifty thousand dollars payable to the state, conditioned upon the faithful performance of the administrator's duties.

(B) The administrator is responsible for the management of the bureau and for the discharge of all administrative duties imposed upon the administrator in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, and in the discharge thereof shall do all of the following:

(1) Perform all acts and exercise all authorities and powers, discretionary and otherwise that are required of or vested in the bureau or any of its employees in this chapter and Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, except the acts and the exercise of authority and power that is required of and vested in the bureau of workers' compensation board of directors or the industrial commission pursuant to those chapters. The treasurer of state shall honor all warrants signed by the administrator, or by one or more of the administrator's employees, authorized by the administrator in writing, or bearing the facsimile signature of the administrator or such employee under sections 4123.42 and 4123.44 of the Revised Code.

(2) Employ, direct, and supervise all employees required in connection with the performance of the duties assigned to the bureau by this chapter and

Chapters 4123., 4125., 4127., 4131., and 4167. of the Revised Code, including an actuary, and may establish job classification plans and compensation for all employees of the bureau provided that this grant of authority shall not be construed as affecting any employee for whom the state employment relations board has established an appropriate bargaining unit under section 4117.06 of the Revised Code. All positions of employment in the bureau are in the classified civil service except those employees the administrator may appoint to serve at the administrator's pleasure in the unclassified civil service pursuant to section 124.11 of the Revised Code. The administrator shall fix the salaries of employees the administrator appoints to serve at the administrator's pleasure, including the chief operating officer, staff physicians, and other senior management personnel of the bureau and shall establish the compensation of staff attorneys of the bureau's legal section and their immediate supervisors, and take whatever steps are necessary to provide adequate compensation for other staff attorneys.

The administrator may appoint a person who holds a certified position in the classified service within the bureau to a position in the unclassified service within the bureau. A person appointed pursuant to this division to a position in the unclassified service shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment in the unclassified service, regardless of the number of positions the person held in the unclassified service. An employee's right to resume a position in the classified service may only be exercised when the administrator demotes the employee to a pay range lower than the employee's current pay range or revokes the employee's appointment to the unclassified service. An employee forfeits the right to resume a position in the classified service when the employee is removed from the position in the unclassified service due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124., 4123., 4125., 4127., 4131., or 4167. of the Revised Code, violation of the rules of the director of administrative services or the administrator, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. An employee also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to a position substantially equal to that position in the classified service held previously, as certified by the department of administrative services. If the position the

person previously held in the classified service has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the bureau that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service in the position in the unclassified service shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment in the unclassified service. When a person is reinstated to a position in the classified service as provided in this division, the person is entitled to all rights, status, and benefits accruing to the position during the person's time of service in the position in the unclassified service.

(3) Reorganize the work of the bureau, its sections, departments, and offices to the extent necessary to achieve the most efficient performance of its functions and to that end may establish, change, or abolish positions and assign and reassign duties and responsibilities of every employee of the bureau. All persons employed by the commission in positions that, after November 3, 1989, are supervised and directed by the administrator under this section are transferred to the bureau in their respective classifications but subject to reassignment and reclassification of position and compensation as the administrator determines to be in the interest of efficient administration. The civil service status of any person employed by the commission is not affected by this section. Personnel employed by the bureau or the commission who are subject to Chapter 4117. of the Revised Code shall retain all of their rights and benefits conferred pursuant to that chapter as it presently exists or is hereafter amended and nothing in this chapter or Chapter 4123. of the Revised Code shall be construed as eliminating or interfering with Chapter 4117. of the Revised Code or the rights and benefits conferred under that chapter to public employees or to any bargaining unit.

(4) Provide offices, equipment, supplies, and other facilities for the bureau.

(5) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for classifications of occupations or industries, for premium rates and contributions, for the amount to be credited to the surplus fund, for rules and systems of rating, rate revisions, and merit rating. The administrator shall obtain, prepare, and submit any other information the board requires for the prompt and efficient discharge of its duties.

(6) Keep the accounts required by division (A) of section 4123.34 of the

Revised Code and all other accounts and records necessary to the collection, administration, and distribution of the workers' compensation funds and shall obtain the statistical and other information required by section 4123.19 of the Revised Code.

(7) Exercise the investment powers vested in the administrator by section 4123.44 of the Revised Code in accordance with the investment policy approved by the board pursuant to section 4121.12 of the Revised Code and in consultation with the chief investment officer of the bureau of workers' compensation. The administrator shall not engage in any prohibited investment activity specified by the board pursuant to division (F)(9) of section 4121.12 of the Revised Code and shall not invest in any type of investment specified in divisions (B)(1) to (10) of section 4123.442 of the Revised Code. All business shall be transacted, all funds invested, all warrants for money drawn and payments made, and all cash and securities and other property held, in the name of the bureau, or in the name of its nominee, provided that nominees are authorized by the administrator solely for the purpose of facilitating the transfer of securities, and restricted to the administrator and designated employees.

(8) Make contracts for and supervise the construction of any project or improvement or the construction or repair of buildings under the control of the bureau.

(9) Purchase supplies, materials, equipment, and services; make contracts for, operate, and superintend the telephone, other telecommunication, and computer services for the use of the bureau; and make contracts in connection with office reproduction, forms management, printing, and other services. Notwithstanding sections 125.12 to 125.14 of the Revised Code, the administrator may transfer surplus computers and computer equipment directly to an accredited public school within the state. The computers and computer equipment may be repaired or refurbished prior to the transfer.

(10) Prepare and submit to the board an annual budget for internal operating purposes for the board's approval. The administrator also shall, separately from the budget the industrial commission submits ~~and from the budget the director of the workers' compensation council submits~~, prepare and submit to the director of budget and management a budget for each biennium. The budgets submitted to the board and the director shall include estimates of the costs and necessary expenditures of the bureau in the discharge of any duty imposed by law.

(11) As promptly as possible in the course of efficient administration, decentralize and relocate such of the personnel and activities of the bureau

as is appropriate to the end that the receipt, investigation, determination, and payment of claims may be undertaken at or near the place of injury or the residence of the claimant and for that purpose establish regional offices, in such places as the administrator considers proper, capable of discharging as many of the functions of the bureau as is practicable so as to promote prompt and efficient administration in the processing of claims. All active and inactive lost-time claims files shall be held at the service office responsible for the claim. A claimant, at the claimant's request, shall be provided with information by telephone as to the location of the file pertaining to the claimant's claim. The administrator shall ensure that all service office employees report directly to the director for their service office.

(12) Provide a written binder on new coverage where the administrator considers it to be in the best interest of the risk. The administrator, or any other person authorized by the administrator, shall grant the binder upon submission of a request for coverage by the employer. A binder is effective for a period of thirty days from date of issuance and is nonrenewable. Payroll reports and premium charges shall coincide with the effective date of the binder.

(13) Set standards for the reasonable and maximum handling time of claims payment functions, ensure, by rules, the impartial and prompt treatment of all claims and employer risk accounts, and establish a secure, accurate method of time stamping all incoming mail and documents hand delivered to bureau employees.

(14) Ensure that all employees of the bureau follow the orders and rules of the commission as such orders and rules relate to the commission's overall adjudicatory policy-making and management duties under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code.

(15) Manage and operate a data processing system with a common data base for the use of both the bureau and the commission and, in consultation with the commission, using electronic data processing equipment, shall develop a claims tracking system that is sufficient to monitor the status of a claim at any time and that lists appeals that have been filed and orders or determinations that have been issued pursuant to section 4123.511 or 4123.512 of the Revised Code, including the dates of such filings and issuances.

(16) Establish and maintain a medical section within the bureau. The medical section shall do all of the following:

(a) Assist the administrator in establishing standard medical fees, approving medical procedures, and determining eligibility and

reasonableness of the compensation payments for medical, hospital, and nursing services, and in establishing guidelines for payment policies which recognize usual, customary, and reasonable methods of payment for covered services;

(b) Provide a resource to respond to questions from claims examiners for employees of the bureau;

(c) Audit fee bill payments;

(d) Implement a program to utilize, to the maximum extent possible, electronic data processing equipment for storage of information to facilitate authorizations of compensation payments for medical, hospital, drug, and nursing services;

(e) Perform other duties assigned to it by the administrator.

(17) Appoint, as the administrator determines necessary, panels to review and advise the administrator on disputes arising over a determination that a health care service or supply provided to a claimant is not covered under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code or is medically unnecessary. If an individual health care provider is involved in the dispute, the panel shall consist of individuals licensed pursuant to the same section of the Revised Code as such health care provider.

(18) Pursuant to section 4123.65 of the Revised Code, approve applications for the final settlement of claims for compensation or benefits under this chapter and Chapters 4123., 4127., and 4131. of the Revised Code as the administrator determines appropriate, except in regard to the applications of self-insuring employers and their employees.

(19) Comply with section 3517.13 of the Revised Code, and except in regard to contracts entered into pursuant to the authority contained in section 4121.44 of the Revised Code, comply with the competitive bidding procedures set forth in the Revised Code for all contracts into which the administrator enters provided that those contracts fall within the type of contracts and dollar amounts specified in the Revised Code for competitive bidding and further provided that those contracts are not otherwise specifically exempt from the competitive bidding procedures contained in the Revised Code.

(20) Adopt, with the advice and consent of the board, rules for the operation of the bureau.

(21) Prepare and submit to the board information the administrator considers pertinent or the board requires, together with the administrator's recommendations, in the form of administrative rules, for the advice and consent of the board, for the health partnership program and the qualified health plan system, as provided in sections 4121.44, 4121.441, and

4121.442 of the Revised Code.

(C) The administrator, with the advice and consent of the senate, shall appoint a chief operating officer who has a minimum of five years of experience in the field of workers' compensation insurance or in another similar insurance industry if the administrator does not possess such experience. The chief operating officer shall not commence the chief operating officer's duties until after the senate consents to the chief operating officer's appointment. The chief operating officer shall serve in the unclassified civil service of the state.

Sec. 4121.125. (A) The bureau of workers' compensation board of directors, based upon recommendations of the workers' compensation actuarial committee, may contract with one or more outside actuarial firms and other professional persons, as the board determines necessary, to assist the board in measuring the performance of Ohio's workers' compensation system and in comparing Ohio's workers' compensation system to other state and private workers' compensation systems. The board, actuarial firm or firms, and professional persons shall make such measurements and comparisons using accepted insurance industry standards, including, but not limited to, standards promulgated by the National Council on Compensation Insurance.

(B) The board may contract with one or more outside firms to conduct management and financial audits of the workers' compensation system, including audits of the reserve fund belonging to the state insurance fund, and to establish objective quality management principles and methods by which to review the performance of the workers' compensation system.

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

(1) Contract to have prepared annually by or under the supervision of an actuary a report that meets the requirements specified under division (E) of this section and that consists of an actuarial valuation of the assets, liabilities, and funding requirements of the state insurance fund and all other funds specified in this chapter and Chapters 4123., 4127., and 4131. of the Revised Code;

(2) Require that the actuary or person supervised by an actuary referred to in division (C)(1) of this section complete the valuation in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries;

(3) Submit the report referred to in division (C)(1) of this section to the ~~workers' compensation council and the~~ standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation on or before the first day of November following

the year for which the valuation was made;

(4) Have an actuary or a person who provides actuarial services under the supervision of an actuary, at such time as the board determines, and at least once during the five-year period that commences on September 10, 2007, and once within each five-year period thereafter, conduct an actuarial investigation of the experience of employers, the mortality, service, and injury rate of employees, and the payment of temporary total disability, permanent partial disability, and permanent total disability under sections 4123.56 to 4123.58 of the Revised Code to update the actuarial assumptions used in the report required by division (C)(1) of this section;

(5) Submit the report required under division (F) of this section to the ~~council and the~~ standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation not later than the first day of November following the fifth year of the period that the report covers;

(6) Have prepared by or under the supervision of an actuary an actuarial analysis of any introduced legislation expected to have a measurable financial impact on the workers' compensation system;

(7) Submit the report required under division (G) of this section to the legislative service commission, and the standing committees of the house of representatives and the senate with primary responsibility for workers' compensation legislation, ~~and the council~~ not later than sixty days after the date of introduction of the legislation.

(D) The administrator of workers' compensation and the industrial commission shall compile information and provide access to records of the bureau and the industrial commission to the board to the extent necessary for fulfillment of both of the following requirements:

(1) Conduct of the measurements and comparisons described in division (A) of this section;

(2) Conduct of the management and financial audits and establishment of the principles and methods described in division (B) of this section.

(E) The firm or person with whom the board contracts pursuant to division (C)(1) of this section shall prepare a report of the valuation and submit the report to the board. The firm or person shall include all of the following information in the report that is required under division (C)(1) of this section:

(1) A summary of the compensation and benefit provisions evaluated;

(2) A description of the actuarial assumptions and actuarial cost method used in the valuation;

(3) A schedule showing the effect of any changes in the compensation

and benefit provisions, actuarial assumptions, or cost methods since the previous annual actuarial valuation report was submitted to the board.

(F) The actuary or person whom the board designates to conduct an actuarial investigation under division (C)(4) of this section shall prepare a report of the actuarial investigation and shall submit the report to the board. The actuary or person shall prepare the report and make any recommended changes in actuarial assumptions in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of relevant decrement and economic assumption experience;

(2) Recommended changes in actuarial assumptions to be used in subsequent actuarial valuations required by division (C)(1) of this section;

(3) A measurement of the financial effect of the recommended changes in actuarial assumptions.

(G) The actuary or person whom the board designates to conduct the actuarial analysis under division (C)(6) of this section shall prepare a report of the actuarial analysis and shall submit that report to the board. The actuary or person shall complete the analysis in accordance with the actuarial standards of practice promulgated by the actuarial standards board of the American academy of actuaries. The actuary or person shall include all of the following information in the report:

(1) A summary of the statutory changes being evaluated;

(2) A description of or reference to the actuarial assumptions and actuarial cost method used in the report;

(3) A description of the participant group or groups included in the report;

(4) A statement of the financial impact of the legislation, including the resulting increase, if any, in employer premiums, in actuarial accrued liabilities, and, if an increase in actuarial accrued liabilities is predicted, the per cent of premium increase that would be required to amortize the increase in those liabilities as a level per cent of employer premiums over a period not to exceed thirty years.

(5) A statement of whether the employer premiums paid to the bureau of workers' compensation after the proposed change is enacted are expected to be sufficient to satisfy the funding objectives established by the board.

(H) The board may, at any time, request an actuary to make any studies or actuarial valuations to determine the adequacy of the premium rates established by the administrator in accordance with sections 4123.29 and

4123.34 of the Revised Code, and may adjust those rates as recommended by the actuary.

(I) The board shall have an independent auditor, at least once every ten years, conduct a fiduciary performance audit of the investment program of the bureau of workers' compensation. That audit shall include an audit of the investment policies approved by the board and investment procedures of the bureau. The board shall submit a copy of that audit to the auditor of state.

(J) The administrator, with the advice and consent of the board, shall employ an internal auditor who shall report findings directly to the board, workers' compensation audit committee, and administrator, except that the internal auditor shall not report findings directly to the administrator when those findings involve malfeasance, misfeasance, or nonfeasance on the part of the administrator. The board and the workers' compensation audit committee may request and review internal audits conducted by the internal auditor.

(K) The administrator shall pay the expenses incurred by the board to effectively fulfill its duties and exercise its powers under this section as the administrator pays other operating expenses of the bureau.

Sec. 4121.128. The attorney general shall be the legal adviser of the bureau of workers' compensation board of directors ~~and the workers' compensation council.~~

Sec. 4121.44. (A) The administrator of workers' compensation shall oversee the implementation of the Ohio workers' compensation qualified health plan system as established under section 4121.442 of the Revised Code.

(B) The administrator shall direct the implementation of the health partnership program administered by the bureau as set forth in section 4121.441 of the Revised Code. To implement the health partnership program, the bureau:

(1) Shall certify one or more external vendors, which shall be known as "managed care organizations," to provide medical management and cost containment services in the health partnership program for a period of two years beginning on the date of certification, consistent with the standards established under this section;

(2) May recertify external vendors for additional periods of two years; and

(3) May integrate the certified vendors with bureau staff and existing bureau services for purposes of operation and training to allow the bureau to assume operation of the health partnership program at the conclusion of the certification periods set forth in division (B)(1) or (2) of this section.

(C) Any vendor selected shall demonstrate all of the following:

(1) Arrangements and reimbursement agreements with a substantial number of the medical, professional and pharmacy providers currently being utilized by claimants.

(2) Ability to accept a common format of medical bill data in an electronic fashion from any provider who wishes to submit medical bill data in that form.

(3) A computer system able to handle the volume of medical bills and willingness to customize that system to the bureau's needs and to be operated by the vendor's staff, bureau staff, or some combination of both staffs.

(4) A prescription drug system where pharmacies on a statewide basis have access to the eligibility and pricing, at a discounted rate, of all prescription drugs.

(5) A tracking system to record all telephone calls from claimants and providers regarding the status of submitted medical bills so as to be able to track each inquiry.

(6) Data processing capacity to absorb all of the bureau's medical bill processing or at least that part of the processing which the bureau arranges to delegate.

(7) Capacity to store, retrieve, array, simulate, and model in a relational mode all of the detailed medical bill data so that analysis can be performed in a variety of ways and so that the bureau and its governing authority can make informed decisions.

(8) Wide variety of software programs which translate medical terminology into standard codes, and which reveal if a provider is manipulating the procedures codes, commonly called "unbundling."

(9) Necessary professional staff to conduct, at a minimum, authorizations for treatment, medical necessity, utilization review, concurrent review, post-utilization review, and have the attendant computer system which supports such activity and measures the outcomes and the savings.

(10) Management experience and flexibility to be able to react quickly to the needs of the bureau in the case of required change in federal or state requirements.

(D)(1) Information contained in a vendor's application for certification in the health partnership program, and other information furnished to the bureau by a vendor for purposes of obtaining certification or to comply with performance and financial auditing requirements established by the administrator, is for the exclusive use and information of the bureau in the

discharge of its official duties, and shall not be open to the public or be used in any court in any proceeding pending therein, unless the bureau is a party to the action or proceeding, but the information may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No employee of the bureau, except as otherwise authorized by the administrator, shall divulge any information secured by the employee while in the employ of the bureau in respect to a vendor's application for certification or in respect to the business or other trade processes of any vendor to any person other than the administrator or to the employee's superior.

(2) Notwithstanding the restrictions imposed by division (D)(1) of this section, the governor, members of select or standing committees of the senate or house of representatives, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4123. of the Revised Code, may examine any vendor application or other information furnished to the bureau by the vendor. None of those individuals shall divulge any information secured in the exercise of that authority in respect to a vendor's application for certification or in respect to the business or other trade processes of any vendor to any person.

(E) On and after January 1, 2001, a vendor shall not be any insurance company holding a certificate of authority issued pursuant to Title XXXIX of the Revised Code or any health insuring corporation holding a certificate of authority under Chapter 1751. of the Revised Code.

(F) The administrator may limit freedom of choice of health care provider or supplier by requiring, beginning with the period set forth in division (B)(1) or (2) of this section, that claimants shall pay an appropriate out-of-plan copayment for selecting a medical provider not within the health partnership program as provided for in this section.

(G) The administrator, six months prior to the expiration of the bureau's certification or recertification of the vendor or vendors as set forth in division (B)(1) or (2) of this section, may certify and provide evidence to the governor, the speaker of the house of representatives, and the president of the senate that the existing bureau staff is able to match or exceed the performance and outcomes of the external vendor or vendors and that the bureau should be permitted to internally administer the health partnership program upon the expiration of the certification or recertification as set forth in division (B)(1) or (2) of this section.

(H) The administrator shall establish and operate a bureau of workers' compensation health care data program. The administrator shall develop reporting requirements from all employees, employers and medical

providers, medical vendors, and plans that participate in the workers' compensation system. The administrator shall do all of the following:

(1) Utilize the collected data to measure and perform comparison analyses of costs, quality, appropriateness of medical care, and effectiveness of medical care delivered by all components of the workers' compensation system.

(2) Compile data to support activities of the selected vendor or vendors and to measure the outcomes and savings of the health partnership program.

(3) Publish and report compiled data on the measures of outcomes and savings of the health partnership program and submit the report to the president of the senate, the speaker of the house of representatives, and the governor, ~~and the workers' compensation council~~ with the annual report prepared under division (F)(3) of section 4121.12 of the Revised Code. The administrator shall protect the confidentiality of all proprietary pricing data.

(I) Any rehabilitation facility the bureau operates is eligible for inclusion in the Ohio workers' compensation qualified health plan system or the health partnership program under the same terms as other providers within health care plans or the program.

(J) In areas outside the state or within the state where no qualified health plan or an inadequate number of providers within the health partnership program exist, the administrator shall permit employees to use a nonplan or nonprogram health care provider and shall pay the provider for the services or supplies provided to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code on a fee schedule the administrator adopts.

(K) No health care provider, whether certified or not, shall charge, assess, or otherwise attempt to collect from an employee, employer, a managed care organization, or the bureau any amount for covered services or supplies that is in excess of the allowed amount paid by a managed care organization, the bureau, or a qualified health plan.

(L) The administrator shall permit any employer or group of employers who agree to abide by the rules adopted under this section and sections 4121.441 and 4121.442 of the Revised Code to provide services or supplies to or on behalf of an employee for an injury or occupational disease that is compensable under this chapter or Chapter 4123., 4127., or 4131. of the Revised Code through qualified health plans of the Ohio workers' compensation qualified health plan system pursuant to section 4121.442 of the Revised Code or through the health partnership program pursuant to section 4121.441 of the Revised Code. No amount paid under the qualified

health plan system pursuant to section 4121.442 of the Revised Code by an employer who is a state fund employer shall be charged to the employer's experience or otherwise be used in merit-rating or determining the risk of that employer for the purpose of the payment of premiums under this chapter, and if the employer is a self-insuring employer, the employer shall not include that amount in the paid compensation the employer reports under section 4123.35 of the Revised Code.

Sec. 4123.27. Information contained in the annual statement provided for in section 4123.26 of the Revised Code, and such other information as may be furnished to the bureau of workers' compensation by employers in pursuance of that section, is for the exclusive use and information of the bureau in the discharge of its official duties, and shall not be open to the public nor be used in any court in any action or proceeding pending therein unless the bureau is a party to the action or proceeding; but the information contained in the statement may be tabulated and published by the bureau in statistical form for the use and information of other state departments and the public. No person in the employ of the bureau, except those who are authorized by the administrator of workers' compensation, shall divulge any information secured by the person while in the employ of the bureau in respect to the transactions, property, claim files, records, or papers of the bureau or in respect to the business or mechanical, chemical, or other industrial process of any company, firm, corporation, person, association, partnership, or public utility to any person other than the administrator or to the superior of such employee of the bureau.

Notwithstanding the restrictions imposed by this section, the governor, select or standing committees of the general assembly, the auditor of state, the attorney general, or their designees, pursuant to the authority granted in this chapter and Chapter 4121. of the Revised Code, may examine any records, claim files, or papers in possession of the industrial commission or the bureau. They also are bound by the privilege that attaches to these papers.

The administrator shall report to the director of job and family services or to the county director of job and family services the name, address, and social security number or other identification number of any person receiving workers' compensation whose name or social security number or other identification number is the same as that of a person required by a court or child support enforcement agency to provide support payments to a recipient or participant of public assistance, as that term is defined in section 5101.181 of the Revised Code, and whose name is submitted to the administrator by the director under section 5101.36 of the Revised Code.

The administrator also shall inform the director of the amount of workers' compensation paid to the person during such period as the director specifies.

Within fourteen days after receiving from the director of job and family services a list of the names and social security numbers of recipients or participants of public assistance pursuant to section 5101.181 of the Revised Code, the administrator shall inform the auditor of state of the name, current or most recent address, and social security number of each person receiving workers' compensation pursuant to this chapter whose name and social security number are the same as that of a person whose name or social security number was submitted by the director. The administrator also shall inform the auditor of state of the amount of workers' compensation paid to the person during such period as the director specifies.

The bureau and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall preserve the confidentiality of recipients or participants of public assistance in compliance with ~~division (A) of~~ section 5101.181 of the Revised Code.

~~For the purposes of this section, "public assistance" means medical assistance provided through the medical assistance program established under section 5111.01 of the Revised Code, Ohio works first provided under Chapter 5107. of the Revised Code, prevention, retention, and contingency benefits and services provided under Chapter 5108. of the Revised Code, or disability financial assistance provided under Chapter 5115. of the Revised Code.~~

Sec. 4123.341. The administrative costs of the industrial commission, ~~the workers' compensation council~~, the bureau of workers' compensation board of directors, and the bureau of workers' compensation shall be those costs and expenses that are incident to the discharge of the duties and performance of the activities of the industrial commission, ~~the council~~, the board, and the bureau under this chapter and Chapters 4121., 4125., 4127., 4131., and 4167. of the Revised Code, and all such costs shall be borne by the state and by other employers amenable to this chapter as follows:

(A) In addition to the contribution required of the state under sections 4123.39 and 4123.40 of the Revised Code, the state shall contribute the sum determined to be necessary under section 4123.342 of the Revised Code.

(B) The director of budget and management may allocate the state's share of contributions in the manner the director finds most equitably apports the costs.

(C) The counties and taxing districts therein shall contribute such sum as may be required under section 4123.342 of the Revised Code.

(D) The private employers shall contribute the sum required under

section 4123.342 of the Revised Code.

Sec. 4123.342. (A) The administrator of workers' compensation shall allocate among counties and taxing districts therein as a class, the state and its instrumentalities as a class, private employers who are insured under the private fund as a class, and self-insuring employers as a class their fair shares of the administrative costs which are to be borne by such employers under division (D) of section 4123.341 of the Revised Code, separately allocating to each class those costs solely attributable to the activities of the industrial commission, ~~those costs solely attributable to the activities of the workers' compensation council,~~ and those costs solely attributable to the activities of the bureau of workers' compensation board of directors, and the bureau of workers' compensation in respect of the class, allocating to any combination of classes those costs attributable to the activities of the industrial commission, ~~council,~~ board, or bureau in respect of the classes, and allocating to all four classes those costs attributable to the activities of the industrial commission, ~~council,~~ board, and bureau in respect of all classes. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the board and the bureau. The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the industrial commission. ~~The administrator shall separately calculate each employer's assessment in the class, except self-insuring employers, on the basis of the following three factors: payroll, paid compensation, and paid medical costs of the employer for those costs solely attributable to the activities of the council.~~ The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the board and the bureau. The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the industrial commission. ~~The administrator shall separately calculate each self-insuring employer's assessment in accordance with section 4123.35 of the Revised Code for those costs solely attributable to the activities of the council.~~ In a timely manner, the industrial commission shall provide to the administrator, the information necessary for the administrator to allocate and calculate, with the approval of the chairperson of the

industrial commission, for each class of employer as described in this division, the costs solely attributable to the activities of the industrial commission. ~~In a timely manner, the director of the workers' compensation council shall submit to the administrator the information necessary for the administrator to allocate and calculate, with the approval of the director, for each class of employer as described in this division, the costs solely attributable to the activities of the council.~~

(B) The administrator shall divide the administrative cost assessments collected by the administrator into ~~three~~ two administrative assessment accounts within the state insurance fund. One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the industrial commission. ~~One of the administrative assessment accounts shall consist of the administrative cost assessment collected by the administrator for the council.~~ One of the administrative assessment accounts shall consist of the administrative cost assessments collected by the administrator for the bureau and the board. The administrator may invest the administrative cost assessments in these accounts on behalf of the bureau, ~~the council,~~ and the industrial commission as authorized in section 4123.44 of the Revised Code. In a timely manner, the administrator shall provide to the industrial commission ~~and the council~~ the information and reports the commission ~~or council, as applicable,~~ deems necessary for the commission ~~or the council, as applicable,~~ to monitor the receipts and the disbursements from the administrative assessment account for the industrial commission ~~or the administrative assessment account for the council, as applicable.~~

(C) The administrator or the administrator's designee shall transfer moneys as necessary from the administrative assessment account identified for the bureau and the board to the workers' compensation fund for the use of the bureau and the board. As necessary and upon the authorization of the industrial commission, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the industrial commission to the industrial commission operating fund created under section 4121.021 of the Revised Code. To the extent that the moneys collected by the administrator in any fiscal biennium of the state equal the sum appropriated by the general assembly for administrative costs of the industrial commission, board, and bureau for the biennium ~~and the administrative costs approved by the workers' compensation council,~~ the moneys shall be paid into the workers' compensation fund; and the industrial commission operating fund of the state, ~~the workers' compensation council fund, and the workers' compensation council remuneration fund,~~ as

appropriate, and any remainder shall be retained in those funds and applied to reduce the amount collected during the next biennium.

~~(D) As necessary and upon authorization of the director of the council, the administrator or the administrator's designee shall transfer moneys from the administrative assessment account identified for the council to the workers' compensation council fund created in division (C) of section 4121.79 of the Revised Code.~~

~~(E)~~ Sections 4123.41, 4123.35, and 4123.37 of the Revised Code apply to the collection of assessments from public and private employers respectively, except that for boards of county hospital trustees that are self-insuring employers, only those provisions applicable to the collection of assessments for private employers apply.

Sec. 4123.35. (A) Except as provided in this section, every employer mentioned in division (B)(2) of section 4123.01 of the Revised Code, and every publicly owned utility shall pay semiannually in the months of January and July into the state insurance fund the amount of annual premium the administrator of workers' compensation fixes for the employment or occupation of the employer, the amount of which premium to be paid by each employer to be determined by the classifications, rules, and rates made and published by the administrator. The employer shall pay semiannually a further sum of money into the state insurance fund as may be ascertained to be due from the employer by applying the rules of the administrator, and a receipt or certificate certifying that payment has been made, along with a written notice as is required in section 4123.54 of the Revised Code, shall be mailed immediately to the employer by the bureau of workers' compensation. The receipt or certificate is prima-facie evidence of the payment of the premium, and the proper posting of the notice constitutes the employer's compliance with the notice requirement mandated in section 4123.54 of the Revised Code.

The bureau of workers' compensation shall verify with the secretary of state the existence of all corporations and organizations making application for workers' compensation coverage and shall require every such application to include the employer's federal identification number.

An employer as defined in division (B)(2) of section 4123.01 of the Revised Code who has contracted with a subcontractor is liable for the unpaid premium due from any subcontractor with respect to that part of the payroll of the subcontractor that is for work performed pursuant to the contract with the employer.

Division (A) of this section providing for the payment of premiums semiannually does not apply to any employer who was a subscriber to the

state insurance fund prior to January 1, 1914, or who may first become a subscriber to the fund in any month other than January or July. Instead, the semiannual premiums shall be paid by those employers from time to time upon the expiration of the respective periods for which payments into the fund have been made by them.

The administrator shall adopt rules to permit employers to make periodic payments of the semiannual premium due under this division. The rules shall include provisions for the assessment of interest charges, where appropriate, and for the assessment of penalties when an employer fails to make timely premium payments. An employer who timely pays the amounts due under this division is entitled to all of the benefits and protections of this chapter. Upon receipt of payment, the bureau immediately shall mail a receipt or certificate to the employer certifying that payment has been made, which receipt is prima-facie evidence of payment. Workers' compensation coverage under this chapter continues uninterrupted upon timely receipt of payment under this division.

Every public employer, except public employers that are self-insuring employers under this section, shall comply with sections 4123.38 to 4123.41, and 4123.48 of the Revised Code in regard to the contribution of moneys to the public insurance fund.

(B) Employers who will abide by the rules of the administrator and who may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and who do not desire to insure the payment thereof or indemnify themselves against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge employers who apply for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application.

All employers granted status as self-insuring employers shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the

employer's ability to promptly meet all the obligations imposed on the employer by this section.

(1) The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the employer by this section:

(a) The employer employs a minimum of five hundred employees in this state;

(b) The employer has operated in this state for a minimum of two years, provided that an employer who has purchased, acquired, or otherwise succeeded to the operation of a business, or any part thereof, situated in this state that has operated for at least two years in this state, also shall qualify;

(c) Where the employer previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(d) The sufficiency of the employer's assets located in this state to insure the employer's solvency in paying compensation directly;

(e) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the employer's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(f) The employer's organizational plan for the administration of the workers' compensation law;

(g) The employer's proposed plan to inform employees of the change from a state fund insurer to a self-insuring employer, the procedures the employer will follow as a self-insuring employer, and the employees' rights to compensation and benefits; and

(h) The employer has either an account in a financial institution in this state, or if the employer maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the employer clearly indicates that payment will be honored by a financial institution in this state.

The administrator may waive the requirements of divisions (B)(1)(a) and (b) of this section and the requirement of division (B)(1)(e) of this section that the financial records, documents, and data be certified by a certified public accountant. The administrator shall adopt rules establishing the criteria that an employer shall meet in order for the administrator to waive the requirement of division (B)(1)(e) of this section. Such rules may require additional security of that employer pursuant to division (E) of section 4123.351 of the Revised Code.

The administrator shall not grant the status of self-insuring employer to the state, except that the administrator may grant the status of self-insuring employer to a state institution of higher education, excluding its hospitals, that meets the requirements of division (B)(2) of this section.

(2) When considering the application of a public employer, except for a board of county commissioners described in division (G) of section 4123.01 of the Revised Code, a board of a county hospital, or a publicly owned utility, the administrator shall verify that the public employer satisfies all of the following requirements as the requirements apply to that public employer:

(a) For the two-year period preceding application under this section, the public employer has maintained an unvoted debt capacity equal to at least two times the amount of the current annual premium established by the administrator under this chapter for that public employer for the year immediately preceding the year in which the public employer makes application under this section.

(b) For each of the two fiscal years preceding application under this section, the unreserved and undesignated year-end fund balance in the public employer's general fund is equal to at least five per cent of the public employer's general fund revenues for the fiscal year computed in accordance with generally accepted accounting principles.

(c) For the five-year period preceding application under this section, the public employer, to the extent applicable, has complied fully with the continuing disclosure requirements established in rules adopted by the United States securities and exchange commission under 17 C.F.R. 240.15c 2-12.

(d) For the five-year period preceding application under this section, the public employer has not had its local government fund distribution withheld on account of the public employer being indebted or otherwise obligated to the state.

(e) For the five-year period preceding application under this section, the public employer has not been under a fiscal watch or fiscal emergency pursuant to section 118.023, 118.04, or 3316.03 of the Revised Code.

(f) For the public employer's fiscal year preceding application under this section, the public employer has obtained an annual financial audit as required under section 117.10 of the Revised Code, which has been released by the auditor of state within seven months after the end of the public employer's fiscal year.

(g) On the date of application, the public employer holds a debt rating of Aa3 or higher according to Moody's investors service, inc., or a comparable

rating by an independent rating agency similar to Moody's investors service, inc.

(h) The public employer agrees to generate an annual accumulating book reserve in its financial statements reflecting an actuarially generated reserve adequate to pay projected claims under this chapter for the applicable period of time, as determined by the administrator.

(i) For a public employer that is a hospital, the public employer shall submit audited financial statements showing the hospital's overall liquidity characteristics, and the administrator shall determine, on an individual basis, whether the public employer satisfies liquidity standards equivalent to the liquidity standards of other public employers.

(j) Any additional criteria that the administrator adopts by rule pursuant to division (E) of this section.

The administrator may adopt rules establishing the criteria that a public employer shall satisfy in order for the administrator to waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section. The rules may require additional security from that employer pursuant to division (E) of section 4123.351 of the Revised Code. The administrator shall not waive any of the requirements listed in divisions (B)(2)(a) to (j) of this section for a public employer who does not satisfy the criteria established in the rules the administrator adopts.

(C) A board of county commissioners described in division (G) of section 4123.01 of the Revised Code, as an employer, that will abide by the rules of the administrator and that may be of sufficient financial ability to render certain the payment of compensation to injured employees or the dependents of killed employees, and the furnishing of medical, surgical, nursing, and hospital attention and services and medicines, and funeral expenses, equal to or greater than is provided for in sections 4123.52, 4123.55 to 4123.62, and 4123.64 to 4123.67 of the Revised Code, and that does not desire to insure the payment thereof or indemnify itself against loss sustained by the direct payment thereof, upon a finding of such facts by the administrator, may be granted the privilege to pay individually compensation, and furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees, thereby being granted status as a self-insuring employer. The administrator may charge a board of county commissioners described in division (G) of section 4123.01 of the Revised Code that applies for the status as a self-insuring employer a reasonable application fee to cover the bureau's costs in connection with processing and making a determination with respect to an application. All employers

granted such status shall demonstrate sufficient financial and administrative ability to assure that all obligations under this section are promptly met. The administrator shall deny the privilege where the employer is unable to demonstrate the employer's ability to promptly meet all the obligations imposed on the employer by this section. The administrator shall consider, but is not limited to, the following factors, where applicable, in determining the employer's ability to meet all of the obligations imposed on the board as an employer by this section:

(1) The board as an employer employs a minimum of five hundred employees in this state;

(2) The board has operated in this state for a minimum of two years;

(3) Where the board previously contributed to the state insurance fund or is a successor employer as defined by bureau rules, the amount of the buyout, as defined by bureau rules;

(4) The sufficiency of the board's assets located in this state to insure the board's solvency in paying compensation directly;

(5) The financial records, documents, and data, certified by a certified public accountant, necessary to provide the board's full financial disclosure. The records, documents, and data include, but are not limited to, balance sheets and profit and loss history for the current year and previous four years.

(6) The board's organizational plan for the administration of the workers' compensation law;

(7) The board's proposed plan to inform employees of the proposed self-insurance, the procedures the board will follow as a self-insuring employer, and the employees' rights to compensation and benefits;

(8) The board has either an account in a financial institution in this state, or if the board maintains an account with a financial institution outside this state, ensures that workers' compensation checks are drawn from the same account as payroll checks or the board clearly indicates that payment will be honored by a financial institution in this state;

(9) The board shall provide the administrator a surety bond in an amount equal to one hundred twenty-five per cent of the projected losses as determined by the administrator.

(D) The administrator shall require a surety bond from all self-insuring employers, issued pursuant to section 4123.351 of the Revised Code, that is sufficient to compel, or secure to injured employees, or to the dependents of employees killed, the payment of compensation and expenses, which shall in no event be less than that paid or furnished out of the state insurance fund in similar cases to injured employees or to dependents of killed employees

whose employers contribute to the fund, except when an employee of the employer, who has suffered the loss of a hand, arm, foot, leg, or eye prior to the injury for which compensation is to be paid, and thereafter suffers the loss of any other of the members as the result of any injury sustained in the course of and arising out of the employee's employment, the compensation to be paid by the self-insuring employer is limited to the disability suffered in the subsequent injury, additional compensation, if any, to be paid by the bureau out of the surplus created by section 4123.34 of the Revised Code.

(E) In addition to the requirements of this section, the administrator shall make and publish rules governing the manner of making application and the nature and extent of the proof required to justify a finding of fact by the administrator as to granting the status of a self-insuring employer, which rules shall be general in their application, one of which rules shall provide that all self-insuring employers shall pay into the state insurance fund such amounts as are required to be credited to the surplus fund in division (B) of section 4123.34 of the Revised Code. The administrator may adopt rules establishing requirements in addition to the requirements described in division (B)(2) of this section that a public employer shall meet in order to qualify for self-insuring status.

Employers shall secure directly from the bureau central offices application forms upon which the bureau shall stamp a designating number. Prior to submission of an application, an employer shall make available to the bureau, and the bureau shall review, the information described in division (B)(1) of this section, and public employers shall make available, and the bureau shall review, the information necessary to verify whether the public employer meets the requirements listed in division (B)(2) of this section. An employer shall file the completed application forms with an application fee, which shall cover the costs of processing the application, as established by the administrator, by rule, with the bureau at least ninety days prior to the effective date of the employer's new status as a self-insuring employer. The application form is not deemed complete until all the required information is attached thereto. The bureau shall only accept applications that contain the required information.

(F) The bureau shall review completed applications within a reasonable time. If the bureau determines to grant an employer the status as a self-insuring employer, the bureau shall issue a statement, containing its findings of fact, that is prepared by the bureau and signed by the administrator. If the bureau determines not to grant the status as a self-insuring employer, the bureau shall notify the employer of the determination and require the employer to continue to pay its full premium

into the state insurance fund. The administrator also shall adopt rules establishing a minimum level of performance as a criterion for granting and maintaining the status as a self-insuring employer and fixing time limits beyond which failure of the self-insuring employer to provide for the necessary medical examinations and evaluations may not delay a decision on a claim.

(G) The administrator shall adopt rules setting forth procedures for auditing the program of self-insuring employers. The bureau shall conduct the audit upon a random basis or whenever the bureau has grounds for believing that a self-insuring employer is not in full compliance with bureau rules or this chapter.

The administrator shall monitor the programs conducted by self-insuring employers, to ensure compliance with bureau requirements and for that purpose, shall develop and issue to self-insuring employers standardized forms for use by the self-insuring employer in all aspects of the self-insuring employers' direct compensation program and for reporting of information to the bureau.

The bureau shall receive and transmit to the self-insuring employer all complaints concerning any self-insuring employer. In the case of a complaint against a self-insuring employer, the administrator shall handle the complaint through the self-insurance division of the bureau. The bureau shall maintain a file by employer of all complaints received that relate to the employer. The bureau shall evaluate each complaint and take appropriate action.

The administrator shall adopt as a rule a prohibition against any self-insuring employer from harassing, dismissing, or otherwise disciplining any employee making a complaint, which rule shall provide for a financial penalty to be levied by the administrator payable by the offending self-insuring employer.

(H) For the purpose of making determinations as to whether to grant status as a self-insuring employer, the administrator may subscribe to and pay for a credit reporting service that offers financial and other business information about individual employers. The costs in connection with the bureau's subscription or individual reports from the service about an applicant may be included in the application fee charged employers under this section.

(I) The administrator, notwithstanding other provisions of this chapter, may permit a self-insuring employer to resume payment of premiums to the state insurance fund with appropriate credit modifications to the employer's basic premium rate as such rate is determined pursuant to section 4123.29 of

the Revised Code.

(J) On the first day of July of each year, the administrator shall calculate separately each self-insuring employer's assessments for the safety and hygiene fund, administrative costs pursuant to section 4123.342 of the Revised Code, and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, on the basis of the paid compensation attributable to the individual self-insuring employer according to the following calculation:

(1) The total assessment against all self-insuring employers as a class for each fund and for the administrative costs for the year that the assessment is being made, as determined by the administrator, divided by the total amount of paid compensation for the previous calendar year attributable to all amenable self-insuring employers;

(2) Multiply the quotient in division (J)(1) of this section by the total amount of paid compensation for the previous calendar year that is attributable to the individual self-insuring employer for whom the assessment is being determined. Each self-insuring employer shall pay the assessment that results from this calculation, unless the assessment resulting from this calculation falls below a minimum assessment, which minimum assessment the administrator shall determine on the first day of July of each year with the advice and consent of the bureau of workers' compensation board of directors, in which event, the self-insuring employer shall pay the minimum assessment.

In determining the total amount due for the total assessment against all self-insuring employers as a class for each fund and the administrative assessment, the administrator shall reduce proportionately the total for each fund and assessment by the amount of money in the self-insurance assessment fund as of the date of the computation of the assessment.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for handicapped reimbursement in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in the handicapped reimbursement program and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in the handicapped reimbursement program. The administrator, as the administrator determines appropriate, may determine the total assessment for the handicapped portion of the surplus fund in accordance with sound actuarial principles.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that under division (D) of section 4121.66 of the Revised Code is used for rehabilitation costs in the same manner as set forth in divisions (J)(1) and (2) of this section, except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers who have not made the election to make payments directly under division (D) of section 4121.66 of the Revised Code and an individual self-insuring employer's proportion of paid compensation only for those self-insuring employers who have not made that election.

The administrator shall calculate the assessment for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is used for reimbursement to a self-insuring employer under division (H) of section 4123.512 of the Revised Code in the same manner as set forth in divisions (J)(1) and (2) of this section except that the administrator shall calculate the total assessment for this portion of the surplus fund only on the basis of those self-insuring employers that retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code and the individual self-insuring employer's proportion of paid compensation shall be calculated only for those self-insuring employers who retain participation in reimbursement to the self-insuring employer under division (H) of section 4123.512 of the Revised Code.

An employer who no longer is a self-insuring employer in this state or who no longer is operating in this state, shall continue to pay assessments for administrative costs and for the portion of the surplus fund under division (B) of section 4123.34 of the Revised Code that is not used for handicapped reimbursement, based upon paid compensation attributable to claims that occurred while the employer was a self-insuring employer within this state.

~~(K) The administrator shall deposit any moneys received from a self-insuring employer for the self-insuring employer's assessment to pay the costs solely attributable to the workers' compensation council into the administrative assessment account described in division (B) of section 4123.342 of the Revised Code for the administrative cost assessment collected by the administrator for the council.~~ There is hereby created in the state treasury the self-insurance assessment fund. All investment earnings of the fund shall be deposited in the fund. The administrator shall use the money in the self-insurance assessment fund only for administrative costs as specified in section 4123.341 of the Revised Code.

(L) Every self-insuring employer shall certify, in affidavit form subject to the penalty for perjury, to the bureau the amount of the self-insuring employer's paid compensation for the previous calendar year. In reporting paid compensation paid for the previous year, a self-insuring employer shall exclude from the total amount of paid compensation any reimbursement the self-insuring employer receives in the previous calendar year from the surplus fund pursuant to section 4123.512 of the Revised Code for any paid compensation. The self-insuring employer also shall exclude from the paid compensation reported any amount recovered under section 4123.931 of the Revised Code and any amount that is determined not to have been payable to or on behalf of a claimant in any final administrative or judicial proceeding. The self-insuring employer shall exclude such amounts from the paid compensation reported in the reporting period subsequent to the date the determination is made. The administrator shall adopt rules, in accordance with Chapter 119. of the Revised Code, that provide for all of the following:

(1) Establishing the date by which self-insuring employers must submit such information and the amount of the assessments provided for in division (J) of this section for employers who have been granted self-insuring status within the last calendar year;

(2) If an employer fails to pay the assessment when due, the administrator may add a late fee penalty of not more than five hundred dollars to the assessment plus an additional penalty amount as follows:

(a) For an assessment from sixty-one to ninety days past due, the prime interest rate, multiplied by the assessment due;

(b) For an assessment from ninety-one to one hundred twenty days past due, the prime interest rate plus two per cent, multiplied by the assessment due;

(c) For an assessment from one hundred twenty-one to one hundred fifty days past due, the prime interest rate plus four per cent, multiplied by the assessment due;

(d) For an assessment from one hundred fifty-one to one hundred eighty days past due, the prime interest rate plus six per cent, multiplied by the assessment due;

(e) For an assessment from one hundred eighty-one to two hundred ten days past due, the prime interest rate plus eight per cent, multiplied by the assessment due;

(f) For each additional thirty-day period or portion thereof that an assessment remains past due after it has remained past due for more than two hundred ten days, the prime interest rate plus eight per cent, multiplied

by the assessment due.

(3) An employer may appeal a late fee penalty and penalty assessment to the administrator.

For purposes of division (L)(2) of this section, "prime interest rate" means the average bank prime rate, and the administrator shall determine the prime interest rate in the same manner as a county auditor determines the average bank prime rate under section 929.02 of the Revised Code.

The administrator shall include any assessment and penalties that remain unpaid for previous assessment periods in the calculation and collection of any assessments due under this division or division (J) of this section.

(M) As used in this section, "paid compensation" means all amounts paid by a self-insuring employer for living maintenance benefits, all amounts for compensation paid pursuant to sections 4121.63, 4121.67, 4123.56, 4123.57, 4123.58, 4123.59, 4123.60, and 4123.64 of the Revised Code, all amounts paid as wages in lieu of such compensation, all amounts paid in lieu of such compensation under a nonoccupational accident and sickness program fully funded by the self-insuring employer, and all amounts paid by a self-insuring employer for a violation of a specific safety standard pursuant to Section 35 of Article II, Ohio Constitution and section 4121.47 of the Revised Code.

(N) Should any section of this chapter or Chapter 4121. of the Revised Code providing for self-insuring employers' assessments based upon compensation paid be declared unconstitutional by a final decision of any court, then that section of the Revised Code declared unconstitutional shall revert back to the section in existence prior to November 3, 1989, providing for assessments based upon payroll.

(O) The administrator may grant a self-insuring employer the privilege to self-insure a construction project entered into by the self-insuring employer that is scheduled for completion within six years after the date the project begins, and the total cost of which is estimated to exceed one hundred million dollars or, for employers described in division (R) of this section, if the construction project is estimated to exceed twenty-five million dollars. The administrator may waive such cost and time criteria and grant a self-insuring employer the privilege to self-insure a construction project regardless of the time needed to complete the construction project and provided that the cost of the construction project is estimated to exceed fifty million dollars. A self-insuring employer who desires to self-insure a construction project shall submit to the administrator an application listing the dates the construction project is scheduled to begin and end, the

estimated cost of the construction project, the contractors and subcontractors whose employees are to be self-insured by the self-insuring employer, the provisions of a safety program that is specifically designed for the construction project, and a statement as to whether a collective bargaining agreement governing the rights, duties, and obligations of each of the parties to the agreement with respect to the construction project exists between the self-insuring employer and a labor organization.

A self-insuring employer may apply to self-insure the employees of either of the following:

(1) All contractors and subcontractors who perform labor or work or provide materials for the construction project;

(2) All contractors and, at the administrator's discretion, a substantial number of all the subcontractors who perform labor or work or provide materials for the construction project.

Upon approval of the application, the administrator shall mail a certificate granting the privilege to self-insure the construction project to the self-insuring employer. The certificate shall contain the name of the self-insuring employer and the name, address, and telephone number of the self-insuring employer's representatives who are responsible for administering workers' compensation claims for the construction project. The self-insuring employer shall post the certificate in a conspicuous place at the site of the construction project.

The administrator shall maintain a record of the contractors and subcontractors whose employees are covered under the certificate issued to the self-insured employer. A self-insuring employer immediately shall notify the administrator when any contractor or subcontractor is added or eliminated from inclusion under the certificate.

Upon approval of the application, the self-insuring employer is responsible for the administration and payment of all claims under this chapter and Chapter 4121. of the Revised Code for the employees of the contractor and subcontractors covered under the certificate who receive injuries or are killed in the course of and arising out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project. For purposes of this chapter and Chapter 4121. of the Revised Code, a claim that is administered and paid in accordance with this division is considered a claim against the self-insuring employer listed in the certificate. A contractor or subcontractor included under the certificate shall report to the self-insuring employer listed in the certificate, all claims that arise under this chapter and Chapter 4121. of the Revised Code in connection with the construction project for which the

certificate is issued.

A self-insuring employer who complies with this division is entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the employees of the contractors and subcontractors covered under a certificate issued under this division for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project, as if the employees were employees of the self-insuring employer, provided that the self-insuring employer also complies with this section. No employee of the contractors and subcontractors covered under a certificate issued under this division shall be considered the employee of the self-insuring employer listed in that certificate for any purposes other than this chapter and Chapter 4121. of the Revised Code. Nothing in this division gives a self-insuring employer authority to control the means, manner, or method of employment of the employees of the contractors and subcontractors covered under a certificate issued under this division.

The contractors and subcontractors included under a certificate issued under this division are entitled to the protections provided under this chapter and Chapter 4121. of the Revised Code with respect to the contractor's or subcontractor's employees who are employed on the construction project which is the subject of the certificate, for death or injuries that arise out of, or death, injuries, or occupational diseases that arise in the course of, those employees' employment on that construction project.

The contractors and subcontractors included under a certificate issued under this division shall identify in their payroll records the employees who are considered the employees of the self-insuring employer listed in that certificate for purposes of this chapter and Chapter 4121. of the Revised Code, and the amount that those employees earned for employment on the construction project that is the subject of that certificate. Notwithstanding any provision to the contrary under this chapter and Chapter 4121. of the Revised Code, the administrator shall exclude the payroll that is reported for employees who are considered the employees of the self-insuring employer listed in that certificate, and that the employees earned for employment on the construction project that is the subject of that certificate, when determining those contractors' or subcontractors' premiums or assessments required under this chapter and Chapter 4121. of the Revised Code. A self-insuring employer issued a certificate under this division shall include in the amount of paid compensation it reports pursuant to division (L) of this section, the amount of paid compensation the self-insuring employer paid pursuant to this division for the previous calendar year.

Nothing in this division shall be construed as altering the rights of employees under this chapter and Chapter 4121. of the Revised Code as those rights existed prior to September 17, 1996. Nothing in this division shall be construed as altering the rights devolved under sections 2305.31 and 4123.82 of the Revised Code as those rights existed prior to September 17, 1996.

As used in this division, "privilege to self-insure a construction project" means privilege to pay individually compensation, and to furnish medical, surgical, nursing, and hospital services and attention and funeral expenses directly to injured employees or the dependents of killed employees.

(P) A self-insuring employer whose application is granted under division (O) of this section shall designate a safety professional to be responsible for the administration and enforcement of the safety program that is specifically designed for the construction project that is the subject of the application.

A self-insuring employer whose application is granted under division (O) of this section shall employ an ombudsperson for the construction project that is the subject of the application. The ombudsperson shall have experience in workers' compensation or the construction industry, or both. The ombudsperson shall perform all of the following duties:

(1) Communicate with and provide information to employees who are injured in the course of, or whose injury arises out of employment on the construction project, or who contract an occupational disease in the course of employment on the construction project;

(2) Investigate the status of a claim upon the request of an employee to do so;

(3) Provide information to claimants, third party administrators, employers, and other persons to assist those persons in protecting their rights under this chapter and Chapter 4121. of the Revised Code.

A self-insuring employer whose application is granted under division (O) of this section shall post the name of the safety professional and the ombudsperson and instructions for contacting the safety professional and the ombudsperson in a conspicuous place at the site of the construction project.

(Q) The administrator may consider all of the following when deciding whether to grant a self-insuring employer the privilege to self-insure a construction project as provided under division (O) of this section:

(1) Whether the self-insuring employer has an organizational plan for the administration of the workers' compensation law;

(2) Whether the safety program that is specifically designed for the construction project provides for the safety of employees employed on the

construction project, is applicable to all contractors and subcontractors who perform labor or work or provide materials for the construction project, and has as a component, a safety training program that complies with standards adopted pursuant to the "Occupational Safety and Health Act of 1970," 84 Stat. 1590, 29 U.S.C.A. 651, and provides for continuing management and employee involvement;

(3) Whether granting the privilege to self-insure the construction project will reduce the costs of the construction project;

(4) Whether the self-insuring employer has employed an ombudsperson as required under division (P) of this section;

(5) Whether the self-insuring employer has sufficient surety to secure the payment of claims for which the self-insuring employer would be responsible pursuant to the granting of the privilege to self-insure a construction project under division (O) of this section.

(R) As used in divisions (O), (P), and (Q), "self-insuring employer" includes the following employers, whether or not they have been granted the status of being a self-insuring employer under division (B) of this section:

(1) A state institution of higher education;

(2) A school district;

(3) A county school financing district;

(4) An educational service center;

(5) A community school established under Chapter 3314. of the Revised Code;

(6) A municipal power agency as defined in section 3734.058 of the Revised Code.

(S) As used in this section:

(1) "Unvoted debt capacity" means the amount of money that a public employer may borrow without voter approval of a tax levy;

(2) "State institution of higher education" means the state universities listed in section 3345.011 of the Revised Code, community colleges created pursuant to Chapter 3354. of the Revised Code, university branches created pursuant to Chapter 3355. of the Revised Code, technical colleges created pursuant to Chapter 3357. of the Revised Code, and state community colleges created pursuant to Chapter 3358. of the Revised Code.

Sec. 4131.03. (A) For the relief of persons who are entitled to receive benefits by virtue of the federal act, there is hereby established a coal-workers pneumoconiosis fund, which shall be separate from the funds established and administered pursuant to Chapter 4123. of the Revised Code. The fund shall consist of premiums and other payments thereto by subscribers who elect to subscribe to the fund to insure the payment of

benefits required by the federal act.

(B)(1) The coal-workers pneumoconiosis fund shall be in the custody of the treasurer of state. The bureau of workers' compensation shall make disbursements from the fund to those persons entitled to payment therefrom and in the amounts required pursuant to sections 4131.01 to 4131.06 of the Revised Code. All investment earnings of the fund shall be credited to the fund.

(2) The Beginning July 1, 2011, and ending June 30, 2013, the director of natural resources annually may request the administrator of workers' compensation to transfer a portion of the investment earnings credited to the coal-workers pneumoconiosis fund as provided in this division. If the administrator receives a request from the director, the administrator of workers' compensation may, on the first day of July, or as soon as possible after that date, shall transfer a portion of from the investment earnings credited to the coal-workers pneumoconiosis fund an amount not to exceed three million dollars to the mine safety fund created in section 1561.24 of the Revised Code for the purposes specified in that section and an amount not to exceed one million five hundred thousand dollars to the coal mining administration and reclamation reserve fund created in section 1513.181 of the Revised Code for the purposes specified in that section. The administrator, with the advice and consent of the bureau of workers' compensation board of directors, shall adopt rules governing the transfer in order to ensure the solvency of the coal-workers pneumoconiosis fund. For that purpose, the rules may establish tests based on measures of net assets, liabilities, expenses, interest, dividend income, or other factors that the administrator determines appropriate that may be applied prior to a transfer.

(C) The administrator shall have the same powers to invest any of the surplus or reserve belonging to the coal-workers pneumoconiosis fund as are delegated to the administrator under section 4123.44 of the Revised Code with respect to the state insurance fund.

(D) If the administrator determines that reinsurance of the risks of the coal-workers pneumoconiosis fund is necessary to assure solvency of the fund, the administrator may:

(1) Enter into contracts for the purchase of reinsurance coverage of the risks of the fund with any company or agency authorized by law to issue contracts of reinsurance;

(2) Pay the cost of reinsurance from the fund;

(3) Include the costs of reinsurance as a liability and estimated liability of the fund.

Sec. 4141.08. (A) There is hereby created an unemployment

compensation advisory council appointed as follows:

(1) Three members who on account of their vocation, employment, or affiliations can be classed as representative of employers and three members who on account of their vocation, employment, or affiliation can be classed as representatives of employees appointed by the governor with the advice and consent of the senate. All appointees shall be persons whose training and experience qualify them to deal with the difficult problems of unemployment compensation, particularly with respect to the legal, accounting, actuarial, economic, and social aspects of unemployment compensation;

(2) The chairpersons of the standing committees of the senate and the house of representatives to which legislation pertaining to Chapter 4141. of the Revised Code is customarily referred;

(3) Two members of the senate appointed by the president of the senate; and

(4) Two members of the house of representatives appointed by the speaker of the house of representatives.

The speaker and the president shall arrange that of the six legislative members appointed to the council, not more than three are members of the same political party.

(B) Members appointed by the governor shall serve for a term of four years, each term ending on the same day as the date of their original appointment. Legislative members shall serve during the session of the general assembly to which they are elected and for as long as they are members of the general assembly. Vacancies shall be filled in the same manner as the original appointment but only for the unexpired part of a term.

(C) Members of the council shall serve without salary but, notwithstanding section 101.26 of the Revised Code, shall be paid a meeting stipend of fifty dollars per day each and their actual and necessary expenses while engaged in the performance of their duties as members of the council which shall be paid from funds allocated to pay the expenses of the council pursuant to this section.

(D) The council shall organize itself and select a chairperson or co-chairpersons and other officers and committees as it considers necessary. Seven members constitute a quorum and the council may act only upon the affirmative vote of seven members. The council shall meet at least once each calendar quarter but it may meet more often as the council considers necessary or at the request of the chairperson.

(E) The council may employ professional and clerical assistance as it

considers necessary and may request of the director of job and family services assistance as it considers necessary. The director shall furnish the council with office and meeting space as requested by the council.

(F) The director shall pay the operating expenses of the council ~~as determined by the council~~ from moneys in the unemployment compensation special administrative fund established in section 4141.11 of the Revised Code.

(G) The council shall have access to only the records of the department of job and family services that are necessary for the administration of this chapter and to the reasonable services of the employees of the department. It may request the director, or any of the employees appointed by the director, or any employer or employee subject to this chapter, to appear before it and to testify relative to the functioning of this chapter and to other relevant matters. The council may conduct research of its own, make and publish reports, and recommend to the director, the unemployment compensation review commission, the governor, or the general assembly needed changes in this chapter, or in the rules of the department as it considers necessary.

Sec. 4141.11. There is hereby created in the state treasury the unemployment compensation special administrative fund. The fund shall consist of all interest collected on delinquent contributions pursuant to this chapter, all fines and forfeitures collected under this chapter, and all court costs and interest paid or collected in connection with the repayment of fraudulently obtained benefits pursuant to section 4141.35 of the Revised Code. All interest earned on the money in the fund shall be retained in the fund and shall not be credited or transferred to any other fund or account, except as provided in division (B) of this section. All moneys which are deposited or paid into this fund may be used by:

(A) The director of job and family services ~~with the approval of the unemployment compensation advisory council~~ whenever it appears that such use is necessary for:

(1) The proper administration of this chapter and no federal funds are available for the specific purpose for which the expenditure is to be made, provided the moneys are not substituted for appropriations from federal funds, which in the absence of such moneys would be available;

(2) The proper administration of this chapter for which purpose appropriations from federal funds have been requested and approved but not received, provided the fund would be reimbursed upon receipt of the federal appropriation;

(3) To the extent possible, the repayment to the unemployment compensation administration fund of moneys found by the proper agency of

the United States to have been lost or expended for purposes other than, or an amount in excess of, those found necessary by the proper agency of the United States for the administration of this chapter.

(B) The director or the director's deputy whenever it appears that such use is necessary for the payment of refunds or adjustments of interest, fines, forfeitures, or court costs erroneously collected and paid into this fund pursuant to this chapter.

(C) The director, to pay state disaster unemployment benefits pursuant to section 4141.292 of the Revised Code. ~~The director need not have prior approval from the council to make these payments.~~

(D) The director, to pay any costs attributable to the director that are associated with the sale of real property under section 4141.131 of the Revised Code. ~~The director need not have prior approval from the council to make these payments.~~

Whenever the balance in the unemployment compensation special administrative fund is considered to be excessive by the ~~council~~ director, the director shall request the director of budget and management to transfer to the unemployment compensation fund the amount considered to be excessive. Any balance in the unemployment compensation special administrative fund shall not lapse at any time, but shall be continuously available to the director of ~~jobs job~~ and family services ~~or to the council~~ for expenditures consistent with this chapter.

Sec. 4141.33. (A) ~~Seasonal~~ As used in this section:

(1) "Reasonable assurance" means a written, verbal, or implied agreement that the individual will perform services in the same or similar capacity during the ensuing sports season or seasonal period.

(2) "Seasonal employment" means employment of individuals hired primarily to perform services in an industry which because of climatic conditions or because of the seasonal nature of such industry it is customary to operate only during regularly recurring periods of forty weeks or less in any consecutive fifty-two weeks. ~~Seasonal~~

(3) "Seasonal employer" means an employer determined by the director of job and family services to be an employer whose operations and business, with the exception of certain administrative and maintenance operations, are substantially all in a seasonal industry. ~~Any~~

(4) "Significantly" means forty per cent or more of an individual's base period consists of services performed in seasonal employment.

(B) Any employer who claims to have seasonal employment in a seasonal industry may file with the director a written application for classification of such employment as seasonal. Whenever in any industry it

is customary to operate because of climatic conditions or because of the seasonal nature of such industry only during regularly recurring periods of forty weeks or less duration, benefits shall be payable only during the longest seasonal periods which the best practice of such industry will reasonably permit. The director shall determine, after investigation, hearing, and due notice, whether the industry is seasonal and, if seasonal, establish seasonal periods for such seasonal employer. Until such determination by the director, no industry or employment shall be deemed seasonal.

~~(B)~~(C) When the director has determined such seasonal periods, the director shall also establish the proportionate number of weeks of employment and earnings required to qualify for seasonal benefit rights in place of the weeks of employment and earnings requirement stipulated in division (R) of section 4141.01 and section 4141.30 of the Revised Code, and the proportionate number of weeks for which seasonal benefits may be paid. An individual whose base period employment consists of only seasonal employment for a single seasonal employer and who meets the employment and earnings requirements determined by the director pursuant to this division will have benefit rights determined in accordance with this division, except benefits shall not be paid for any week between two successive seasonal periods. Benefit charges for such seasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The director may adopt rules for implementation of this section.

~~(C)~~(D) An individual whose base period employment consists of either seasonal employment with two or more seasonal employers or both seasonal employment and nonseasonal employment with employers subject to this chapter, will have benefit rights determined in accordance with division (R) of section 4141.01 and section 4141.30 of the Revised Code. Benefit charges for both seasonal and nonseasonal employment shall be computed and charged in accordance with division (D) of section 4141.24 of the Revised Code. The total seasonal and nonseasonal benefits during a benefit year cannot exceed twenty-six times the weekly benefit amount. Effective October 30, 2011, an individual who performs services that significantly consist of services performed in seasonal employment shall not be paid benefits for those services for any week in the period between two successive seasonal periods if the individual performed those services in the first of the seasonal periods and there is reasonable assurance that the individual will perform those services in the later of the seasonal periods. The director shall adopt rules for the implementation of this division.

~~(D)~~(E) Benefits shall not be paid to any individual on the basis of any

services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons, or similar periods, if the individual performed services in the first of the seasons, or similar periods, and there is a reasonable assurance that the individual will perform services in the later of the seasons, or similar periods.

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

~~(2)(F) The director shall adopt rules concerning the eligibility for benefits of individuals under divisions (D) and (E) of this division section.~~

Sec. 4301.12. The division of liquor control shall provide for the custody, safekeeping, and deposit of all moneys, checks, and drafts received by it or any of its employees or agents prior to paying them to the treasurer of state as provided by section 113.08 of the Revised Code.

A sum equal to three dollars and thirty-eight cents for each gallon of spirituous liquor sold by the division, JobsOhio, or a designee of JobsOhio during the period covered by the payment shall be paid into the state treasury to the credit of the general revenue fund. All moneys received from permit fees, except B-2a and S permit fees from B-2a and S permit holders who do not also hold A-2 permits, shall be paid to the credit of the undivided liquor permit fund established by section 4301.30 of the Revised Code.

Except as otherwise provided by law, all moneys collected under Chapters 4301. and 4303. of the Revised Code shall be paid by the division into the state treasury to the credit of the liquor control fund, which is hereby created. In addition, revenue resulting from any contracts with the department of commerce pertaining to the responsibilities and operations described in this chapter may be credited to the fund. Amounts in the liquor control fund may be used to pay the operating expenses of the liquor control commission.

Whenever, in the judgment of the director of budget and management, the amount in the liquor control fund is in excess of that needed to meet the maturing obligations of the division, as working capital for its further operations, to pay the operating expenses of the commission, and for the alcohol testing program under section 3701.143 of the Revised Code, the director shall transfer the excess to the credit of the general revenue fund. If the director determines that the amount in the liquor control fund is insufficient, the director may transfer money from the general revenue fund

to the liquor control fund.

Sec. 4301.43. (A) As used in sections 4301.43 to 4301.50 of the Revised Code:

(1) "Gallon" or "wine gallon" means one hundred twenty-eight fluid ounces.

(2) "Sale" or "sell" includes exchange, barter, gift, distribution, and, except with respect to A-4 permit holders, offer for sale.

(B) For the purposes of providing revenues for the support of the state and encouraging the grape industries in the state, a tax is hereby levied on the sale or distribution of wine in Ohio, except for known sacramental purposes, at the rate of thirty cents per wine gallon for wine containing not less than four per cent of alcohol by volume and not more than fourteen per cent of alcohol by volume, ninety-eight cents per wine gallon for wine containing more than fourteen per cent but not more than twenty-one per cent of alcohol by volume, one dollar and eight cents per wine gallon for vermouth, and one dollar and forty-eight cents per wine gallon for sparkling and carbonated wine and champagne, the tax to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing wine upon which no tax has been paid. From the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to one cent per gallon for each gallon upon which the tax is paid.

(C) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on prepared and bottled highballs, cocktails, cordials, and other mixed beverages at the rate of one dollar and twenty cents per wine gallon to be paid by holders of A-4 permits or by any other person selling or distributing those products upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of tax due. The tax on mixed beverages to be paid by holders of A-4 permits under this section shall not attach until the ownership of the mixed beverage is transferred for valuable consideration to a wholesaler or retailer, and no payment of the tax shall be required prior to that time.

(D) During the period of July 1, ~~2009~~ 2011, through June 30, ~~2011~~ 2013, from the tax paid under this section on wine, vermouth, and sparkling and carbonated wine and champagne, the treasurer of state shall credit to the Ohio grape industries fund created under section 924.54 of the Revised Code a sum equal to two cents per gallon upon which the tax is paid. The amount credited under this division is in addition to the amount credited to the Ohio grape industries fund under division (B) of this section.

(E) For the purpose of providing revenues for the support of the state, there is hereby levied a tax on cider at the rate of twenty-four cents per wine gallon to be paid by the holders of A-2 and B-5 permits or by any other person selling or distributing cider upon which no tax has been paid. Only one sale of the same article shall be used in computing the amount of the tax due.

Sec. 4301.62. (A) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under section 4503.24 of the Revised Code.

(2) "Street," "highway," and "motor vehicle" have the same meanings as in section 4511.01 of the Revised Code.

(B) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a state liquor store;

(2) Except as provided in division (C) of this section, on the premises of the holder of any permit issued by the division of liquor control;

(3) In any other public place;

(4) Except as provided in division (D) or (E) of this section, while operating or being a passenger in or on a motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in division (D) or (E) of this section, while being in or on a stationary motor vehicle on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.

(C)(1) A person may have in the person's possession an opened container of any of the following:

(a) Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7, or F-8 permit;

(b) Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;

(c) Beer or intoxicating liquor consumed on the premises of a convention facility as provided in section 4303.201 of the Revised Code;

(d) Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the liquor control commission.

(2) A person may have in the person's possession on an F liquor permit

premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this division, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.

(3)(a) A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.

(b) As used in division (C)(3)(a) of this section:

(i) "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.

(ii) "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.

(4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in division (C)(3)(b)(i) of this section if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.

(D) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of the person, when all of the following apply:

(1) The person or guest is a passenger in the limousine.

(2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located.

(3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or

parking.

(E) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:

(1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.

(2) The opened bottle of wine that is resealed in accordance with division (E)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.

Sec. 4301.80. (A) As used in this section, "community entertainment district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (1) Hotels;
- (2) Restaurants;
- (3) Retail sales establishments;
- (4) Enclosed shopping centers;
- (5) Museums;
- (6) Performing arts theaters;
- (7) Motion picture theaters;
- (8) Night clubs;
- (9) Convention facilities;
- (10) Sports facilities;
- (11) Entertainment facilities or complexes;
- (12) Any combination of the establishments described in division (A)(1) to (11) of this section that provide similar services to the community.

(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a community entertainment district shall file an application seeking this designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a community

entertainment district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a community entertainment district shall contain all of the following:

- (1) The applicant's name and address;
- (2) A map or survey of the proposed community entertainment district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;
- (3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed community improvement district and any other establishments located in the proposed community entertainment district that are not described in division (A) of this section;
- (4) If some or all of the establishments within the proposed community entertainment district have not yet been developed, the proposed time frame for completing the development of these establishments;
- (5) Evidence that the uses of land within the proposed community entertainment district are in accord with the municipal corporation's or township's master zoning plan or map;
- (6) A certificate from a surveyor or engineer licensed under Chapter 4733. of the Revised Code indicating that the area encompassed by the proposed community entertainment district contains no less than twenty contiguous acres;
- (7) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application described in division (B) of this section relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application described in division (B) of this section relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the

municipal corporation, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within thirty days after it receives the application, the board of township trustees, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing by the legislative authority or board of township trustees on the application.

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed community entertainment district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees.

If the legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a community entertainment district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a community entertainment district may lose this designation as provided in this division. The legislative

authority of a municipal corporation in which a community entertainment district is located, or the board of township trustees of the township in whose unincorporated area a community entertainment district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a community entertainment district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a community entertainment district.

Sec. 4301.81. (A) As used in this section:

(1) "Revitalization district" means a bounded area that includes or will include a combination of entertainment, retail, educational, sporting, social, cultural, or arts establishments within close proximity to some or all of the following types of establishments within the district, or other types of establishments similar to these:

- (a) Hotels;
- (b) Restaurants;
- (c) Retail sales establishments;
- (d) Enclosed shopping centers;
- (e) Museums;
- (f) Performing arts theaters;
- (g) Motion picture theaters;
- (h) Night clubs;
- (i) Convention facilities;
- (j) Sports facilities;
- (k) Entertainment facilities or complexes;

(l) Any combination of the establishments described in divisions (A)(1)(a) to (k) of this section that provide similar services to the community.

(2) "Municipal corporation" means a municipal corporation with a population of less than one hundred thousand.

(3) "Township" means a township with a population in its unincorporated area of less than one hundred thousand.

(B) Any owner of property located in a municipal corporation seeking to have that property, or that property and other surrounding property, designated as a revitalization district shall file an application seeking this

designation with the mayor of the municipal corporation in which that property is located. Any owner of property located in the unincorporated area of a township seeking to have that property, or that property and other surrounding property, designated as a revitalization district shall file an application seeking this designation with the board of township trustees of the township in whose unincorporated area that property is located. An application to designate an area as a revitalization district shall contain all of the following:

- (1) The applicant's name and address;
- (2) A map or survey of the proposed revitalization district in sufficient detail to identify the boundaries of the district and the property owned by the applicant;
- (3) A general statement of the nature and types of establishments described in division (A) of this section that are or will be located within the proposed revitalization district and any other establishments located in the proposed revitalization district that are not described in division (A) of this section;
- (4) If some or all of the establishments within the proposed revitalization district have not yet been developed, the proposed time frame for completing the development of these establishments;
- (5) Evidence that the uses of land within the proposed revitalization district are in accord with the municipal corporation's or township's master zoning plan or map; and
- (6) A handling and processing fee to accompany the application, payable to the applicable municipal corporation or township, in an amount determined by that municipal corporation or township.

(C) An application relating to an area located in a municipal corporation shall be addressed and submitted to the mayor of the municipal corporation in which the area described in the application is located. The mayor, within thirty days after receiving the application, shall submit the application with the mayor's recommendation to the legislative authority of the municipal corporation. An application relating to an area located in the unincorporated area of a township shall be addressed and submitted to the board of township trustees of the township in whose unincorporated area the area described in the application is located. The application is a public record for purposes of section 149.43 of the Revised Code upon its receipt by the mayor or board of township trustees.

Within thirty days after it receives the application and the mayor's recommendations relating to the application, the legislative authority of the municipal corporation, by notice published once a week for two consecutive

weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the clerk of the municipal corporation and is available for inspection by the public during regular business hours. Within thirty days after it receives the application, the board of township trustees, by notice published once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, shall notify the public that the application is on file in the office of the township fiscal officer and is available for inspection by the public during regular business hours. The notice shall also indicate the date and time of any public hearing by the municipal legislative authority or board of township trustees on the application.

Within seventy-five days after the date the application is filed with the mayor of a municipal corporation, the legislative authority of the municipal corporation by ordinance or resolution shall approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the municipal corporation in which the community is located. Any approval of an application shall be by an affirmative majority vote of the legislative authority. Not more than one revitalization district shall be designated within the municipal corporation.

Within seventy-five days after the date the application is filed with a board of township trustees, the board by resolution shall approve or disapprove the application based on whether the proposed revitalization district does or will substantially contribute to entertainment, retail, educational, sporting, social, cultural, or arts opportunities for the community. The community considered shall at a minimum include the township in which the community is located. Any approval of an application shall be by an affirmative majority vote of the board of township trustees. Not more than one revitalization district shall be designated within the unincorporated area of the township.

If the municipal legislative authority or board of township trustees disapproves the application, the applicant may make changes in the application to secure its approval by the legislative authority or board of township trustees. Any area approved by the legislative authority or board of township trustees constitutes a revitalization district, and a local option election may be conducted in the district, as a type of community facility, under section 4301.356 of the Revised Code.

(D) All or part of an area designated as a revitalization district may lose this designation as provided in this division. The legislative authority of a municipal corporation in which a revitalization district is located, or the board of township trustees of the township in whose unincorporated area a revitalization district is located, after giving notice of its proposed action by publication once a week for two consecutive weeks in ~~at least~~ one newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, may determine by ordinance or resolution in the case of the legislative authority of a municipal corporation, or by resolution in the case of a board of township trustees of a township, that all or part of the area fails to meet the standards described in this section for designation of an area as a revitalization district. If the legislative authority or board so determines, the area designated in the ordinance or resolution no longer constitutes a revitalization district.

Sec. 4313.01. As used in this chapter:

(A) "Enterprise acquisition project" means, as applicable, all or any portion of the capital or other assets of the spirituous liquor distribution and merchandising operations of the division of liquor control, including, without limitation, inventory, real property rights, equipment, furnishings, the spirituous liquor distribution system including transportation, the monetary management system, warehouses, contract rights, rights to take assignment of contracts and related receipts and revenues, accounts receivable, the exclusive right to manage and control spirituous liquor distribution and merchandising and to sell spirituous liquor in the state subject to the control of the division of liquor control pursuant to the terms of the transfer agreement, and all necessary appurtenances thereto, or leasehold interests therein, and the assets and liabilities of the facilities establishment fund.

(B) "JobsOhio" means the nonprofit corporation formed under section 187.01 of the Revised Code and includes any subsidiary of that corporation unless otherwise specified or clearly implied from the context, together with any successor or assignee of that corporation or any such subsidiary if and to the extent permitted by the transfer agreement or Chapter 187. of the Revised Code.

(C) "Spirituous liquor profits" means all receipts representing the gross profit on the sale of spirituous liquor, as referred to in division (B)(4) of section 4301.10 of the Revised Code, less the costs, expenses, and working capital provided for therein, but excluding the sum required by the second paragraph of section 4301.12 of the Revised Code, as in effect on May 2, 1980, to be paid into the state treasury, provided that from and after the

initial transfer of the enterprise acquisition project to JobsOhio and until the transfer back to the state under division (D) of section 4313.02 of the Revised Code, the reference in division (B)(4) of section 4301.10 of the Revised Code to all costs and expenses of the division and also an adequate working capital reserve for the division shall be to all costs and expenses of JobsOhio and providing an adequate working capital reserve for JobsOhio.

(D) "Transfer" means an assignment and sale, conveyance, granting of a franchise, lease, or transfer of all or an interest.

(E) "Transfer agreement" means the agreement entered into between the state and JobsOhio providing for the transfer of the enterprise acquisition project pursuant to section 4313.02 of the Revised Code and any amendments or supplements thereto.

Sec. 4313.02. (A) The state may transfer to JobsOhio, and JobsOhio may accept the transfer of, all or a portion of the enterprise acquisition project for a transfer price payable by JobsOhio to the state. Any such transfer shall be treated as an absolute conveyance and true sale of the interest in the enterprise acquisition project purported to be conveyed for all purposes, and not as a pledge or other security interest. The characterization of any such transfer as a true sale and absolute conveyance shall not be negated or adversely affected by the acquisition or retention by the state of a residual or reversionary interest in the enterprise acquisition project, the participation of any state officer or employee as a member or officer of, or contracting for staff support to, JobsOhio or any subsidiary of JobsOhio, any regulatory responsibility of an officer or employee of the state, including the authority to collect amounts to be received in connection therewith, the retention of the state of any legal title to or interest in any portion of the enterprise acquisition project for the purpose of regulatory activities, or any characterization of JobsOhio or obligations of JobsOhio under accounting, taxation, or securities regulations, or any other reason whatsoever. An absolute conveyance and true sale or lease shall exist under this section regardless of whether JobsOhio has any recourse against the state or the treatment or characterization of the transfer as a financing for any purpose. Upon and following the transfer, the state shall not have any right, title, or interest in the enterprise acquisition project so transferred other than any residual interest that may be described in the transfer agreement pursuant to the following paragraph and division (D) of this section. Any determination of the fair market value of the enterprise acquisition project reflected in the transfer agreement shall be conclusive and binding on the state and JobsOhio.

Any transfer of the enterprise acquisition project that is a lease or grant

of a franchise shall be for a term not to exceed twenty-five years. Any transfer of the enterprise acquisition project that is an assignment and sale, conveyance, or other transfer shall contain a provision that the state shall have the option to have conveyed or transferred back to it, at no cost, the enterprise acquisition project, as it then exists, no later than twenty-five years after the original transfer authorized in the transfer agreement on such other terms as shall be provided in the transfer agreement.

The exercise of the powers granted by this section will be for the benefit of the people of the state. All or any portion of the enterprise acquisition project transferred pursuant to the transfer agreement that would be exempt from real property taxes or assessments or real property taxes or assessments in the absence of such transfer shall, as it may from time to time exist thereafter, remain exempt from real property taxes or assessments levied by the state and its subdivisions to the same extent as if not transferred. The gross receipts and income of JobsOhio derived from the enterprise acquisition project shall be exempt from taxation levied by the state and its subdivisions, including, but not limited to, the taxes levied pursuant to Chapters 718., 5739., 5741., 5747., and 5751. of the Revised Code. Any transfer from the state to JobsOhio of the enterprise acquisition project, or item included or to be included in the project, shall be exempt from the taxes levied pursuant to Chapters 5739. and 5741. of the Revised Code.

(B) The proceeds of any transfer under division (A) of this section may be expended as provided in the transfer agreement for any one or more of the following purposes:

(1) Funding, payment, or defeasance of outstanding bonds issued pursuant to Chapters 151. and 166. of the Revised Code and secured by pledged liquor profits as defined in section 151.40 of the Revised Code;

(2) Deposit into the general revenue fund;

(3) Deposit into the clean Ohio revitalization fund created pursuant to section 122.658 of the Revised Code, the innovation Ohio loan fund created pursuant to section 166.16 of the Revised Code, the research and development loan fund created pursuant to section 166.20 of the Revised Code, the logistics and distribution infrastructure fund created pursuant to section 166.26 of the Revised Code, the advanced energy research and development fund created pursuant to section 3706.27 of the Revised Code, and the advanced energy research and development taxable fund created pursuant to section 3706.27 of the Revised Code;

(4) Conveyance to JobsOhio for the purposes for which it was created.

(C)(1) The state may covenant, pledge, and agree in the transfer agreement, with and for the benefit of JobsOhio, that it shall maintain

statutory authority for the enterprise acquisition project and the revenues of the enterprise acquisition project and not otherwise materially impair any obligations supported by a pledge of revenues of the enterprise acquisition project. The transfer agreement may provide or authorize the manner for determining material impairment of the security for any such outstanding obligations, including by assessing and evaluating the revenues of the enterprise acquisition project.

(2) The director of budget and management, in consultation with the director of commerce, may, without need for any other approval, negotiate terms of any documents, including the transfer agreement, necessary to effect the transfer and the acceptance of the transfer of the enterprise acquisition project. The director of budget and management and the director of commerce shall execute the transfer agreement on behalf of the state. The director of budget and management may also, without need for any other approval, retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the judgment of the director of budget and management to effect the transfer agreement. Any transfer agreement may contain terms and conditions established by the state to carry out and effectuate the purposes of this section, including, without limitation, covenants binding the state in favor of JobsOhio. Any such transfer agreement shall be sufficient to effectuate the transfer without regard to any other laws governing other property sales or financial transactions by the state. The director of budget and management may create any funds or accounts, within or without the state treasury, as are needed for the transactions and activities authorized by this section.

(3) The transfer agreement may authorize JobsOhio, in the ordinary course of doing business, to convey, lease, release, or otherwise dispose of any regular inventory or tangible personal property. Ownership of the interest in the enterprise acquisition project that is transferred to JobsOhio under this section and the transfer agreement shall be maintained in JobsOhio or a nonprofit entity the sole member of which is JobsOhio until the enterprise acquisition project is transferred back to the state pursuant to the second paragraph of division (A) and division (D) of this section.

(D) The transfer agreement may authorize JobsOhio to fix, alter, and collect rentals and other charges for the use and occupancy of all or any portion of the enterprise acquisition project and to lease any portion of the enterprise acquisition project to the state, and shall include a contract with, or the granting of an option to, the state to have the enterprise acquisition project, as it then exists, transferred back to it without charge in accordance with the terms of the transfer agreement after retirement or redemption, or

provision therefor, of all obligations supported by a pledge of spirituous liquor profits.

(E) JobsOhio, the director of budget and management, and the director of commerce shall, subject to approval by the controlling board, enter into a contract, which may be part of the transfer agreement, for the continuing operation by the division of liquor control of spirituous liquor distribution and merchandising subject to standards for performance provided in that contract that may relate to or support division (C)(1) of this section. The contract shall establish other terms and conditions for the assignment of duties to, and the provision of advice, services, and other assistance by, the division of liquor control, including providing for the necessary staffing and payment by JobsOhio of appropriate compensation to the division for the performance of such duties and the provision of such advice, services, and other assistance. The division of liquor control shall manage and actively supervise the activities required or authorized under sections 4301.10 and 4301.17 of the Revised Code as those sections exist on the effective date of this section, including, but not limited to, controlling the traffic in intoxicating liquor in this state and fixing the wholesale and retail prices at which the various classes, varieties, and brands of spirituous liquor are sold.

(F) The transfer agreement shall require JobsOhio to pay for the operations of the division of liquor control with regard to the spirituous liquor merchandising operations of the division. The payments from JobsOhio shall be deposited into the state treasury to the credit of the liquor control fund created in section 4301.12 of the Revised Code.

(G) The transaction and transfer provided for under this section shall comply with all applicable provisions of the Ohio Constitution.

Sec. 4503.06. (A) The owner of each manufactured or mobile home that has acquired situs in this state shall pay either a real property tax pursuant to Title LVII of the Revised Code or a manufactured home tax pursuant to division (C) of this section.

(B) The owner of a manufactured or mobile home shall pay real property taxes if either of the following applies:

(1) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred on or after January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The certificate of title has been inactivated by the clerk of the court of common pleas that issued it, pursuant to division (H) of section 4505.11

of the Revised Code.

(2) The manufactured or mobile home acquired situs in the state or ownership in the home was transferred before January 1, 2000, and all of the following apply:

(a) The home is affixed to a permanent foundation as defined in division (C)(5) of section 3781.06 of the Revised Code.

(b) The home is located on land that is owned by the owner of the home.

(c) The owner of the home has elected to have the home taxed as real property and, pursuant to section 4505.11 of the Revised Code, has surrendered the certificate of title to the auditor of the county containing the taxing district in which the home has its situs, together with proof that all taxes have been paid.

(d) The county auditor has placed the home on the real property tax list and delivered the certificate of title to the clerk of the court of common pleas that issued it and the clerk has inactivated the certificate.

(C)(1) Any mobile or manufactured home that is not taxed as real property as provided in division (B) of this section is subject to an annual manufactured home tax, payable by the owner, for locating the home in this state. The tax as levied in this section is for the purpose of supplementing the general revenue funds of the local subdivisions in which the home has its situs pursuant to this section.

(2) The year for which the manufactured home tax is levied commences on the first day of January and ends on the following thirty-first day of December. The state shall have the first lien on any manufactured or mobile home on the list for the amount of taxes, penalties, and interest charged against the owner of the home under this section. The lien of the state for the tax for a year shall attach on the first day of January to a home that has acquired situs on that date. The lien for a home that has not acquired situs on the first day of January, but that acquires situs during the year, shall attach on the next first day of January. The lien shall continue until the tax, including any penalty or interest, is paid.

(3)(a) The situs of a manufactured or mobile home located in this state on the first day of January is the local taxing district in which the home is located on that date.

(b) The situs of a manufactured or mobile home not located in this state on the first day of January, but located in this state subsequent to that date, is the local taxing district in which the home is located thirty days after it is acquired or first enters this state.

(4) The tax is collected by and paid to the county treasurer of the county containing the taxing district in which the home has its situs.

(D) The manufactured home tax shall be computed and assessed by the county auditor of the county containing the taxing district in which the home has its situs as follows:

(1) On a home that acquired situs in this state prior to January 1, 2000:

(a) By multiplying the assessable value of the home by the tax rate of the taxing district in which the home has its situs, and deducting from the product thus obtained any reduction authorized under section 4503.065 of the Revised Code. The tax levied under this formula shall not be less than thirty-six dollars, unless the home qualifies for a reduction in assessable value under section 4503.065 of the Revised Code, in which case there shall be no minimum tax and the tax shall be the amount calculated under this division.

(b) The assessable value of the home shall be forty per cent of the amount arrived at by the following computation:

(i) If the cost to the owner, or market value at time of purchase, whichever is greater, of the home includes the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year in which the home is owned by the current owner	x	80%
2nd calendar year	x	75%
3rd "	x	70%
4th "	x	65%
5th "	x	60%
6th "	x	55%
7th "	x	50%
8th "	x	45%
9th "	x	40%
10th and each year thereafter	x	35%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(ii) If the cost to the owner, or market value at the time of purchase, whichever is greater, of the home does not include the furnishings and equipment, such cost or market value shall be multiplied according to the following schedule:

For the first calendar year
in which the
home is owned by the

current owner	x	95%
2nd calendar year	x	90%
3rd "	x	85%
4th "	x	80%
5th "	x	75%
6th "	x	70%
7th "	x	65%
8th "	x	60%
9th "	x	55%
10th and each year thereafter	x	50%

The first calendar year means any period between the first day of January and the thirty-first day of December of the first year.

(2) On a home in which ownership was transferred or that first acquired situs in this state on or after January 1, 2000:

(a) By multiplying the assessable value of the home by the effective tax rate, as defined in section 323.08 of the Revised Code, for residential real property of the taxing district in which the home has its situs, and deducting from the product thus obtained the reductions required or authorized under section 319.302, division (B) of section 323.152, or section 4503.065 of the Revised Code.

(b) The assessable value of the home shall be thirty-five per cent of its true value as determined under division (L) of this section.

(3) On or before the fifteenth day of January each year, the county auditor shall record the assessable value and the amount of tax on the manufactured or mobile home on the tax list and deliver a duplicate of the list to the county treasurer. In the case of an emergency as defined in section 323.17 of the Revised Code, the tax commissioner, by journal entry, may extend the times for delivery of the duplicate for an additional fifteen days upon receiving a written application from the county auditor regarding an extension for the delivery of the duplicate, or from the county treasurer regarding an extension of the time for the billing and collection of taxes. The application shall contain a statement describing the emergency that will cause the unavoidable delay and must be received by the tax commissioner on or before the last day of the month preceding the day delivery of the duplicate is otherwise required. When an extension is granted for delivery of the duplicate, the time period for payment of taxes shall be extended for a like period of time. When a delay in the closing of a tax collection period becomes unavoidable, the tax commissioner, upon application by the county auditor and county treasurer, may order the time for payment of taxes to be extended if the tax commissioner determines that penalties have accrued or

would otherwise accrue for reasons beyond the control of the taxpayers of the county. The order shall prescribe the final extended date for payment of taxes for that collection period.

(4) After January 1, 1999, the owner of a manufactured or mobile home taxed pursuant to division (D)(1) of this section may elect to have the home taxed pursuant to division (D)(2) of this section by filing a written request with the county auditor of the taxing district in which the home is located on or before the first day of December of any year. Upon the filing of the request, the county auditor shall determine whether all taxes levied under division (D)(1) of this section have been paid, and if those taxes have been paid, the county auditor shall tax the manufactured or mobile home pursuant to division (D)(2) of this section commencing in the next tax year.

(5) A manufactured or mobile home that acquired situs in this state prior to January 1, 2000, shall be taxed pursuant to division (D)(2) of this section if no manufactured home tax had been paid for the home and the home was not exempted from taxation pursuant to division (E) of this section for the year for which the taxes were not paid.

(6)(a) Immediately upon receipt of any manufactured home tax duplicate from the county auditor, but not less than twenty days prior to the last date on which the first one-half taxes may be paid without penalty as prescribed in division (F) of this section, the county treasurer shall cause to be prepared and mailed or delivered to each person charged on that duplicate with taxes, or to an agent designated by such person, the tax bill prescribed by the tax commissioner under division (D)(7) of this section. When taxes are paid by installments, the county treasurer shall mail or deliver to each person charged on such duplicate or the agent designated by that person a second tax bill showing the amount due at the time of the second tax collection. The second half tax bill shall be mailed or delivered at least twenty days prior to the close of the second half tax collection period. A change in the mailing address of any tax bill shall be made in writing to the county treasurer. Failure to receive a bill required by this section does not excuse failure or delay to pay any taxes shown on the bill or, except as provided in division (B)(1) of section 5715.39 of the Revised Code, avoid any penalty, interest, or charge for such delay.

(b) After delivery of the copy of the delinquent manufactured home tax list under division (H) of this section, the county treasurer may prepare and mail to each person in whose name a home is listed an additional tax bill showing the total amount of delinquent taxes charged against the home as shown on the list. The tax bill shall include a notice that the interest charge prescribed by division (G) of this section has begun to accrue.

(7) Each tax bill prepared and mailed or delivered under division (D)(6) of this section shall be in the form and contain the information required by the tax commissioner. The commissioner may prescribe different forms for each county and may authorize the county auditor to make up tax bills and tax receipts to be used by the county treasurer. The tax bill shall not contain or be mailed or delivered with any information or material that is not required by this section or that is not authorized by section 321.45 of the Revised Code or by the tax commissioner. In addition to the information required by the commissioner, each tax bill shall contain the following information:

(a) The taxes levied and the taxes charged and payable against the manufactured or mobile home;

(b) The following notice: "Notice: If the taxes are not paid within sixty days after the county auditor delivers the delinquent manufactured home tax list to the county treasurer, you and your home may be subject to collection proceedings for tax delinquency." Failure to provide such notice has no effect upon the validity of any tax judgment to which a home may be subjected.

(c) In the case of manufactured or mobile homes taxed under division (D)(2) of this section, the following additional information:

(i) The effective tax rate. The words "effective tax rate" shall appear in boldface type.

(ii) The following notice: "Notice: If the taxes charged against this home have been reduced by the 2-1/2 per cent tax reduction for residences occupied by the owner but the home is not a residence occupied by the owner, the owner must notify the county auditor's office not later than March 31 of the year for which the taxes are due. Failure to do so may result in the owner being convicted of a fourth degree misdemeanor, which is punishable by imprisonment up to 30 days, a fine up to \$250, or both, and in the owner having to repay the amount by which the taxes were erroneously or illegally reduced, plus any interest that may apply.

If the taxes charged against this home have not been reduced by the 2-1/2 per cent tax reduction and the home is a residence occupied by the owner, the home may qualify for the tax reduction. To obtain an application for the tax reduction or further information, the owner may contact the county auditor's office at (insert the address and telephone number of the county auditor's office)."

(E)(1) A manufactured or mobile home is not subject to this section when any of the following applies:

(a) It is taxable as personal property pursuant to section 5709.01 of the

Revised Code. Any manufactured or mobile home that is used as a residence shall be subject to this section and shall not be taxable as personal property pursuant to section 5709.01 of the Revised Code.

(b) It bears a license plate issued by any state other than this state unless the home is in this state in excess of an accumulative period of thirty days in any calendar year.

(c) The annual tax has been paid on the home in this state for the current year.

(d) The tax commissioner has determined, pursuant to section 5715.27 of the Revised Code, that the property is exempt from taxation, or would be exempt from taxation under Chapter 5709. of the Revised Code if it were classified as real property.

(2) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is not subject to this section if it is unused or unoccupied and stored at the owner's normal place of residence or at a recognized storage facility.

(3) A travel trailer or park trailer, as these terms are defined in section 4501.01 of the Revised Code, is subject to this section and shall be taxed as a manufactured or mobile home if it has a situs longer than thirty days in one location and is connected to existing utilities, unless either of the following applies:

(a) The situs is in a state facility or a camping or park area as defined in division (C), (Q), (S), or (V) of section 3729.01 of the Revised Code.

(b) The situs is in a camping or park area that is a tract of land that has been limited to recreational use by deed or zoning restrictions and subdivided for sale of five or more individual lots for the express or implied purpose of occupancy by either self-contained recreational vehicles as defined in division (T) of section 3729.01 of the Revised Code or by dependent recreational vehicles as defined in division (D) of section 3729.01 of the Revised Code.

(F) Except as provided in division (D)(3) of this section, the manufactured home tax is due and payable as follows:

(1) When a manufactured or mobile home has a situs in this state, as provided in this section, on the first day of January, one-half of the amount of the tax is due and payable on or before the first day of March and the balance is due and payable on or before the thirty-first day of July. At the option of the owner of the home, the tax for the entire year may be paid in full on the first day of March.

(2) When a manufactured or mobile home first acquires a situs in this state after the first day of January, no tax is due and payable for that year.

(G)(1)(a) Except as otherwise provided in division (G)(1)(b) of this section, if one-half of the current taxes charged under this section against a manufactured or mobile home, together with the full amount of any delinquent taxes, are not paid on or before the first day of March in that year, or on or before the last day for such payment as extended pursuant to section 4503.063 of the Revised Code, a penalty of ten per cent shall be charged against the unpaid balance of such half of the current taxes. If the total amount of all such taxes is not paid on or before the thirty-first day of July, next thereafter, or on or before the last day for payment as extended pursuant to section 4503.063 of the Revised Code, a like penalty shall be charged on the balance of the total amount of the unpaid current taxes.

(b) After a valid delinquent tax contract that includes unpaid current taxes from a first-half collection period described in division (F) of this section has been entered into under section 323.31 of the Revised Code, no ten per cent penalty shall be charged against such taxes after the second-half collection period while the delinquent tax contract remains in effect. On the day a delinquent tax contract becomes void, the ten per cent penalty shall be charged against such taxes and shall equal the amount of penalty that would have been charged against unpaid current taxes outstanding on the date on which the second-half penalty would have been charged thereon under division (G)(1)(a) of this section if the contract had not been in effect.

(2)(a) On the first day of the month following the last day the second installment of taxes may be paid without penalty beginning in 2000, interest shall be charged against and computed on all delinquent taxes other than the current taxes that became delinquent taxes at the close of the last day such second installment could be paid without penalty. The charge shall be for interest that accrued during the period that began on the preceding first day of December and ended on the last day of the month that included the last date such second installment could be paid without penalty. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list compiled under division (H) of this section.

(b) On the first day of December beginning in 2000, the interest shall be charged against and computed on all delinquent taxes. The charge shall be for interest that accrued during the period that began on the first day of the month following the last date prescribed for the payment of the second installment of taxes in the current year and ended on the immediately preceding last day of November. The interest shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code and shall be entered as a separate item on the delinquent manufactured home tax list.

(c) After a valid undertaking has been entered into for the payment of any delinquent taxes, no interest shall be charged against such delinquent taxes while the undertaking remains in effect in compliance with section 323.31 of the Revised Code. If a valid undertaking becomes void, interest shall be charged against the delinquent taxes for the periods that interest was not permitted to be charged while the undertaking was in effect. The interest shall be charged on the day the undertaking becomes void and shall equal the amount of interest that would have been charged against the unpaid delinquent taxes outstanding on the dates on which interest would have been charged thereon under divisions (G)(1) and (2) of this section had the undertaking not been in effect.

(3) If the full amount of the taxes due at either of the times prescribed by division (F) of this section is paid within ten days after such time, the county treasurer shall waive the collection of and the county auditor shall remit one-half of the penalty provided for in this division for failure to make that payment by the prescribed time.

(4) The treasurer shall compile and deliver to the county auditor a list of all tax payments the treasurer has received as provided in division (G)(3) of this section. The list shall include any information required by the auditor for the remission of the penalties waived by the treasurer. The taxes so collected shall be included in the settlement next succeeding the settlement then in process.

(H)(1) ~~Beginning in 2000, the~~ The county auditor shall compile annually a "delinquent manufactured home tax list" consisting of homes the county treasurer's records indicate have taxes that were not paid within the time prescribed by divisions (D)(3) and (F) of this section, have taxes that remain unpaid from prior years, or have unpaid tax penalties or interest that have been assessed.

(2) Within thirty days after the settlement under division (H)(2) of section 321.24 of the Revised Code ~~beginning in 2000,~~ the county auditor shall deliver a copy of the delinquent manufactured home tax list to the county treasurer. The auditor shall update and publish the delinquent manufactured home tax list annually in the same manner as delinquent real property tax lists are published. The county auditor ~~shall~~ may apportion the cost of publishing the list among taxing districts in proportion to the amount of delinquent manufactured home taxes so published that each taxing district is entitled to receive upon collection of those taxes, or the county auditor may charge the owner of a home on the list a flat fee established under section 319.54 of the Revised Code for the cost of publishing the list and, if the fee is not paid, may place the fee upon the delinquent manufactured

home tax list as a lien on the listed home, to be collected as other manufactured home taxes.

(3) When taxes, penalties, or interest are charged against a person on the delinquent manufactured home tax list and are not paid within sixty days after the list is delivered to the county treasurer, the county treasurer shall, in addition to any other remedy provided by law for the collection of taxes, penalties, and interest, enforce collection of such taxes, penalties, and interest by civil action in the name of the treasurer against the owner for the recovery of the unpaid taxes following the procedures for the recovery of delinquent real property taxes in sections 323.25 to 323.28 of the Revised Code. The action may be brought in municipal or county court, provided the amount charged does not exceed the monetary limitations for original jurisdiction for civil actions in those courts.

It is sufficient, having made proper parties to the suit, for the county treasurer to allege in the treasurer's bill of particulars or petition that the taxes stand chargeable on the books of the county treasurer against such person, that they are due and unpaid, and that such person is indebted in the amount of taxes appearing to be due the county. The treasurer need not set forth any other matter relating thereto. If it is found on the trial of the action that the person is indebted to the state, judgment shall be rendered in favor of the county treasurer prosecuting the action. The judgment debtor is not entitled to the benefit of any law for stay of execution or exemption of property from levy or sale on execution in the enforcement of the judgment.

Upon the filing of an entry of confirmation of sale or an order of forfeiture in a proceeding brought under this division, title to the manufactured or mobile home shall be in the purchaser. The clerk of courts shall issue a certificate of title to the purchaser upon presentation of proof of filing of the entry of confirmation or order and, in the case of a forfeiture, presentation of the county auditor's certificate of sale.

(I) The total amount of taxes collected shall be distributed in the following manner: four per cent shall be allowed as compensation to the county auditor for the county auditor's service in assessing the taxes; two per cent shall be allowed as compensation to the county treasurer for the services the county treasurer renders as a result of the tax levied by this section. Such amounts shall be paid into the county treasury, to the credit of the county general revenue fund, on the warrant of the county auditor. Fees to be paid to the credit of the real estate assessment fund shall be collected pursuant to division (C) of section 319.54 of the Revised Code and paid into the county treasury, on the warrant of the county auditor. The balance of the taxes collected shall be distributed among the taxing subdivisions of the

county in which the taxes are collected and paid in the same ratio as those taxes were collected for the benefit of the taxing subdivision. The taxes levied and revenues collected under this section shall be in lieu of any general property tax and any tax levied with respect to the privilege of using or occupying a manufactured or mobile home in this state except as provided in sections 4503.04 and 5741.02 of the Revised Code.

(J) An agreement to purchase or a bill of sale for a manufactured home shall show whether or not the furnishings and equipment are included in the purchase price.

(K) If the county treasurer and the county prosecuting attorney agree that an item charged on the delinquent manufactured home tax list is uncollectible, they shall certify that determination and the reasons to the county board of revision. If the board determines the amount is uncollectible, it shall certify its determination to the county auditor, who shall strike the item from the list.

(L)(1) The county auditor shall appraise at its true value any manufactured or mobile home in which ownership is transferred or which first acquires situs in this state on or after January 1, 2000, and any manufactured or mobile home the owner of which has elected, under division (D)(4) of this section, to have the home taxed under division (D)(2) of this section. The true value shall include the value of the home, any additions, and any fixtures, but not any furnishings in the home. In determining the true value of a manufactured or mobile home, the auditor shall consider all facts and circumstances relating to the value of the home, including its age, its capacity to function as a residence, any obsolete characteristics, and other factors that may tend to prove its true value.

(2)(a) If a manufactured or mobile home has been the subject of an arm's length sale between a willing seller and a willing buyer within a reasonable length of time prior to the determination of true value, the county auditor shall consider the sale price of the home to be the true value for taxation purposes.

(b) The sale price in an arm's length transaction between a willing seller and a willing buyer shall not be considered the true value of the home if either of the following occurred after the sale:

- (i) The home has lost value due to a casualty.
- (ii) An addition or fixture has been added to the home.

(3) The county auditor shall have each home viewed and appraised at least once in each six-year period in the same year in which real property in the county is appraised pursuant to Chapter 5713. of the Revised Code, and shall update the appraised values in the third calendar year following the

appraisal. The person viewing or appraising a home may enter the home to determine by actual view any additions or fixtures that have been added since the last appraisal. In conducting the appraisals and establishing the true value, the auditor shall follow the procedures set forth for appraising real property in sections 5713.01 and 5713.03 of the Revised Code.

(4) The county auditor shall place the true value of each home on the manufactured home tax list upon completion of an appraisal.

(5)(a) If the county auditor changes the true value of a home, the auditor shall notify the owner of the home in writing, delivered by mail or in person. The notice shall be given at least thirty days prior to the issuance of any tax bill that reflects the change. Failure to receive the notice does not invalidate any proceeding under this section.

(b) Any owner of a home or any other person or party listed in division (A)(1) of section 5715.19 of the Revised Code may file a complaint against the true value of the home as appraised under this section. The complaint shall be filed with the county auditor on or before the thirty-first day of March of the current tax year or the date of closing of the collection for the first half of manufactured home taxes for the current tax year, whichever is later. The auditor shall present to the county board of revision all complaints filed with the auditor under this section. The board shall hear and investigate the complaint and may take action on it as provided under sections 5715.11 to 5715.19 of the Revised Code.

(c) If the county board of revision determines, pursuant to a complaint against the valuation of a manufactured or mobile home filed under this section, that the amount of taxes, assessments, or other charges paid was in excess of the amount due based on the valuation as finally determined, then the overpayment shall be refunded in the manner prescribed in section 5715.22 of the Revised Code.

(d) Payment of all or part of a tax under this section for any year for which a complaint is pending before the county board of revision does not abate the complaint or in any way affect the hearing and determination thereof.

(M) If the county auditor determines that any tax or other charge or any part thereof has been erroneously charged as a result of a clerical error as defined in section 319.35 of the Revised Code, the county auditor shall call the attention of the county board of revision to the erroneous charges. If the board finds that the taxes or other charges have been erroneously charged or collected, it shall certify the finding to the auditor. Upon receipt of the certification, the auditor shall remove the erroneous charges on the manufactured home tax list or delinquent manufactured home tax list in the

same manner as is prescribed in section 319.35 of the Revised Code for erroneous charges against real property, and refund any erroneous charges that have been collected, with interest, in the same manner as is prescribed in section 319.36 of the Revised Code for erroneous charges against real property.

(N) As used in this section and section 4503.061 of the Revised Code:

(1) "Manufactured home taxes" includes taxes, penalties, and interest charged under division (C) or (G) of this section and any penalties charged under division (G) or (H)(5) of section 4503.061 of the Revised Code.

(2) "Current taxes" means all manufactured home taxes charged against a manufactured or mobile home that have not appeared on the manufactured home tax list for any prior year. Current taxes become delinquent taxes if they remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent.

(3) "Delinquent taxes" means:

(a) Any manufactured home taxes that were charged against a manufactured or mobile home for a prior year, including any penalties or interest charged for a prior year and the costs of publication under division (H)(2) of this section, and that remain unpaid;

(b) Any current manufactured home taxes charged against a manufactured or mobile home that remain unpaid after the last day prescribed for payment of the second installment of current taxes without penalty, whether or not they have been certified delinquent, including any penalties or interest and the costs of publication under division (H)(2) of this section.

Sec. 4503.235. (A) If division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code requires a court, as part of the sentence of an offender who is convicted of or pleads guilty to a violation of division (A) of section 4511.19 of the Revised Code or as a sanction for an offender who is convicted of or pleaded guilty to a violation of a municipal OVI ordinance, to order the immobilization of a vehicle for a specified period of time, notwithstanding the requirement, the court in its discretion may determine not to order the immobilization of the vehicle if both of the following apply:

(1) Prior to the issuance of the order of immobilization, a family or household member of the offender files a motion with the court identifying the vehicle and requesting that the immobilization order not be issued on the ground that the family or household member is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle

would be an undue hardship to the family or household member.

(2) The court determines that the family or household member who files the motion is completely dependent on the vehicle for the necessities of life and that the immobilization of the vehicle would be an undue hardship to the family or household member.

(B) If a court pursuant to division (A) of this section determines not to order the immobilization of a vehicle that otherwise would be required pursuant to division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code, the court shall issue an order that waives the immobilization that otherwise would be required pursuant to either of those divisions. The immobilization waiver order shall be in effect for the period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued, subject to division (D) of this section. The immobilization waiver order shall specify the period of time for which it is in effect. The court shall provide a copy of an immobilization waiver order to the offender and to the family or household member of the offender who filed the motion requesting that the immobilization order not be issued and shall place a copy of the immobilization waiver order in the record in the case. The court shall impose an immobilization waiver fee in the amount of fifty dollars. The court shall determine whether the fee is to be paid by the offender or by the family or household member. The clerk of the court shall deposit all of the fees collected during a month on or before the twenty-third day of the following month into the county or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation under division (F) of section 4511.191 of the Revised Code.

(C) If a court pursuant to division (B) of this section issues an immobilization waiver order, the order shall identify the family or household member who requested the order and the vehicle to which the order applies, shall identify the family or household members who are permitted to operate the vehicle, and shall identify the offender and specify that the offender is not permitted to operate the vehicle. The immobilization waiver order shall require that the family or household member display on the vehicle to which the order applies restricted license plates that are issued under section 4503.231 of the Revised Code for the entire period for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(D) A family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section shall not permit the offender to operate the vehicle. If a family or household member who is permitted to operate a vehicle under an immobilization waiver order issued under this section permits the offender to operate the vehicle, both of the following apply:

(1) The court that issued the immobilization waiver order shall terminate that order and shall issue an immobilization order in accordance with section 4503.233 of the Revised Code that applies to the vehicle, and the immobilization order shall be in effect for the remaining period of time for which the immobilization of the vehicle otherwise would have been required under division (G) of section 4511.19 or division ~~(B)~~(C) of section 4511.193 of the Revised Code if the immobilization waiver order had not been issued.

(2) The conduct of the family or household member in permitting the offender to operate the vehicle is a violation of section 4511.203 of the Revised Code.

(E) No offender shall operate a motor vehicle subject to an immobilization waiver order. Whoever violates this division is guilty of operating a motor vehicle in violation of an immobilization waiver, a misdemeanor of the first degree.

(F) "Family or household member" has the same meaning as in section 2919.25 of the Revised Code, except that the person must be currently residing with the offender.

Sec. 4503.70. The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles who is a member in good standing of the grand lodge of free and accepted masons of Ohio may apply to the registrar for the registration of the vehicle and issuance of freemason license plates. The application for freemason license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application, presentation by the applicant of satisfactory evidence showing that the applicant is a member in good standing of the grand lodge of free and accepted masons of Ohio, and compliance by the applicant with this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of freemason license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed thereon, freemason license plates shall be inscribed with identifying words and a

symbol or logo designed by the grand lodge of free and accepted masons of Ohio and approved by the registrar. Freemason license plates shall bear county identification stickers that identify the county of registration by name or number.

Freemason license plates and validation stickers shall be issued upon payment of the regular license fee required by section 4503.04 of the Revised Code, payment of any local motor vehicle license tax levied under Chapter 4504. of the Revised Code, payment of an additional fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles. If the application for freemason license plates is combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code, the license plates and validation sticker shall be issued upon payment of the fees and taxes contained in this section and the additional fee prescribed under section 4503.40 or 4503.42 of the Revised Code. The additional fee of ten dollars shall be for the purpose of compensating the bureau of motor vehicles for additional services required in the issuing of freemason license plates, and shall be transmitted by the registrar to the treasurer of state for deposit into the state treasury to the credit of the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

Sec. 4503.93. (A) The owner or lessee of any passenger car, noncommercial motor vehicle, recreational vehicle, or other vehicle of a class approved by the registrar of motor vehicles may apply to the registrar for the registration of the vehicle and issuance of Ohio "volunteer" license plates. The application for Ohio "volunteer" license plates may be combined with a request for a special reserved license plate under section 4503.40 or 4503.42 of the Revised Code. Upon receipt of the completed application and compliance with divisions (B) and (C) of this section, the registrar shall issue to the applicant the appropriate vehicle registration and a set of Ohio "volunteer" license plates with a validation sticker or a validation sticker alone when required by section 4503.191 of the Revised Code.

In addition to the letters and numbers ordinarily inscribed on license plates, Ohio "volunteer" license plates shall be inscribed with words and markings designed by the Ohio community commission on service council and volunteerism created by section 121.40 of the Revised Code and approved by the registrar. Ohio "volunteer" license plates shall bear county identification stickers that identify the county of registration by name or number.

(B) Ohio "volunteer" license plates and a validation sticker, or a validation sticker alone, shall be issued upon receipt of a contribution as

provided in division (C) of this section and upon payment of the regular license tax prescribed in section 4503.04 of the Revised Code, any applicable motor vehicle tax levied under Chapter 4504. of the Revised Code, any applicable additional fee prescribed by section 4503.40 or 4503.42 of the Revised Code, a bureau of motor vehicles fee of ten dollars, and compliance with all other applicable laws relating to the registration of motor vehicles.

(C)(1) For each application for registration and registration renewal received under this section, the registrar shall collect a contribution of fifteen dollars. The registrar shall transmit this contribution to the treasurer of state for deposit in the Ohio ~~community commission on service council and volunteerism~~ gifts and donations fund created by section 121.403 of the Revised Code. The ~~council commission~~ shall use all such contributions for the purposes described in divisions (B)(2) and (3) of that section.

(2) The registrar shall deposit the bureau of motor vehicles fee of ten dollars specified in division (B) of this section, which is for the purpose of compensating the bureau for the additional services required in issuing Ohio "volunteer" license plates, in the state bureau of motor vehicles fund created in section 4501.25 of the Revised Code.

Sec. 4504.02. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; and for planning, constructing, improving, maintaining, and repairing public roads, highways, and streets; maintaining and repairing bridges and viaducts; paying the county's portion of the costs and expenses of cooperating with the department of transportation in the planning, improvement, and construction of state highways; paying the county's portion of the compensation, damages, cost, and expenses of planning, constructing, reconstructing, improving, maintaining, and repairing roads; paying any costs apportioned to the county under section 4907.47 of the Revised Code; paying debt service charges on notes or bonds of the county issued for such purposes; paying all or part of the costs and expenses of municipal corporations in planning, constructing, reconstructing, improving, maintaining, and repairing highways, roads, and streets designated as necessary or conducive to the orderly and efficient flow of traffic within and through the county pursuant to section 4504.03 of the Revised Code; purchasing, erecting, and maintaining street and traffic signs and markers; purchasing, erecting, and maintaining traffic lights and signals; and to supplement revenue already available for such purposes, any county by resolution adopted by its board of county commissioners may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code,

upon the operation of motor vehicles on the public roads or highways. Such tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.173, 4503.41, 4503.43, and 4503.46 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless such resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. Such emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for such necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election in the county occurring not less than seventy-five days after such resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

Sec. 4504.021. The question of repeal of a county permissive tax adopted as an emergency measure pursuant to section 4504.02, 4504.15, or 4504.16 of the Revised Code may be initiated by filing with the board of elections of the county not less than ninety days before the general election in any year a petition requesting that an election be held on such question. Such petition shall be signed by qualified electors residing in the county equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the county at the next

general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections for county offices in the county. Notice of the election shall be published in a newspaper of general circulation in the district, or as provided in section 7.16 of the Revised Code, once a week for two consecutive weeks prior to the election ~~and, if~~. If the board of elections operates and maintains a web site, notice of the election also shall be posted on that web site for thirty days prior to the election. The notice shall state the purpose, time, and place of the election. The form of the ballot cast at such election shall be prescribed by the secretary of state. The question covered by such petition shall be submitted as a separate proposition, but it may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of repeal approve the repeal, the result of the election shall be certified immediately after the canvass by the board of elections to the county commissioners, who shall thereupon, after the current year, cease to levy the tax.

Sec. 4504.15. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; for the various purposes stated in section 4504.02 of the Revised Code; and to supplement revenue already available for those purposes, any county may, by resolution adopted by its board of county commissioners, levy an annual license tax, that shall be in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles upon the public roads and highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax but is not located within any municipal corporation levying the tax authorized by section 4504.17 of the Revised Code, and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section 7.16 of the Revised Code, once a week for two consecutive weeks, ~~the~~. The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. The emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election occurring not less than ninety days after the resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it. A county is not required to enact the tax authorized by section 4504.02 of the Revised Code in order to levy the tax authorized by this section, but no county may have in effect the tax authorized by this section if it repeals the tax authorized by section 4504.02 of the Revised Code after April 1, 1987.

Sec. 4504.16. For the purpose of paying the costs of enforcing and administering the tax provided for in this section; for the various purposes stated in section 4504.02 of the Revised Code; and to supplement revenue already available for those purposes, any county that currently levies the tax authorized by section 4504.15 of the Revised Code may, by resolution adopted by its board of county commissioners, levy an annual license tax, that shall be in addition to the tax levied by that section and by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles upon the public roads and highways. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the district of registration of which, as defined in section 4503.10 of the Revised Code, is located in the county levying the tax but is not located within any municipal corporation levying the tax authorized by section 4504.171 of the Revised Code, and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings thereon, the second hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the county, or as provided in section

7.16 of the Revised Code, once a week for two consecutive weeks, ~~the~~ The second publication ~~being~~ shall be not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code, unless the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, in which case it shall go into immediate effect. The emergency measure must receive an affirmative vote of all of the members of the board of county commissioners, and shall state the reasons for the necessity. A resolution may direct the board of elections to submit the question of levying the tax to the electors of the county at the next primary or general election occurring not less than ninety days after the resolution is certified to the board; no such resolution shall go into effect unless approved by a majority of those voting upon it.

Nothing in this section or in section 4504.15 of the Revised Code shall be interpreted as preventing a county from levying the county motor vehicle license taxes authorized by such sections in a single resolution.

Sec. 4504.18. For the purpose of paying the costs and expenses of enforcing and administering the tax provided for in this section; for the construction, reconstruction, improvement, maintenance, and repair of township roads, bridges, and culverts; for purchasing, erecting, and maintaining traffic signs, markers, lights, and signals; for purchasing road machinery and equipment, and planning, constructing, and maintaining suitable buildings to house such equipment; for paying any costs apportioned to the township under section 4907.47 of the Revised Code; and to supplement revenue already available for such purposes, the board of township trustees may levy an annual license tax, in addition to the tax levied by sections 4503.02, 4503.07, and 4503.18 of the Revised Code, upon the operation of motor vehicles on the public roads and highways in the unincorporated territory of the township. The tax shall be at the rate of five dollars per motor vehicle on all motor vehicles the owners of which reside in the unincorporated area of the township and shall be in addition to the taxes at the rates specified in sections 4503.04 and 4503.16 of the Revised Code, subject to reductions in the manner provided in section 4503.11 of the Revised Code and the exemptions provided in sections 4503.16, 4503.17, 4503.171, 4503.41, and 4503.43 of the Revised Code.

Prior to the adoption of any resolution under this section, the board of township trustees shall conduct two public hearings thereon, the second

hearing to be not less than three nor more than ten days after the first. Notice of the date, time, and place of such hearings shall be given by publication in a newspaper of general circulation in the township or as provided in section 7.16 of the Revised Code, once a week on the same day of the week for two consecutive weeks, the second publication being not less than ten nor more than thirty days prior to the first hearing.

No resolution under this section shall become effective sooner than thirty days following its adoption, and such resolution is subject to a referendum in the same manner, except as to the form of the petition, as provided in division (H) of section 519.12 of the Revised Code for a proposed amendment to a township zoning resolution. In addition, a petition under this section shall be governed by the rules specified in section 3501.38 of the Revised Code. No resolution levying a tax under this section for which a referendum vote has been requested shall go into effect unless approved by a majority of those voting upon it.

A township license tax levied under this section shall continue in effect until repealed.

Sec. 4505.181. (A) Notwithstanding ~~divisions (A)(2), (5), and (6) of section 4505.18 of the Revised Code~~, a motor vehicle dealer or person acting on behalf of a motor vehicle dealer may display, offer for sale, or sell a used motor vehicle and a manufactured housing dealer or person acting on behalf of a manufactured housing dealer may display, offer for sale, or sell a used manufactured home or used mobile home without having first obtained a certificate of title for the vehicle in the name of the dealer ~~as required by this chapter if the dealer or person acting on behalf of the dealer complies with divisions (A)(1)(a) and (2) of this section, or divisions (A)(1)(b) and (2) of~~ by complying with this section, ~~as follows:~~

(1)(a) The dealer or person acting on behalf of the dealer shall possess a bill of sale for each used motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section or a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and shall retain copies of all such documents in the dealer's or person's files until such time as a certificate of title in the dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal

business hours.

~~(2) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for less than the three year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle for which the dealer has not obtained a certificate of title in the name of the dealer, or if the attorney general has paid a retail purchaser of the dealer or a secured party under division ~~(C)~~(D), (E), or (G) of this section within three years prior to such date, the dealer ~~posts~~ shall post with the attorney general's office in favor of this state a bond of a surety company authorized to do business in this state, in an amount of not less than twenty-five thousand dollars, to be used solely for the purpose of compensating retail purchasers of motor vehicles, manufactured homes, or mobile homes who suffer damages due to failure of the dealer or person acting on behalf of the dealer to comply with this section. Failure to post a bond constitutes a deceptive act or practice in connection with a consumer transaction and is a violation of section 1345.02 of the Revised Code. The dealer's surety shall notify the registrar and attorney general when a bond of a motor vehicle dealer is canceled and shall notify the manufactured homes commission and the attorney general when a bond of a manufactured housing dealer is canceled. Such notification of cancellation shall include the effective date of and reason for cancellation.~~

~~(b) If the dealer has been licensed as a motor vehicle dealer or manufactured housing dealer for longer than the three year period prior to the date on which the dealer or person acting on behalf of the dealer displays, offers for sale, or sells the used motor vehicle, used manufactured home, or used mobile home for which the dealer has not obtained a certificate of title in the name of the dealer and the attorney general has not paid a retail purchaser of the dealer under division (C) of this section within three years prior to such date, the dealer pays one hundred fifty dollars to the attorney general for deposit into the title defect recision fund created by section 1345.52 of the Revised Code.~~

~~(2) The dealer or person acting on behalf of the dealer possesses a bill of sale for each motor vehicle, used manufactured home, and used mobile home proposed to be displayed, offered for sale, or sold under this section and a properly executed power of attorney or other related documents from the prior owner of the motor vehicle, manufactured home, or mobile home giving the dealer or person acting on behalf of the dealer authority to have a certificate of title to the motor vehicle, manufactured home, or mobile home issued in the name of the dealer, and retains copies of all such documents in the dealer's or person's files until such time as a certificate of title in the~~

~~dealer's name is issued for each such motor vehicle, manufactured home, or mobile home by the clerk of the court of common pleas. Such documents shall be available for inspection by the bureau of motor vehicles and the manufactured homes commission during normal business hours.~~

(B) If a retail purchaser purchases a used motor vehicle, used manufactured home, or used mobile home for which the dealer, pursuant to and in accordance with division (A) of this section, does not have a certificate of title issued in the name of the dealer at the time of the sale, the retail purchaser has an unconditional right to demand the dealer rescind the transaction ~~and the dealer has an obligation to refund to the retail purchaser the full purchase price of the vehicle~~, if one of the following applies:

(1) The dealer fails, on or before the fortieth day following the date of the sale, to obtain a title in the name of the retail purchaser.

(2) The title for the vehicle indicates that it is a rebuilt salvage vehicle, and the fact that it is a rebuilt salvage vehicle was not disclosed to the retail purchaser in writing prior to the execution of the purchase agreement.

(3) The title for the vehicle indicates that the dealer has made an inaccurate odometer disclosure to the retail purchaser.

(4) The title for the vehicle indicates that it is a "buyback" vehicle as defined in section 1345.71 of the Revised Code, and the fact that it is a "buyback" vehicle was not disclosed to the retail purchaser in the written purchase agreement.

(5) The motor vehicle is a used manufactured home or used mobile home, as defined by section ~~5739.021~~ 4781.01 of the Revised Code, that has been repossessed under Chapter 1309. or 1317. of the Revised Code, but a certificate of title for the repossessed home has not yet been transferred by the repossessing party to the dealer on the date the retail purchaser purchases the used manufactured home or used mobile home from the dealer, and the dealer fails to obtain a certificate of title on or before the fortieth day after the dealer obtains the certificate of title for the home from the repossessing party or the date on which an occupancy permit for the home is delivered to the purchaser by the appropriate legal authority, whichever occurs later.

~~(C)(1) If any of the circumstances~~ circumstance described in ~~divisions~~ division (B)(1) ~~to (4)~~ of this section applies, a retail purchaser or the retail purchaser's representative shall ~~notify~~ provide the dealer ~~and afford the dealer the opportunity to comply with the dealer's obligation to refund the full purchase price~~ notice of the motor vehicle request for rescision. Such notification shall occur not later than sixty days from the date the motor vehicle is titled in the name of the retail purchaser. The dealer shall have the

opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement shall be only in such a manner as to reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle. If a vehicle was taken in trade as a down payment, the dealer shall return the vehicle to the consumer, unless the dealer remitted payment to a third party to satisfy any security interest. If the dealer remitted payment, the dealer shall reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale.

(2) If any of the circumstances described in divisions (B)(2), (3), or (4) of this section apply, a retail purchaser or the retail purchaser's representative shall provide notice to the dealer of a request for rescission. Such notification shall occur not later than one hundred eighty days from the date the vehicle is titled in the name of the retail purchaser. Upon timely notification, the dealer shall have the opportunity to comply with the dealer's obligation to refund the full purchase price of the motor vehicle. Reimbursement shall be only in such a manner as to reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle. If a vehicle was taken in trade as a down payment, the dealer shall return the vehicle to the consumer, unless the dealer remitted payment to a third party to satisfy any security interest. If the dealer remitted payment, the dealer shall reimburse the purchaser the value of the vehicle, as evidenced by the bill of sale.

(3) If any of the circumstances described in division (B)(5) of this section apply, a retail purchaser or the retail purchaser's representative shall notify the dealer and afford the dealer the opportunity to comply with the dealer's obligation to rescind the manufactured home or mobile home transaction.

(4) If the retail purchaser does not deliver notice to the dealer within the applicable time period specified in division (C)(1), (2), or (3) of this section, the retail purchaser shall not be entitled to any recovery or have any cause of action under this section.

(5) Nothing in this division (C) of this section shall be construed as prohibiting the dealer and the retail purchaser or their representatives from negotiating a compromise resolution that is satisfactory to both parties.

~~(C)(D)~~ If a retail purchaser notifies a dealer of one or more of the circumstances listed in division (B) of this section within the applicable time period specified in division (C)(1), (2), or (3) of this section and the dealer

fails to ~~refund to~~ comply with the ~~retail purchaser the full purchase price requirements for rescision as prescribed in division (C) of the vehicle this section~~ or reach a satisfactory compromise with the retail purchaser within ~~three~~ seven business days of presentation of the retail purchaser's rescision claim, the retail purchaser may apply to the attorney general for payment from the fund of the full purchase price to the retail purchaser.

~~(D)~~(E)(1) Upon application by a retail purchaser for payment from the fund, if the attorney general is satisfied that one or more of the circumstances contained in divisions (B)(1) to ~~(4)~~(5) of this section exist, and notification has been given within the applicable time period specified in division (C)(1), (2), or (3) of this section, the attorney general shall cause at maximum the full purchase price of the vehicle, manufactured home, or mobile home plus the cost of any additional temporary license placards to be paid to the retail purchaser from the fund ~~after~~. The attorney general may require delivery of the vehicle, manufactured home, or mobile home to the attorney general prior to reimbursement from the fund. Reimbursement shall be only in such a manner as to do either of the following:

(a) Reimburse the retail purchaser any money the retail purchaser actually paid and, in the case of a lender of the retail purchaser, the amount paid by the lender to purchase the contract or finance the sale of the vehicle;

(b) If the retail purchaser wishes to retain the vehicle, the attorney general, in the attorney general's sole discretion, may pay a lienholder of record or other holder of a secured interest in such manner that title can be transferred to the retail purchaser free of encumbrances, other than a security interest granted by the retail purchaser at the time of vehicle purchase.

(2) The attorney general, in the attorney general's sole discretion, also may cause the cost of additional temporary license placards to be paid from the fund. ~~The~~

(F) ~~The~~ attorney general may sell or otherwise dispose of any used motor vehicle, manufactured home, or mobile home that is delivered to the attorney general under this section, and may collect the proceeds of any bond posted under division (A) of this section by a dealer who has failed to comply with division ~~(C)~~(D) of this section. The proceeds from all such sales and collections shall be deposited into the title defect rescision fund for use as specified in section 1345.52 of the Revised Code.

(E)(G) ~~If a dealer fails to submit payment of a secured interest on a trade-in vehicle as agreed to by the dealer and retail purchaser and none of the circumstances in divisions (B)(1) to (5) applies,~~ the retail purchaser may apply to the attorney general for payment to the secured creditor from the

fund. The attorney general shall demand immediate payment from the dealer and if payment has not been made or is not immediately forthcoming, the attorney general may cause an amount equal to that which the dealer agreed to pay to the secured creditor to be paid from the fund, along with any additional interest and late fees resulting from the dealer's failure to pay the secured creditor in a timely manner.

(H) Failure by a dealer to comply with both ~~division (A)~~ or ~~divisions (B) and (C)~~ of this section constitutes a deceptive act or practice in connection with a consumer transaction, and is a violation of section 1345.02 of the Revised Code.

~~(F)(I)~~ The remedy provided in this section to retail purchasers is in addition to any remedies otherwise available to the retail purchaser for the same conduct of the dealer or person acting on behalf of the dealer under federal law or the laws of this state or a political subdivision of this state.

~~(G) All motor vehicle dealers licensed under Chapter 4517. of the Revised Code and manufactured housing dealers licensed under Chapter 4781. of the Revised Code shall pay to the attorney general for deposit into~~
(J) If, at any time during any calendar year, the balance in the title defect rescision fund the amount described in division (A)(1)(b) of this section beginning with the calendar year during which this section becomes effective and each year subsequent to that year until the balance in the fund is not less than three hundred thousand dollars. All such dealers also shall pay to, the attorney general for deposit into the fund that amount during any year and subsequent years during which the balance in the fund is less than three hundred thousand dollars may assess all motor vehicle dealers licensed under Chapter 4517. of the Revised Code and all manufactured housing dealers licensed under Chapter 4781. of the Revised Code one hundred fifty dollars for deposit into the title defect rescision fund until the balance in the fund reaches three hundred thousand dollars. A notice of assessment shall be sent to each dealer at its licensed location.

If a motor vehicle dealer or manufactured housing dealer fails to comply with this division, the attorney general may bring a civil action in a court of competent jurisdiction to collect the amount the dealer failed to pay to the attorney general for deposit into the fund.

(K) Nothing in this section shall be construed as providing for payment of attorney fees to the retail purchaser.

(L) As used in this section:

(1) "Full purchase price" means the contract price, including charges for dealer installed options and accessories, all finance, credit insurance, and service contract charges incurred by the retail purchaser, all sales tax,

license and registration fees, and the amount of any negative equity that was not already paid by the dealer to a third party to satisfy a lien, as reflected in the contract.

(2) "Retail purchaser" means a person, other than a motor vehicle dealer or a manufactured housing dealer, who in good faith purchases a used motor vehicle for purposes other than resale.

Sec. 4506.071. On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a commercial driver's license or commercial driver's temporary instruction permit issued pursuant to this chapter.

Sec. 4507.111. On receipt of a notice pursuant to section 3123.54 of the Revised Code, the registrar of motor vehicles shall comply with sections ~~3123.52~~ 3123.53 to ~~3123.614~~ 3123.60 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to any driver's or commercial license or permit, motorcycle operator's license or endorsement, or temporary instruction permit or commercial driver's temporary instruction permit issued by this state that is the subject of the notice.

Sec. 4507.164. (A) Except as provided in divisions (C) to (E) of this section, when the license of any person is suspended pursuant to any provision of the Revised Code other than division (G) of section 4511.19 of the Revised Code and other than section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, the trial judge may impound the identification license plates of any motor vehicle registered in the name of the person.

(B)(1) When the license of any person is suspended pursuant to division (G)(1)(a) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record or the mayor of the mayor's court that suspended the license may impound the identification license plates of any motor vehicle registered in the name of the person.

(2) When the license of any person is suspended pursuant to division (G)(1)(b) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the

trial judge of the court of record that suspended the license shall order the impoundment of the identification license plates of the motor vehicle the offender was operating at the time of the offense and the immobilization of that vehicle in accordance with section 4503.233 and division (G)(1)(b) of section 4511.19 or division ~~(B)~~(C)(2)(a) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended.

(3) When the license of any person is suspended pursuant to division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a municipal OVI offense when the suspension is equivalent in length to the suspension under division (G) of section 4511.19 of the Revised Code that is specified in this division, the trial judge of the court of record that suspended the license shall order the criminal forfeiture to the state of the motor vehicle the offender was operating at the time of the offense in accordance with section 4503.234 and division (G)(1)(c), (d), or (e) of section 4511.19 or division ~~(B)~~(C)(2)(b) of section 4511.193 of the Revised Code and may impound the identification license plates of any other motor vehicle registered in the name of the person whose license is suspended.

(C)(1) When a person is convicted of or pleads guilty to a violation of section 4510.14 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(1) or (2) of section 4510.14 or division (C)(1) or (2) of section 4510.161 of the Revised Code applies, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates in accordance with section 4503.233 and division (B)(1) or (2) of section 4510.14 or division (C)(1) or (2) of section 4510.161 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4510.14 of the Revised Code or a substantially equivalent municipal ordinance and division (B)(3) of section 4510.14 or division (C)(3) of section 4510.161 of the Revised Code applies, the trial judge of the court of record that imposes sentence shall order the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense in accordance with section 4503.234 and division (B)(3) of section 4510.14 or division (C)(3) of section 4510.161 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(D)(4) When a person is convicted of or pleads guilty to a violation of division (A) of section 4510.16 of the Revised Code or a substantially equivalent municipal ordinance, division (B) of section 4510.16 or division (B) of section 4510.161 of the Revised Code applies in determining whether the immobilization of the vehicle the person was operating at the time of the offense and the impoundment of its identification license plates or the criminal forfeiture to the state of the vehicle the person was operating at the time of the offense is authorized or required. The trial judge of the court of record or the mayor of the mayor's court that imposes sentence may impound the identification license plates of any other vehicle registered in the name of that person.

(E)(1) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(1) or (2) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the immobilization of the vehicle that was involved in the commission of the offense and the impoundment of its identification license plates in accordance with division (C)(1) or (2) of section 4511.203 and section 4503.233 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(2) When a person is convicted of or pleads guilty to a violation of section 4511.203 of the Revised Code and the person is sentenced pursuant to division (C)(3) of section 4511.203 of the Revised Code, the trial judge of the court of record or the mayor of the mayor's court that imposes sentence shall order the criminal forfeiture to the state of the vehicle that was involved in the commission of the offense in accordance with division (C)(3) of section 4511.203 and section 4503.234 of the Revised Code and may impound the identification license plates of any other vehicle registered in the name of that person.

(F) Except as provided in section 4503.233 or 4503.234 of the Revised Code, when the certificate of registration, the identification license plates, or both have been impounded, division (B) of section 4507.02 of the Revised Code is applicable.

(G) As used in this section, "municipal OVI offense" has the same meaning as in section 4511.181 of the Revised Code.

Sec. 4511.191. (A)(1) As used in this section:

(a) "Physical control" has the same meaning as in section 4511.194 of the Revised Code.

(b) "Alcohol monitoring device" means any device that provides for

continuous alcohol monitoring, any ignition interlock device, any immobilizing or disabling device other than an ignition interlock device that is constantly available to monitor the concentration of alcohol in a person's system, or any other device that provides for the automatic testing and periodic reporting of alcohol consumption by a person and that a court orders a person to use as a sanction imposed as a result of the person's conviction of or plea of guilty to an offense.

(2) Any person who operates a vehicle, streetcar, or trackless trolley upon a highway or any public or private property used by the public for vehicular travel or parking within this state or who is in physical control of a vehicle, streetcar, or trackless trolley shall be deemed to have given consent to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine to determine the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of the person's whole blood, blood serum or plasma, breath, or urine if arrested for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance.

(3) The chemical test or tests under division (A)(2) of this section shall be administered at the request of a law enforcement officer having reasonable grounds to believe the person was operating or in physical control of a vehicle, streetcar, or trackless trolley in violation of a division, section, or ordinance identified in division (A)(2) of this section. The law enforcement agency by which the officer is employed shall designate which of the tests shall be administered.

(4) Any person who is dead or unconscious, or who otherwise is in a condition rendering the person incapable of refusal, shall be deemed to have consented as provided in division (A)(2) of this section, and the test or tests may be administered, subject to sections 313.12 to 313.16 of the Revised Code.

(5)(a) If a law enforcement officer arrests a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance and if the person if convicted would be required to be sentenced under division (G)(1)(c), (d), or (e) of section 4511.19 of the Revised Code, the law enforcement officer shall request the person to submit, and the person shall submit, to a chemical test or tests of the person's whole blood, blood serum or plasma, breath, or urine for the purpose of determining the alcohol, drug of abuse, controlled substance, metabolite of a controlled substance, or combination content of

the person's whole blood, blood serum or plasma, breath, or urine. A law enforcement officer who makes a request pursuant to this division that a person submit to a chemical test or tests is not required to advise the person of the consequences of submitting to, or refusing to submit to, the test or tests and is not required to give the person the form described in division (B) of section 4511.192 of the Revised Code, but the officer shall advise the person at the time of the arrest that if the person refuses to take a chemical test the officer may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. The officer shall also advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. Divisions (A)(3) and (4) of this section apply to the administration of a chemical test or tests pursuant to this division.

(b) If a person refuses to submit to a chemical test upon a request made pursuant to division (A)(5)(a) of this section, the law enforcement officer who made the request may employ whatever reasonable means are necessary to ensure that the person submits to a chemical test of the person's whole blood or blood serum or plasma. A law enforcement officer who acts pursuant to this division to ensure that a person submits to a chemical test of the person's whole blood or blood serum or plasma is immune from criminal and civil liability based upon a claim for assault and battery or any other claim for the acts, unless the officer so acted with malicious purpose, in bad faith, or in a wanton or reckless manner.

(B)(1) Upon receipt of the sworn report of a law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code, section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, or a municipal OVI ordinance that was completed and sent to the registrar of motor vehicles and a court pursuant to section 4511.192 of the Revised Code in regard to a person who refused to take the designated chemical test, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and that section and the period of the suspension, as determined under this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension shall be for whichever of the following periods applies:

(a) Except when division (B)(1)(b), (c), or (d) of this section applies and specifies a different class or length of suspension, the suspension shall be a class C suspension for the period of time specified in division (B)(3) of

section 4510.02 of the Revised Code.

(b) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused one previous request to consent to a chemical test or had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(c) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused two previous requests to consent to a chemical test, had been convicted of or pleaded guilty to two violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused one previous request to consent to a chemical test and also had been convicted of or pleaded guilty to one violation of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, which violation or offense arose from an incident other than the incident that led to the refusal, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(d) If the arrested person, within six years of the date on which the person refused the request to consent to the chemical test, had refused three or more previous requests to consent to a chemical test, had been convicted of or pleaded guilty to three or more violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses, or had refused a number of previous requests to consent to a chemical test and also had been convicted of or pleaded guilty to a number of violations of division (A) or (B) of section 4511.19 of the Revised Code or other equivalent offenses that cumulatively total three or more such refusals, convictions, and guilty pleas, the suspension shall be for five years.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (B)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's

driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (B)(1) of this section.

(C)(1) Upon receipt of the sworn report of the law enforcement officer who arrested a person for a violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance that was completed and sent to the registrar and a court pursuant to section 4511.192 of the Revised Code in regard to a person whose test results indicate that the person's whole blood, blood serum or plasma, breath, or urine contained at least the concentration of alcohol specified in division (A)(1)(b), (c), (d), or (e) of section 4511.19 of the Revised Code or at least the concentration of a listed controlled substance or a listed metabolite of a controlled substance specified in division (A)(1)(j) of section 4511.19 of the Revised Code, the registrar shall enter into the registrar's records the fact that the person's driver's or commercial driver's license or permit or nonresident operating privilege was suspended by the arresting officer under this division and section 4511.192 of the Revised Code and the period of the suspension, as determined under divisions (C)(1)(a) to (d) of this section. The suspension shall be subject to appeal as provided in section 4511.197 of the Revised Code. The suspension described in this division does not apply to, and shall not be imposed upon, a person arrested for a violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance who submits to a designated chemical test. The suspension shall be for whichever of the following periods applies:

(a) Except when division (C)(1)(b), (c), or (d) of this section applies and specifies a different period, the suspension shall be a class E suspension imposed for the period of time specified in division (B)(5) of section 4510.02 of the Revised Code.

(b) The suspension shall be a class C suspension for the period of time specified in division (B)(3) of section 4510.02 of the Revised Code if the person has been convicted of or pleaded guilty to, within six years of the date the test was conducted, one violation of division (A) or (B) of section 4511.19 of the Revised Code or one other equivalent offense.

(c) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class B suspension imposed for the period of time specified in division (B)(2) of section 4510.02 of the Revised Code.

(d) If, within six years of the date the test was conducted, the person has been convicted of or pleaded guilty to more than two violations of a statute or ordinance described in division (C)(1)(b) of this section, the suspension shall be a class A suspension imposed for the period of time specified in division (B)(1) of section 4510.02 of the Revised Code.

(2) The registrar shall terminate a suspension of the driver's or commercial driver's license or permit of a resident or of the operating privilege of a nonresident, or a denial of a driver's or commercial driver's license or permit, imposed pursuant to division (C)(1) of this section upon receipt of notice that the person has entered a plea of guilty to, or that the person has been convicted after entering a plea of no contest to, operating a vehicle in violation of section 4511.19 of the Revised Code or in violation of a municipal OVI ordinance, if the offense for which the conviction is had or the plea is entered arose from the same incident that led to the suspension or denial.

The registrar shall credit against any judicial suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege imposed pursuant to section 4511.19 of the Revised Code, or pursuant to section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, any time during which the person serves a related suspension imposed pursuant to division (C)(1) of this section.

(D)(1) A suspension of a person's driver's or commercial driver's license or permit or nonresident operating privilege under this section for the time described in division (B) or (C) of this section is effective immediately from the time at which the arresting officer serves the notice of suspension upon the arrested person. Any subsequent finding that the person is not guilty of the charge that resulted in the person being requested to take the chemical test or tests under division (A) of this section does not affect the suspension.

(2) If a person is arrested for operating a vehicle, streetcar, or trackless trolley in violation of division (A) or (B) of section 4511.19 of the Revised Code or a municipal OVI ordinance, or for being in physical control of a vehicle, streetcar, or trackless trolley in violation of section 4511.194 of the Revised Code or a substantially equivalent municipal ordinance, regardless of whether the person's driver's or commercial driver's license or permit or nonresident operating privilege is or is not suspended under division (B) or (C) of this section or Chapter 4510. of the Revised Code, the person's initial appearance on the charge resulting from the arrest shall be held within five days of the person's arrest or the issuance of the citation to the person, subject to any continuance granted by the court pursuant to section 4511.197 of the Revised Code regarding the issues specified in that division.

(E) When it finally has been determined under the procedures of this section and sections 4511.192 to 4511.197 of the Revised Code that a nonresident's privilege to operate a vehicle within this state has been suspended, the registrar shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which the person has a license.

(F) At the end of a suspension period under this section, under section 4511.194, section 4511.196, or division (G) of section 4511.19 of the Revised Code, or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance and upon the request of the person whose driver's or commercial driver's license or permit was suspended and who is not otherwise subject to suspension, cancellation, or disqualification, the registrar shall return the driver's or commercial driver's license or permit to the person upon the occurrence of all of the conditions specified in divisions (F)(1) and (2) of this section:

(1) A showing that the person has proof of financial responsibility, a policy of liability insurance in effect that meets the minimum standards set forth in section 4509.51 of the Revised Code, or proof, to the satisfaction of the registrar, that the person is able to respond in damages in an amount at least equal to the minimum amounts specified in section 4509.51 of the Revised Code.

(2) Subject to the limitation contained in division (F)(3) of this section, payment by the person to the registrar ~~of motor vehicles~~ or an eligible deputy registrar of a license reinstatement fee of four hundred seventy-five dollars, which fee shall be deposited in the state treasury and credited as follows:

(a) One hundred twelve dollars and fifty cents shall be credited to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code. The Money credited to the fund under this section shall be used to pay the costs of driver treatment and intervention programs operated pursuant to sections 3793.02 and 3793.10 for purposes identified in the comprehensive statewide alcohol and drug addiction services plan developed under section 3793.04 of the Revised Code. ~~The director of alcohol and drug addiction services shall determine the share of the fund that is to be allocated to alcohol and drug addiction programs authorized by section 3793.02 of the Revised Code, and the share of the fund that is to be allocated to drivers' intervention programs authorized by section 3793.10 of the Revised Code.~~

(b) Seventy-five dollars shall be credited to the reparations fund created by section 2743.191 of the Revised Code.

(c) Thirty-seven dollars and fifty cents shall be credited to the indigent drivers alcohol treatment fund, which is hereby established in the state treasury. Except as otherwise provided in division (F)(2)(c) of this section, moneys in the fund shall be distributed by the department of alcohol and drug addiction services to the county indigent drivers alcohol treatment funds, the county juvenile indigent drivers alcohol treatment funds, and the municipal indigent drivers alcohol treatment funds that are required to be established by counties and municipal corporations pursuant to division (H) of this section, and shall be used only to pay the cost of an alcohol and drug addiction treatment program attended by an offender or juvenile traffic offender who is ordered to attend an alcohol and drug addiction treatment program by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's attendance at the program or to pay the costs specified in division (H)(4) of this section in accordance with that division. In addition, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund to pay for the cost of the continued use of an alcohol monitoring device as described in divisions (H)(3) and (4) of this section. Moneys in the fund that are not distributed to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund under division (H) of this section because the director of alcohol and drug addiction services does not have the information necessary to identify the county or municipal corporation where the offender or juvenile offender was arrested may be transferred by the director of budget and management to the statewide treatment and prevention fund created by section 4301.30 of the Revised Code, upon certification of the amount by the director of alcohol and drug addiction services.

(d) Seventy-five dollars shall be credited to the Ohio rehabilitation services commission established by section 3304.12 of the Revised Code, to the services for rehabilitation fund, which is hereby established. The fund shall be used to match available federal matching funds where appropriate, and for any other purpose or program of the commission to rehabilitate people with disabilities to help them become employed and independent.

(e) Seventy-five dollars shall be deposited into the state treasury and credited to the drug abuse resistance education programs fund, which is hereby established, to be used by the attorney general for the purposes specified in division (F)(4) of this section.

(f) Thirty dollars shall be credited to the state bureau of motor vehicles fund created by section 4501.25 of the Revised Code.

(g) Twenty dollars shall be credited to the trauma and emergency medical services grants fund created by section 4513.263 of the Revised Code.

(h) Fifty dollars shall be credited to the indigent drivers interlock and alcohol monitoring fund, which is hereby established in the state treasury. ~~Monies~~ Moneys in the fund shall be distributed by the department of public safety to the county indigent drivers interlock and alcohol monitoring funds, the county juvenile indigent drivers interlock and alcohol monitoring funds, and the municipal indigent drivers interlock and alcohol monitoring funds that are required to be established by counties and municipal corporations pursuant to this section, and shall be used only to pay the cost of an immobilizing or disabling device, including a certified ignition interlock device, or an alcohol monitoring device used by an offender or juvenile offender who is ordered to use the device by a county, juvenile, or municipal court judge and who is determined by the county, juvenile, or municipal court judge not to have the means to pay for the person's use of the device.

(3) If a person's driver's or commercial driver's license or permit is suspended under this section, under section 4511.196 or division (G) of section 4511.19 of the Revised Code, under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance or under any combination of the suspensions described in division (F)(3) of this section, and if the suspensions arise from a single incident or a single set of facts and circumstances, the person is liable for payment of, and shall be required to pay to the registrar or an eligible deputy registrar, only one reinstatement fee of four hundred seventy-five dollars. The reinstatement fee shall be distributed by the bureau in accordance with division (F)(2) of this section.

(4) The attorney general shall use amounts in the drug abuse resistance education programs fund to award grants to law enforcement agencies to establish and implement drug abuse resistance education programs in public schools. Grants awarded to a law enforcement agency under this section shall be used by the agency to pay for not more than fifty per cent of the amount of the salaries of law enforcement officers who conduct drug abuse resistance education programs in public schools. The attorney general shall not use more than six per cent of the amounts the attorney general's office receives under division (F)(2)(e) of this section to pay the costs it incurs in administering the grant program established by division (F)(2)(e) of this section and in providing training and materials relating to drug abuse resistance education programs.

The attorney general shall report to the governor and the general assembly each fiscal year on the progress made in establishing and implementing drug abuse resistance education programs. These reports shall include an evaluation of the effectiveness of these programs.

(5) In addition to the reinstatement fee under this section, if the person pays the reinstatement fee to a deputy registrar, the deputy registrar shall collect a service fee of ten dollars to compensate the deputy registrar for services performed under this section. The deputy registrar shall retain eight dollars of the service fee and shall transmit the reinstatement fee, plus two dollars of the service fee, to the registrar in the manner the registrar shall determine.

(G) Suspension of a commercial driver's license under division (B) or (C) of this section shall be concurrent with any period of disqualification under section 3123.611 or 4506.16 of the Revised Code or any period of suspension under section 3123.58 of the Revised Code. No person who is disqualified for life from holding a commercial driver's license under section 4506.16 of the Revised Code shall be issued a driver's license under Chapter 4507. of the Revised Code during the period for which the commercial driver's license was suspended under division (B) or (C) of this section. No person whose commercial driver's license is suspended under division (B) or (C) of this section shall be issued a driver's license under Chapter 4507. of the Revised Code during the period of the suspension.

(H)(1) Each county shall establish an indigent drivers alcohol treatment fund, each county shall establish a juvenile indigent drivers alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers alcohol treatment fund. All revenue that the general assembly appropriates to the indigent drivers alcohol treatment fund for transfer to a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of fees that are paid under division (F) of this section and that are credited under that division to the indigent drivers alcohol treatment fund in the state treasury for a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund, all portions of additional costs imposed under section 2949.094 of the Revised Code that are specified for deposit into a county, county juvenile, or municipal indigent drivers alcohol treatment fund by that section, and all portions of fines that are specified for deposit into a county or municipal indigent drivers alcohol treatment fund by section 4511.193 of the Revised Code shall be deposited into that county indigent

drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund. The portions of the fees paid under division (F) of this section that are to be so deposited shall be determined in accordance with division (H)(2) of this section. Additionally, all portions of fines that are paid for a violation of section 4511.19 of the Revised Code or of any prohibition contained in Chapter 4510. of the Revised Code, and that are required under section 4511.19 or any provision of Chapter 4510. of the Revised Code to be deposited into a county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund shall be deposited into the appropriate fund in accordance with the applicable division of the section or provision.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that is credited under that division to the indigent drivers alcohol treatment fund shall be deposited into a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund as follows:

(a) Regarding a suspension imposed under this section, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person who was charged in a county court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the county juvenile indigent drivers alcohol treatment fund established in the county served by the court;

(iii) If the fee is paid by a person who was charged in a municipal court with the violation that resulted in the suspension or in the imposition of the court costs, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(b) Regarding a suspension imposed under section 4511.19 of the Revised Code or under section 4510.07 of the Revised Code for a violation of a municipal OVI ordinance, that portion of the fee shall be deposited as follows:

(i) If the fee is paid by a person whose license or permit was suspended by a county court, the portion shall be deposited into the county indigent drivers alcohol treatment fund under the control of that court;

(ii) If the fee is paid by a person whose license or permit was suspended

by a municipal court, the portion shall be deposited into the municipal indigent drivers alcohol treatment fund under the control of that court.

(3) Expenditures from a county indigent drivers alcohol treatment fund, a county juvenile indigent drivers alcohol treatment fund, or a municipal indigent drivers alcohol treatment fund shall be made only upon the order of a county, juvenile, or municipal court judge and only for payment of the cost of an assessment or the cost of the attendance at an alcohol and drug addiction treatment program of a person who is convicted of, or found to be a juvenile traffic offender by reason of, a violation of division (A) of section 4511.19 of the Revised Code or a substantially similar municipal ordinance, who is ordered by the court to attend the alcohol and drug addiction treatment program, and who is determined by the court to be unable to pay the cost of the assessment or the cost of attendance at the treatment program or for payment of the costs specified in division (H)(4) of this section in accordance with that division. The alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health service district in which the court is located shall administer the indigent drivers alcohol treatment program of the court. When a court orders an offender or juvenile traffic offender to obtain an assessment or attend an alcohol and drug addiction treatment program, the board shall determine which program is suitable to meet the needs of the offender or juvenile traffic offender, and when a suitable program is located and space is available at the program, the offender or juvenile traffic offender shall attend the program designated by the board. A reasonable amount not to exceed five per cent of the amounts credited to and deposited into the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund serving every court whose program is administered by that board shall be paid to the board to cover the costs it incurs in administering those indigent drivers alcohol treatment programs.

In addition, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device, a county, juvenile, or municipal court judge may use moneys in the county indigent drivers alcohol treatment fund, county juvenile indigent drivers alcohol treatment fund, or municipal indigent drivers alcohol treatment fund in the following manners:

(a) If the source of the moneys was an appropriation of the general assembly, a portion of a fee that was paid under division (F) of this section,

a portion of a fine that was specified for deposit into the fund by section 4511.193 of the Revised Code, or a portion of a fine that was paid for a violation of section 4511.19 of the Revised Code or of a provision contained in Chapter 4510. of the Revised Code that was required to be deposited into the fund, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender, in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when such use is determined clinically necessary by the treatment program and when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device;

(b) If the source of the moneys was a portion of an additional court cost imposed under section 2949.094 of the Revised Code, to pay for the continued use of an alcohol monitoring device by an offender or juvenile traffic offender when the court determines that the offender or juvenile traffic offender is unable to pay all or part of the daily monitoring or cost of the device. The moneys may be used for a device as described in this division if the use of the device is in conjunction with a treatment program approved by the department of alcohol and drug addiction services, when the use of the device is determined clinically necessary by the treatment program, but the use of a device is not required to be in conjunction with a treatment program approved by the department in order for the moneys to be used for the device as described in this division.

(4) If a county, juvenile, or municipal court determines, in consultation with the alcohol and drug addiction services board or the board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code and serving the alcohol, drug addiction, and mental health district in which the court is located, that the funds in the county indigent drivers alcohol treatment fund, the county juvenile indigent drivers alcohol treatment fund, or the municipal indigent drivers alcohol treatment fund under the control of the court are more than sufficient to satisfy the purpose for which the fund was established, as specified in divisions (H)(1) to (3) of this section, the court may declare a surplus in the fund. If the court declares a surplus in the fund, the court may expend the amount of the surplus in the fund for:

(a) Alcohol and drug abuse assessment and treatment of persons who are charged in the court with committing a criminal offense or with being a delinquent child or juvenile traffic offender and in relation to whom both of the following apply:

(i) The court determines that substance abuse was a contributing factor leading to the criminal or delinquent activity or the juvenile traffic offense

with which the person is charged.

(ii) The court determines that the person is unable to pay the cost of the alcohol and drug abuse assessment and treatment for which the surplus money will be used.

(b) All or part of the cost of purchasing alcohol monitoring devices to be used in conjunction with division (H)(3) of this section, upon exhaustion of moneys in the indigent drivers interlock and alcohol monitoring fund for the use of an alcohol monitoring device.

(5) For the purpose of determining as described in division (F)(2)(c) of this section whether an offender does not have the means to pay for the offender's attendance at an alcohol and drug addiction treatment program or whether an alleged offender or delinquent child is unable to pay the costs specified in division (H)(4) of this section, the court shall use the indigent client eligibility guidelines and the standards of indigency established by the state public defender to make the determination.

(6) The court shall identify and refer any alcohol and drug addiction program that is not certified under section 3793.06 of the Revised Code and that is interested in receiving amounts from the surplus in the fund declared under division (H)(4) of this section to the department of alcohol and drug addiction services in order for the program to become a certified alcohol and drug addiction program. The department shall keep a record of applicant referrals received pursuant to this division and shall submit a report on the referrals each year to the general assembly. If a program interested in becoming certified makes an application to become certified pursuant to section 3793.06 of the Revised Code, the program is eligible to receive surplus funds as long as the application is pending with the department. The department of alcohol and drug addiction services must offer technical assistance to the applicant. If the interested program withdraws the certification application, the department must notify the court, and the court shall not provide the interested program with any further surplus funds.

(7)(a) Each alcohol and drug addiction services board and board of alcohol, drug addiction, and mental health services established pursuant to section 340.02 or 340.021 of the Revised Code shall submit to the department of alcohol and drug addiction services an annual report for each indigent drivers alcohol treatment fund in that board's area.

(b) The report, which shall be submitted not later than sixty days after the end of the state fiscal year, shall provide the total payment that was made from the fund, including the number of indigent consumers that received treatment services and the number of indigent consumers that received an alcohol monitoring device. The report shall identify the

treatment program and expenditure for an alcohol monitoring device for which that payment was made. The report shall include the fiscal year balance of each indigent drivers alcohol treatment fund located in that board's area. In the event that a surplus is declared in the fund pursuant to division (H)(4) of this section, the report also shall provide the total payment that was made from the surplus moneys and identify the treatment program and expenditure for an alcohol monitoring device for which that payment was made. The department may require additional information necessary to complete the comprehensive statewide alcohol and drug addiction services plan as required by section 3793.04 of the Revised Code.

(c) If a board is unable to obtain adequate information to develop the report to submit to the department for a particular indigent drivers alcohol treatment fund, the board shall submit a report detailing the effort made in obtaining the information.

(I)(1) Each county shall establish an indigent drivers interlock and alcohol monitoring fund and a juvenile indigent drivers interlock and alcohol treatment fund, and each municipal corporation in which there is a municipal court shall establish an indigent drivers interlock and alcohol monitoring fund. All revenue that the general assembly appropriates to the indigent drivers interlock and alcohol monitoring fund for transfer to a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund, all portions of license reinstatement fees that are paid under division (F)(2) of this section and that are credited under that division to the indigent drivers interlock and alcohol monitoring fund in the state treasury, and all portions of fines that are paid under division (G) of section 4511.19 of the Revised Code and that are credited by division (G)(5)(e) of that section to the indigent drivers interlock and alcohol monitoring fund in the state treasury shall be deposited in the appropriate fund in accordance with division (I)(2) of this section.

(2) That portion of the license reinstatement fee that is paid under division (F) of this section and that portion of the fine paid under division (G) of section 4511.19 of the Revised Code and that is credited under either division to the indigent drivers interlock and alcohol monitoring fund shall be deposited into a county indigent drivers interlock and alcohol monitoring fund, a county juvenile indigent drivers interlock and alcohol monitoring fund, or a municipal indigent drivers interlock and alcohol monitoring fund as follows:

(a) If the fee or fine is paid by a person who was charged in a county

court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county indigent drivers interlock and alcohol monitoring fund under the control of that court.

(b) If the fee or fine is paid by a person who was charged in a juvenile court with the violation that resulted in the suspension or fine, the portion shall be deposited into the county juvenile indigent drivers interlock and alcohol monitoring fund established in the county served by the court.

(c) If the fee or fine is paid by a person who was charged in a municipal court with the violation that resulted in the suspension, the portion shall be deposited into the municipal indigent drivers interlock and alcohol monitoring fund under the control of that court.

Sec. 4511.193. (A) Twenty-five dollars of any fine imposed for a violation of a municipal OVI ordinance shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A) ~~and~~ (B), ~~and~~ (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the fine is imposed by a municipal court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county-operated municipal court or a municipal court that is not a county-operated municipal court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which that municipal corporation is located if the municipal court that has jurisdiction over that municipal corporation is a county-operated municipal court or of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation if that municipal court is not a county-operated municipal court. Regardless of whether the fine is imposed by a county court, a mayor's court, or a juvenile court, if the fine was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the twenty-five dollars that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A) ~~and~~ (B), ~~and~~ (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(B) Any court cost imposed as a result of a violation of a municipal ordinance that is a moving violation and designated for an indigent drivers alcohol treatment fund established pursuant to division (H) of section

4511.191 of the Revised Code shall be deposited into the municipal or county indigent drivers alcohol treatment fund created pursuant to division (H) of section 4511.191 of the Revised Code in accordance with this section and section 733.40, divisions (A), (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code. Regardless of whether the court cost is imposed by a municipal court, a mayor's court, or a juvenile court, if the court cost was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county-operated municipal court or a municipal court that is not a county-operated municipal court, the court cost that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which that municipal corporation is located if the municipal court that has jurisdiction over that municipal corporation is a county-operated municipal court or of the municipal corporation in which is located the municipal court that has jurisdiction over that municipal corporation if that municipal court is not a county-operated municipal court. Regardless of whether the court cost is imposed by a county court, a mayor's court, or a juvenile court, if the court cost was imposed for a violation of an ordinance of a municipal corporation that is within the jurisdiction of a county court, the court cost that is subject to this section shall be deposited into the indigent drivers alcohol treatment fund of the county in which is located the county court that has jurisdiction over that municipal corporation. The deposit shall be made in accordance with section 733.40, divisions (A), (B), and (C) of section 1901.024, division (F) of section 1901.31, or division (C) of section 1907.20 of the Revised Code.

(C)(1) The requirements and sanctions imposed by divisions ~~(B)~~(C)(1) and (2) of this section are an adjunct to and derive from the state's exclusive authority over the registration and titling of motor vehicles and do not comprise a part of the criminal sentence to be imposed upon a person who violates a municipal OVI ordinance.

(2) If a person is convicted of or pleads guilty to a violation of a municipal OVI ordinance, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, and if, within six years of the current offense, the offender has been convicted of or pleaded guilty to one or more violations of division (A) or (B) of section 4511.19 of the Revised Code or one or more other equivalent offenses, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, shall do whichever of the following is applicable:

(a) Except as otherwise provided in division ~~(B)~~(C)(2)(b) of this section, if, within six years of the current offense, the offender has been convicted of

or pleaded guilty to one violation described in division ~~(B)~~(C)(2) of this section, the court shall order the immobilization for ninety days of that vehicle and the impoundment for ninety days of the license plates of that vehicle. The order for the immobilization and impoundment shall be issued and enforced in accordance with section 4503.233 of the Revised Code.

(b) If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations described in division ~~(B)~~(C)(2) of this section, or if the offender previously has been convicted of or pleaded guilty to a violation of division (A) of section 4511.19 of the Revised Code under circumstances in which the violation was a felony and regardless of when the violation and the conviction or guilty plea occurred, the court shall order the criminal forfeiture to the state of that vehicle. The order of criminal forfeiture shall be issued and enforced in accordance with section 4503.234 of the Revised Code.

(D) As used in this section, "county-operated municipal court" has the same meaning as in section 1901.03 of the Revised Code.

Sec. 4513.39. (A) The state highway patrol and sheriffs or their deputies shall exercise, to the exclusion of all other peace officers except within municipal corporations and except as specified in division (B) of this section and division (E) of section 2935.03 of the Revised Code, the power to make arrests for violations on all state highways, of sections 4503.11, 4503.21, 4511.14 to 4511.16, 4511.20 to 4511.23, 4511.26 to 4511.40, 4511.42 to 4511.48, 4511.58, 4511.59, 4511.62 to 4511.71, 4513.03 to 4513.13, 4513.15 to 4513.22, 4513.24 to 4513.34, 4549.01, 4549.08 to 4549.12, and 4549.62 of the Revised Code.

(B) A member of the police force of a township police district created under section 505.48 of the Revised Code or of a joint police district created under section 505.482 of the Revised Code, and a township constable appointed pursuant to section 509.01 of the Revised Code, who has received a certificate from the Ohio peace officer training commission under section 109.75 of the Revised Code, shall exercise the power to make arrests for violations of those sections listed in division (A) of this section, other than sections 4513.33 and 4513.34 of the Revised Code, as follows:

(1) If the population of the township that created the township or joint police district served by the member's police force or the township that is served by the township constable is fifty thousand or less, the member or constable shall exercise that power on those portions of all state highways, except those highways included as part of the interstate system, as defined in section 5516.01 of the Revised Code, that are located within the township or joint police district, in the case of a member of a township or joint police

district police force, or within the unincorporated territory of the township, in the case of a township constable;

(2) If the population of the township that created the township or joint police district served by the member's police force or the township that is served by the township constable is greater than fifty thousand, the member or constable shall exercise that power on those portions of all state highways and highways included as part of the interstate highway system, as defined in section 5516.01 of the Revised Code, that are located within the township or joint police district, in the case of a member of a township or joint police district police force, or within the unincorporated territory of the township, in the case of a township constable.

Sec. 4513.60. (A)(1) The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The sheriff or chief of police, upon complaint of the owner of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. The place of storage shall be designated by the sheriff or chief of police. When ordering a motor vehicle into storage pursuant to this division, a sheriff or chief of police, whenever possible, shall arrange for the removal of the motor vehicle by a private tow truck operator or towing company. Subject to division (C) of this section, the owner of a motor vehicle that has been removed pursuant to this division may recover the vehicle only in accordance with division (E) of this section.

(2) Divisions (A)(1) to (3) of this section do not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with division (B) of this section.

(3) As used in divisions (A)(1) and (2) of this section, "private residential property" means private property on which is located one or more structures that are used as a home, residence, or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence, or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

(B)(1) The owner of private property may establish a private tow-away zone only if all of the following conditions are satisfied:

(a) The owner posts on the owner's property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that contains at least all of the following information:

(i) A notice that the property is a private tow-away zone and that vehicles not authorized to park on the property will be towed away;

(ii) The telephone number of the person from whom a towed-away vehicle can be recovered, and the address of the place to which the vehicle will be taken and the place from which it may be recovered;

(iii) A statement that the vehicle may be recovered at any time during the day or night upon the submission of proof of ownership and the payment of a towing charge, in an amount not to exceed ninety dollars, and a storage charge, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer.

(b) The place to which the towed vehicle is taken and from which it may be recovered is conveniently located, is well lighted, and is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.

(2) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with division (B)(1) of this section, without the consent of the owner of the property or in violation of any posted parking condition or regulation, the owner or the owner's agent may remove, or cause the removal of, the vehicle, the owner and the operator of the vehicle shall be deemed to have consented to the removal and storage of the vehicle and to the payment of the towing and storage charges specified in division (B)(1)(a)(iii) of this section, and the owner, subject to division (C) of this section, may recover a vehicle that has been so removed only in accordance with division (E) of this section.

(3) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of private property located within the municipal corporation shall remove, or shall cause the removal and storage of, any vehicle pursuant to division (B)(2) of this section by an unlicensed

tow truck or unlicensed tow truck operator.

(4) Divisions (B)(1) to (3) of this section do not affect or limit the operation of division (A) of this section or sections 4513.61 to 4513.65 of the Revised Code as they relate to property other than private property that is established as a private tow-away zone under division (B)(1) of this section.

(C) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is being removed under authority of division (B)(2) of this section arrives after the motor vehicle or vehicle has been prepared for removal, but prior to its actual removal from the property, the owner or operator shall be given the opportunity to pay a fee of not more than one-half of the charge for the removal of motor vehicles under division (A)(1) of this section or of vehicles under division (B)(2) of this section, whichever is applicable, that normally is assessed by the person who has prepared the motor vehicle or vehicle for removal, in order to obtain release of the motor vehicle or vehicle. Upon payment of that fee, the motor vehicle or vehicle shall be released to the owner or operator, and upon its release, the owner or operator immediately shall move it so that:

(1) If the motor vehicle was ordered into storage pursuant to division (A)(1) of this section, it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

(2) If the vehicle was being removed under authority of division (B)(2) of this section, it is not parked on the private property established as a private tow-away zone without the consent of the owner or in violation of any posted parking condition or regulation.

(D)(1) If an owner of private property that is established as a private tow-away zone in accordance with division (B)(1) of this section or the authorized agent of such an owner removes or causes the removal of a vehicle from that property under authority of division (B)(2) of this section, the owner or agent promptly shall notify the police department of the municipal corporation, township, or township or joint police district in which the property is located, of the removal, the vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered.

(2) Each county sheriff and each chief of police of a municipal

corporation, township, or township or joint police district shall maintain a record of motor vehicles that the sheriff or chief orders into storage pursuant to division (A)(1) of this section and of vehicles removed from private property in the sheriff's or chief's jurisdiction that is established as a private tow-away zone of which the sheriff or chief has received notice under division (D)(1) of this section. The record shall include an entry for each such motor vehicle or vehicle that identifies the motor vehicle's or vehicle's license number, make, model, and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. Any information in the record that pertains to a particular motor vehicle or vehicle shall be provided to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle or vehicle and requests information pertaining to its location.

(3) Any person who registers a complaint that is the basis of a sheriff's or police chief's order for the removal and storage of a motor vehicle under division (A)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.

(E) The owner of a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section or of a vehicle that is removed under authority of division (B)(2) of this section may reclaim it upon payment of any expenses or charges incurred in its removal, in an amount not to exceed ninety dollars, and storage, in an amount not to exceed twelve dollars per twenty-four-hour period; except that the charge for towing shall not exceed one hundred fifty dollars, and the storage charge shall not exceed twenty dollars per twenty-four-hour period, if the vehicle has a manufacturer's gross vehicle weight rating in excess of ten thousand pounds and is a truck, bus, or a combination of a commercial tractor and trailer or semitrailer. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle or vehicle also shall be required for reclamation of the vehicle. If a motor vehicle that is ordered into storage pursuant to division (A)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by sections 4513.61 and 4513.62 of the Revised Code shall apply.

(F) No person shall remove, or cause the removal of, any vehicle from private property that is established as a private tow-away zone under division (B)(1) of this section other than in accordance with division (B)(2)

of this section, and no person shall remove, or cause the removal of, any motor vehicle from any other private property other than in accordance with division (A)(1) of this section or sections 4513.61 to 4513.65 of the Revised Code.

(G) Whoever violates division (B)(3) or (F) of this section is guilty of a minor misdemeanor.

Sec. 4513.61. The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of police of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has come into the possession of the sheriff, chief of police, or state highway patrol trooper as a result of the performance of the sheriff's, chief's, or trooper's duties or that has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff or chief of police of the reasons for leaving the motor vehicle in such place, except that when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately. The sheriff or chief of police shall designate the place of storage of any motor vehicle so ordered removed.

The sheriff or chief of police immediately shall cause a search to be made of the records of the bureau of motor vehicles to ascertain the owner and any lienholder of a motor vehicle ordered into storage by the sheriff or chief of police, or by a state highway patrol trooper, and, if known, shall send or cause to be sent notice to the owner or lienholder at the owner's or lienholder's last known address by certified mail with return receipt requested, that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of mailing of the notice. The owner or lienholder of the motor vehicle may reclaim it upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle. If the owner or lienholder of the motor vehicle reclaims it after a search of the records of the bureau has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the owner of the place of storage or the owner's employee, and the notice was sent to the motor vehicle owner by the owner of the place of storage or the owner's employee, the owner or lienholder shall pay to the place of storage a

processing fee of twenty-five dollars, in addition to any expenses or charges incurred in the removal and storage of the vehicle.

If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of mailing of the notice, and if the vehicle is to be disposed of at public auction as provided in section 4513.62 of the Revised Code, the sheriff or chief of police, without charge to any party, shall file with the clerk of courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the sheriff or chief of police. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in section 4513.62 of the Revised Code, the sheriff or chief of police shall execute in triplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The sheriff or chief of police shall retain the original of the affidavit for the sheriff's or chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the clerk of courts, within thirty days of the presentation, shall issue to such owner a salvage certificate of title, free and clear of all liens and encumbrances.

Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the clerk of courts.

Sec. 4513.62. Unclaimed motor vehicles ordered into storage pursuant to division (A)(1) of section 4513.60 or section 4513.61 of the Revised Code shall be disposed of at the order of the sheriff of the county or the chief of police of the municipal corporation, township, or township or joint police district to a motor vehicle salvage dealer or scrap metal processing facility as defined in section 4737.05 of the Revised Code, or to any other facility owned by or under contract with the county, municipal corporation, or township, for the disposal of such motor vehicles, or shall be sold by the sheriff, chief of police, or licensed auctioneer at public auction, after giving notice thereof by advertisement, published once a week for two successive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. Any moneys accruing from the

disposition of an unclaimed motor vehicle that are in excess of the expenses resulting from the removal and storage of the vehicle shall be credited to the general fund of the county, ~~the~~ municipal corporation, ~~or the~~ township, or joint police district, as the case may be.

Sec. 4513.63. "Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(A) Left on private property for forty-eight hours or longer without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer;

(B) Three years old, or older;

(C) Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(D) Apparently inoperable;

(E) Having a fair market value of one thousand five hundred dollars or less.

The sheriff of a county or chief of police of a municipal corporation, township, or township or joint police district, within the sheriff's or chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the sheriff or chief of police of such action, shall order any abandoned junk motor vehicle to be photographed by a law enforcement officer. The officer shall record the make of motor vehicle, the serial number when available, and shall also detail the damage or missing equipment to substantiate the value of one thousand five hundred dollars or less. The sheriff or chief of police shall thereupon immediately dispose of the abandoned junk motor vehicle to a motor vehicle salvage dealer as defined in section 4738.01 of the Revised Code or a scrap metal processing facility as defined in section 4737.05 of the Revised Code which is under contract to the county, township, or municipal corporation, or to any other facility owned by or under contract with the county, township, or municipal corporation for the destruction of such motor vehicles. The records and photograph relating to the abandoned junk motor vehicle shall be retained by the law enforcement agency ordering the disposition of such vehicle for a period of at least two years. The law enforcement agency shall execute in quadruplicate an affidavit, as prescribed by the registrar of motor vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with, and, within thirty days of disposing of the vehicle, shall sign and file the affidavit with the clerk of courts of the county in which the motor vehicle was

abandoned. The clerk of courts shall retain the original of the affidavit for the clerk's files, shall furnish one copy thereof to the registrar, one copy to the motor vehicle salvage dealer or other facility handling the disposal of the vehicle, and one copy to the law enforcement agency ordering the disposal, who shall file such copy with the records and photograph relating to the disposal. Any moneys arising from the disposal of an abandoned junk motor vehicle shall be deposited in the general fund of the county, township, or the municipal corporation, as the case may be.

Notwithstanding section 4513.61 of the Revised Code, any motor vehicle meeting the requirements of divisions (C), (D), and (E) of this section which has remained unclaimed by the owner or lienholder for a period of ten days or longer following notification as provided in section 4513.61 of the Revised Code may be disposed of as provided in this section.

Sec. 4513.64. (A) No person shall willfully leave an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the sheriff of the county or chief of police of the municipal corporation, township, or township or joint police district of the reasons for leaving the motor vehicle in such place.

For purposes of this section, the fact that a motor vehicle has been so left without permission or notification is prima-facie evidence of abandonment.

Nothing contained in sections 4513.60, 4513.61, and 4513.63 of the Revised Code shall invalidate the provisions of municipal ordinances or township resolutions regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property, or private property within municipal corporations or townships.

(B) Whoever violates this section is guilty of a minor misdemeanor and shall also be assessed any costs incurred by the county, township, joint police district, or municipal corporation in disposing of the abandoned junk motor vehicle that is the basis of the violation, less any money accruing to the county, ~~to the township, joint police district,~~ or ~~to the~~ municipal corporation from this disposal of the vehicle.

Sec. 4513.66. (A) If a motor vehicle accident occurs on any highway, public street, or other property open to the public for purposes of vehicular travel and if any motor vehicle, cargo, or personal property that has been

damaged or spilled as a result of the motor vehicle accident is blocking the highway, street, or other property or is otherwise endangering public safety, the sheriff of the county, or the chief of police of the municipal corporation, township, or township or joint police district, in which the accident occurred, a state highway patrol trooper, or the chief of the fire department having jurisdiction where the accident occurred may, without consent of the owner but with the approval of the law enforcement agency conducting any investigation of the accident, remove the motor vehicle if the motor vehicle is unoccupied, cargo, or personal property from the portion of the highway, public street, or property ordinarily used for vehicular travel on the highway, public street, or other property open to the public for purposes of vehicular travel.

(B)(1) Except as provided in division (B)(2) or (3) of this section, no employee of the department of transportation, sheriff, deputy sheriff, chief of police or police officer of a municipal corporation, township, or township or joint police district, state highway patrol trooper, chief of a fire department, or fire fighter who authorizes or participates in the removal of any unoccupied motor vehicle, cargo, or personal property as authorized by division (A) of this section is liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property. Except as provided in division (B)(2) or (3) of this section, if the department of transportation or a sheriff, chief of police of a municipal corporation, township, or township or joint police district, head of the state highway patrol, or chief of a fire department authorizes, employs, or arranges to have a private tow truck operator or towing company remove any unoccupied motor vehicle, cargo, or personal property as authorized by division (A) of this section, that private tow truck operator or towing company is not liable in civil damages for any injury, death, or loss to person or property that results from the removal of that unoccupied motor vehicle, cargo, or personal property, and the department of transportation, sheriff, chief of police, head of the state highway patrol, or fire department chief is not liable in civil damages for any injury, death, or loss to person or property that results from the private tow truck operator or towing company's removal of that unoccupied motor vehicle, cargo, or personal property.

(2) Division (B)(1) of this section does not apply to any person or entity involved in the removal of an unoccupied motor vehicle, cargo, or personal property pursuant to division (A) of this section if that removal causes or contributes to the release of a hazardous material or to structural damage to the roadway.

(3) Division (B)(1) of this section does not apply to a private tow truck operator or towing company that was not authorized, employed, or arranged by the department of transportation, a sheriff, a chief of police of a municipal corporation, township, or township or joint police district, the head of the state highway patrol, or a chief of a fire department or to a private tow truck operator or towing company that was authorized, employed, or arranged by the department of transportation, a sheriff, a chief of police of a municipal corporation, township, or township or joint police district, the head of the state highway patrol, or a chief of a fire department to perform the removal of the unoccupied motor vehicle, cargo, or personal property and the private tow truck operator or towing company performed the removal in a reckless or willful manner.

(C) As used in this section, "hazardous material" has the same meaning as in section 2305.232 of the Revised Code.

Sec. 4517.01. As used in sections 4517.01 to 4517.65 of the Revised Code:

(A) "Persons" includes individuals, firms, partnerships, associations, joint stock companies, corporations, and any combinations of individuals.

(B) "Motor vehicle" means motor vehicle as defined in section 4501.01 of the Revised Code and also includes "all-purpose vehicle" and "off-highway motorcycle" as those terms are defined in section 4519.01 of the Revised Code. "Motor vehicle" does not include a snowmobile as defined in section 4519.01 of the Revised Code or manufactured and mobile homes.

(C) "New motor vehicle" means a motor vehicle, the legal title to which has never been transferred by a manufacturer, remanufacturer, distributor, or dealer to an ultimate purchaser.

(D) "Ultimate purchaser" means, with respect to any new motor vehicle, the first person, other than a dealer purchasing in the capacity of a dealer, who in good faith purchases such new motor vehicle for purposes other than resale.

(E) "Business" includes any activities engaged in by any person for the object of gain, benefit, or advantage either direct or indirect.

(F) "Engaging in business" means commencing, conducting, or continuing in business, or liquidating a business when the liquidator thereof holds self out to be conducting such business; making a casual sale or otherwise making transfers in the ordinary course of business when the transfers are made in connection with the disposition of all or substantially all of the transferor's assets is not engaging in business.

(G) "Retail sale" or "sale at retail" means the act or attempted act of

selling, bartering, exchanging, or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.

(H) "Retail installment contract" includes any contract in the form of a note, chattel mortgage, conditional sales contract, lease, agreement, or other instrument payable in one or more installments over a period of time and arising out of the retail sale of a motor vehicle.

(I) "Farm machinery" means all machines and tools used in the production, harvesting, and care of farm products.

(J) "Dealer" or "motor vehicle dealer" means any new motor vehicle dealer, any motor vehicle leasing dealer, and any used motor vehicle dealer.

(K) "New motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in new motor vehicles pursuant to a contract or agreement entered into with the manufacturer, remanufacturer, or distributor of the motor vehicles.

(L) "Used motor vehicle dealer" means any person engaged in the business of selling, displaying, offering for sale, or dealing in used motor vehicles, at retail or wholesale, but does not mean any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles, any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing official duties.

(M) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease, sublease, or other contractual arrangement under which a charge is made for its use at a periodic rate for a term of thirty days or more, and title to the motor vehicle is in and remains in the motor vehicle leasing dealer who originally leases it, irrespective of whether or not the motor vehicle is the subject of a later sublease, and not in the user, but does not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(N) "Salesperson" means any person employed by a dealer ~~or manufactured home broker~~ to sell, display, and offer for sale, or deal in motor vehicles for a commission, compensation, or other valuable consideration, but does not mean any public officer performing official duties.

(O) "Casual sale" means any transfer of a motor vehicle by a person other than a new motor vehicle dealer, used motor vehicle dealer, motor vehicle salvage dealer, as defined in division (A) of section 4738.01 of the Revised Code, salesperson, motor vehicle auction owner, manufacturer, or

distributor acting in the capacity of a dealer, salesperson, auction owner, manufacturer, or distributor, to a person who purchases the motor vehicle for use as a consumer.

(P) "Motor vehicle show" means a display of current models of motor vehicles whereby the primary purpose is the exhibition of competitive makes and models in order to provide the general public the opportunity to review and inspect various makes and models of motor vehicles at a single location.

(Q) "Motor vehicle auction owner" means any person who is engaged wholly or in part in the business of auctioning motor vehicles, but does not mean a construction equipment auctioneer or a construction equipment auction licensee.

(R) "Manufacturer" means a person who manufactures, assembles, or imports motor vehicles, including motor homes, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(S) "Tent-type fold-out camping trailer" means any vehicle intended to be used, when stationary, as a temporary shelter with living and sleeping facilities, and that is subject to the following properties and limitations:

(1) A minimum of twenty-five per cent of the fold-out portion of the top and sidewalls combined must be constructed of canvas, vinyl, or other fabric, and form an integral part of the shelter.

(2) When folded, the unit must not exceed:

- (a) Fifteen feet in length, exclusive of bumper and tongue;
- (b) Sixty inches in height from the point of contact with the ground;
- (c) Eight feet in width;
- (d) One ton gross weight at time of sale.

(T) "Distributor" means any person authorized by a motor vehicle manufacturer to distribute new motor vehicles to licensed new motor vehicle dealers, but does not mean a person who only assembles or installs a body, special equipment unit, finishing trim, or accessories on a motor vehicle chassis supplied by a manufacturer or distributor.

(U) "Flea market" means a market place, other than a dealer's location licensed under this chapter, where a space or location is provided for a fee or compensation to a seller to exhibit and offer for sale or trade, motor vehicles to the general public.

(V) "Franchise" means any written agreement, contract, or understanding between any motor vehicle manufacturer or remanufacturer engaged in commerce and any motor vehicle dealer that purports to fix the

legal rights and liabilities of the parties to such agreement, contract, or understanding.

(W) "Franchisee" means a person who receives new motor vehicles from the franchisor under a franchise agreement and who offers, sells, and provides service for such new motor vehicles to the general public.

(X) "Franchisor" means a new motor vehicle manufacturer, remanufacturer, or distributor who supplies new motor vehicles under a franchise agreement to a franchisee.

(Y) "Dealer organization" means a state or local trade association the membership of which is comprised predominantly of new motor vehicle dealers.

(Z) "Factory representative" means a representative employed by a manufacturer, remanufacturer, or by a factory branch primarily for the purpose of promoting the sale of its motor vehicles, parts, or accessories to dealers or for supervising or contacting its dealers or prospective dealers.

(AA) "Administrative or executive management" means those individuals who are not subject to federal wage and hour laws.

(BB) "Good faith" means honesty in the conduct or transaction concerned and the observance of reasonable commercial standards of fair dealing in the trade as is defined in section 1301.201 of the Revised Code, including, but not limited to, the duty to act in a fair and equitable manner so as to guarantee freedom from coercion, intimidation, or threats of coercion or intimidation; provided however, that recommendation, endorsement, exposition, persuasion, urging, or argument shall not be considered to constitute a lack of good faith.

(CC) "Coerce" means to compel or attempt to compel by failing to act in good faith or by threat of economic harm, breach of contract, or other adverse consequences. Coerce does not mean to argue, urge, recommend, or persuade.

(DD) "Relevant market area" means any area within a radius of ten miles from the site of a potential new dealership, except that for manufactured home or recreational vehicle dealerships the radius shall be twenty-five miles. The ten-mile radius shall be measured from the dealer's established place of business that is used exclusively for the purpose of selling, displaying, offering for sale, or dealing in motor vehicles.

(EE) "Wholesale" or "at wholesale" means the act or attempted act of selling, bartering, exchanging, or otherwise disposing of a motor vehicle to a transferee for the purpose of resale and not for ultimate consumption by that transferee.

(FF) "Motor vehicle wholesaler" means any person licensed as a dealer

under the laws of another state and engaged in the business of selling, displaying, or offering for sale used motor vehicles, at wholesale, but does not mean any motor vehicle dealer as defined in this section.

(GG)(1) "Remanufacturer" means a person who assembles or installs passenger seating, walls, a roof elevation, or a body extension on a conversion van with the motor vehicle chassis supplied by a manufacturer or distributor, a person who modifies a truck chassis supplied by a manufacturer or distributor for use as a public safety or public service vehicle, a person who modifies a motor vehicle chassis supplied by a manufacturer or distributor for use as a limousine or hearse, or a person who modifies an incomplete motor vehicle cab and chassis supplied by a new motor vehicle dealer or distributor for use as a tow truck, but does not mean either of the following:

(a) A person who assembles or installs passenger seating, a roof elevation, or a body extension on a recreational vehicle as defined in division (Q) and referred to in division (B) of section 4501.01 of the Revised Code;

(b) A person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor.

(2) For the purposes of division (GG)(1) of this section, "public safety vehicle or public service vehicle" means a fire truck, ambulance, school bus, street sweeper, garbage packing truck, or cement mixer, or a mobile self-contained facility vehicle.

(3) For the purposes of division (GG)(1) of this section, "limousine" means a motor vehicle, designed only for the purpose of carrying nine or fewer passengers, that a person modifies by cutting the original chassis, lengthening the wheelbase by forty inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces limousines unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the limousines to complete properly the remanufacture of the chassis into limousines.

(4) For the purposes of division (GG)(1) of this section, "hearse" means a motor vehicle, designed only for the purpose of transporting a single casket, that is equipped with a compartment designed specifically to carry a single casket that a person modifies by cutting the original chassis, lengthening the wheelbase by ten inches or more, and reinforcing the chassis in such a way that all modifications comply with all applicable federal

motor vehicle safety standards. No person shall qualify as or be deemed to be a remanufacturer who produces hearses unless the person has a written agreement with the manufacturer of the chassis the person utilizes to produce the hearses to complete properly the remanufacture of the chassis into hearses.

(5) For the purposes of division (GG)(1) of this section, "mobile self-contained facility vehicle" means a mobile classroom vehicle, mobile laboratory vehicle, bookmobile, bloodmobile, testing laboratory, and mobile display vehicle, each of which is designed for purposes other than for passenger transportation and other than the transportation or displacement of cargo, freight, materials, or merchandise. A vehicle is remanufactured into a mobile self-contained facility vehicle in part by the addition of insulation to the body shell, and installation of all of the following: a generator, electrical wiring, plumbing, holding tanks, doors, windows, cabinets, shelving, and heating, ventilating, and air conditioning systems.

(6) For the purposes of division (GG)(1) of this section, "tow truck" means both of the following:

(a) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a wrecker body it purchases from a manufacturer or distributor of wrecker bodies, installs an emergency flashing light pylon and emergency lights upon the mast of the wrecker body or rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping so as to create a complete motor vehicle capable of lifting and towing another motor vehicle.

(b) An incomplete cab and chassis that are purchased by a remanufacturer from a new motor vehicle dealer or distributor of the cab and chassis and on which the remanufacturer then installs in a permanent manner a car carrier body it purchases from a manufacturer or distributor of car carrier bodies, installs an emergency flashing light pylon and emergency lights upon the rooftop, and installs such other related accessories and equipment, including push bumpers, front grille guards with pads and other custom-ordered items such as painting, special lettering, and safety striping.

As used in division (GG)(6)(b) of this section, "car carrier body" means a mechanical or hydraulic apparatus capable of lifting and holding a motor vehicle on a flat level surface so that one or more motor vehicles can be transported, once the car carrier is permanently installed upon an incomplete cab and chassis.

(HH) "Operating as a new motor vehicle dealership" means engaging in activities such as displaying, offering for sale, and selling new motor vehicles at retail, operating a service facility to perform repairs and maintenance on motor vehicles, offering for sale and selling motor vehicle parts at retail, and conducting all other acts that are usual and customary to the operation of a new motor vehicle dealership. For the purposes of this chapter only, possession of either a valid new motor vehicle dealer franchise agreement or a new motor vehicle dealers license, or both of these items, is not evidence that a person is operating as a new motor vehicle dealership.

(II) "Outdoor power equipment" means garden and small utility tractors, walk-behind and riding mowers, chainsaws, and tillers.

(JJ) "Remote service facility" means premises that are separate from a licensed new motor vehicle dealer's sales facility by not more than one mile and that are used by the dealer to perform repairs, warranty work, recall work, and maintenance on motor vehicles pursuant to a franchise agreement entered into with a manufacturer of motor vehicles. A remote service facility shall be deemed to be part of the franchise agreement and is subject to all the rights, duties, obligations, and requirements of Chapter 4517. of the Revised Code that relate to the performance of motor vehicle repairs, warranty work, recall work, and maintenance work by new motor vehicle dealers.

(KK) "Recreational vehicle" has the same meaning as in section 4501.01 of the Revised Code.

(LL) "Construction equipment auctioneer" means a person who holds both a valid ~~auctioneer's~~ auction firm license issued under Chapter 4707. of the Revised Code and a valid construction equipment auction license issued under this chapter.

(MM) "Large construction or transportation equipment" means vehicles having a gross vehicle weight rating of more than ten thousand pounds and includes road rollers, traction engines, power shovels, power cranes, commercial cars and trucks, or farm trucks, and other similar vehicles obtained primarily from the construction, mining, transportation or farming industries.

Sec. 4517.02. (A) Except as otherwise provided in this section, no person shall do any of the following:

(1) Engage in the business of displaying or selling at retail new motor vehicles or assume to engage in that business, unless the person is licensed as a new motor vehicle dealer under sections 4517.01 to 4517.45 of the Revised Code, or is a salesperson licensed under those sections and employed by a licensed new motor vehicle dealer;

(2) Engage in the business of offering for sale, displaying for sale, or selling at retail or wholesale used motor vehicles or assume to engage in that business, unless the person is licensed as a dealer under sections 4517.01 to 4517.45 of the Revised Code, is a salesperson licensed under those sections and employed by a licensed used motor vehicle dealer or licensed new motor vehicle dealer, or the person holds a construction equipment auction license issued under section 4517.17 of the Revised Code;

(3) Engage in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle, in the manner described in division (M) of section 4517.01 of the Revised Code, unless the person is licensed as a motor vehicle leasing dealer under sections 4517.01 to 4517.45 of the Revised Code;

(4) Engage in the business of motor vehicle auctioning or assume to engage in that business, unless the person is licensed as a motor vehicle auction owner under sections 4517.01 to 4517.45 of the Revised Code and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the motor vehicle auctions or the person holds a construction equipment auction license issued under section 4517.17 of the Revised Code;

(5) Engage in the business of distributing motor vehicles or assume to engage in that business, unless the person is licensed as a distributor under sections 4517.01 to 4517.45 of the Revised Code;

(6) Make more than five casual sales of motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale of motor vehicles at a flea market, without obtaining a license as a dealer under sections 4517.01 to 4517.45 of the Revised Code, provided that nothing in this section shall be construed to prohibit the disposition without a license of a motor vehicle originally acquired and held for purposes other than sale, rental, or lease to an employee, retiree, officer, or director of the person making the disposition, to a corporation affiliated with the person making the disposition, or to a person licensed under sections 4517.01 to 4517.45 of the Revised Code;

(7) Engage in the business of auctioning both large construction or transportation equipment and also motor vehicles incident thereto, unless the person is a construction equipment auctioneer or the person is licensed as a motor vehicle auction owner and the person uses an auctioneer who is licensed under Chapter 4707. of the Revised Code to conduct the auction.

(B) Nothing in this section shall be construed to require an auctioneer licensed under sections 4707.01 to 4707.19 of the Revised Code, to obtain a

motor vehicle salesperson's license under sections 4517.01 to 4517.45 of the Revised Code when conducting an auction sale for a licensed motor vehicle dealer on the dealer's premises, or when conducting an auction sale for a licensed motor vehicle auction owner; nor shall such an auctioneer be required to obtain a motor vehicle auction owner's license under sections 4517.01 to 4517.45 of the Revised Code when engaged in auctioning for a licensed motor vehicle auction owner.

The establishment of a construction equipment auction license by Am. Sub. H.B. 114 of the 129th general assembly shall not in any way modify, limit, or restrict in any manner the conduct of auctions by persons licensed under Chapter 4707. of the Revised Code who are acting in compliance with that chapter.

(C) Sections 4517.01 to 4517.45 of the Revised Code do not apply to any of the following:

(1) Persons engaging in the business of selling commercial tractors, trailers, or semitrailers incidentally to engaging primarily in business other than the selling or leasing of motor vehicles;

(2) Mortgagees selling at retail only those motor vehicles that have come into their possession by a default in the terms of a mortgage contract;

(3) The leasing, rental, and interchange of motor vehicles used directly in the rendition of a public utility service by regulated motor carriers.

(D) When a partnership licensed under sections 4517.01 to 4517.45 of the Revised Code is dissolved by death, the surviving partners may operate under the license for a period of sixty days, and the heirs or representatives of deceased persons and receivers or trustees in bankruptcy appointed by any competent authority may operate under the license of the person succeeded in possession by that heir, representative, receiver, or trustee in bankruptcy.

(E) No remanufacturer shall engage in the business of selling at retail any new motor vehicle without having written authority from the manufacturer or distributor of the vehicle to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, unless, at the time of the sale of the vehicle, each customer is furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the remanufacturer's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor

vehicle dealer located within twenty miles of the remanufacturer's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line-make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business. Additionally, at the time of sale of any vehicle, each customer of the remanufacturer shall be furnished with a warranty issued by the remanufacturer for a term of at least one year.

(F) Except as otherwise provided in this division, whoever violates this section is guilty of a minor misdemeanor and shall be subject to a mandatory fine of one hundred dollars. If the offender previously has been convicted of or pleaded guilty to a violation of this section, whoever violates this section is guilty of a misdemeanor of the first degree and shall be subject to a mandatory fine of one thousand dollars.

Sec. 4517.04. Each person applying for a new motor vehicle dealer's license shall ~~annually~~ biennially make out and deliver to the registrar of motor vehicles, before the first day of April, and upon a blank to be furnished by the registrar for that purpose, a separate application for license for each county in which the business of selling new motor vehicles is to be conducted. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name of applicant and location of principal place of business;

(B) Name or style under which business is to be conducted and, if a corporation, the state of incorporation;

(C) Name and address of each owner or partner and, if a corporation, the names of the officers and directors;

(D) The county in which the business is to be conducted and the address of each place of business therein;

(E) A statement of the previous history, record, and association of the applicant and of each owner, partner, officer, and director, that shall be sufficient to establish to the satisfaction of the registrar the reputation in business of the applicant;

(F) A statement showing whether the applicant has previously applied for a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license~~, distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, and the result of the application, and whether the applicant has ever been the holder of any

such license that was revoked or suspended;

(G) If the applicant is a corporation or partnership, a statement showing whether any partner, employee, officer, or director has been refused a motor vehicle dealer's license, motor vehicle leasing dealer's license, ~~manufactured home broker's license~~, distributor's license, motor vehicle auction owner's license, or motor vehicle salesperson's license, or has been the holder of any such license that was revoked or suspended;

(H) A statement of the makes of new motor vehicles to be handled.

The statement required by division (E) of this section shall indicate whether the applicant or, if applicable, any of the applicant's owners, partners, officers, or directors, individually, or as owner, partner, officer, or director of a business entity, has been convicted of, pleaded guilty, or pleaded no contest, in a criminal action, or had a judgment rendered against ~~him~~ the person in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other state, or of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

A true copy of the contract, agreement, or understanding the applicant has entered into or is about to enter into with the manufacturer or distributor of the new motor vehicles the applicant will handle shall be filed with the application. If the contract, agreement, or understanding is not in writing, a written statement of all the terms thereof shall be filed. Each such copy or statement shall bear a certificate signed by each party to the contract, agreement, or understanding, to the effect that the copy or statement is true and complete and contains all of the agreements made or about to be made between the parties.

The application also shall be accompanied by a photograph, as prescribed by the registrar, of each place of business operated, or to be operated, by the applicant.

Sec. 4517.09. Each person applying for a salesperson's license shall ~~annually~~ biennially make out and deliver to the registrar of motor vehicles, before the first day of July and upon a blank to be furnished by the registrar for that purpose, an application for license. The application shall be in the form prescribed by the registrar, shall be signed and sworn to by the applicant, and, in addition to any other information required by the registrar, shall include the following:

(A) Name and post-office address of the applicant;

(B) Name and post-office address of the motor vehicle dealer ~~or manufactured home broker~~ for whom the applicant intends to act as salesperson;

(C) A statement of the applicant's previous history, record, and association, that shall be sufficient to establish to the satisfaction of the registrar the applicant's reputation in business;

(D) A statement as to whether the applicant intends to engage in any occupation or business other than that of a motor vehicle salesperson;

(E) A statement as to whether the applicant has ever had any previous application refused, and whether the applicant has previously had a license revoked or suspended;

(F) A statement as to whether the applicant was an employee of or salesperson for a dealer ~~or manufactured home broker~~ whose license was suspended or revoked;

(G) A statement of the motor vehicle dealer ~~or manufactured home broker~~ named therein, designating the applicant as the dealer's ~~or broker's~~ salesperson.

The statement required by division (C) of this section shall indicate whether the applicant individually, or as an owner, partner, officer, or director of a business entity, has been convicted of, or pleaded guilty to, in a criminal action, or had a judgment rendered against the applicant in a civil action for, a violation of sections 4549.41 to 4549.46 of the Revised Code, of any substantively comparable provisions of the law of any other state, or of subchapter IV of the "Motor Vehicle Information and Cost Savings Act," 86 Stat. 961 (1972), 15 U.S.C. 1981.

Sec. 4517.10. At the time the registrar of motor vehicles grants the application of any person for a license as motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, distributor, motor vehicle auction owner, or motor vehicle salesperson, the registrar shall issue to the person a license. The registrar shall prescribe different forms for the licenses of motor vehicle dealers, motor vehicle leasing dealers, ~~manufactured home brokers~~, distributors, motor vehicle auction owners, and motor vehicle salespersons, and all licenses shall include the name and post-office address of the person licensed.

The fee for a motor vehicle dealer's license; and a motor vehicle leasing dealer's license; and a manufactured home broker's license shall be fifty dollars, ~~and the~~. In addition to the license fee, the registrar shall collect from each applicant for an initial motor vehicle dealer's license and motor vehicle leasing dealer's license a separate fee in an amount equal to the last assessment required by section 4505.181 of the Revised Code for all motor vehicle dealers and motor vehicle leasing dealers. The registrar shall deposit the separate fee into the state treasury to the credit of the title defect rescission fund created in section 1345.52 of the Revised Code. The fee for a

salesperson's license shall be ten dollars. The fee for a motor vehicle auction owner's license shall be one hundred dollars for each location. The fee for a distributor's license shall be one hundred dollars for each distributorship. In all cases, the fee shall accompany the application for license.

The registrar may require each applicant for a license issued under this chapter to pay an additional fee, which shall be used by the registrar to pay the costs of obtaining a record of any arrests and convictions of the applicant from the Ohio bureau of identification and investigation. The amount of the fee shall be equal to that paid by the registrar to obtain such record.

If a motor vehicle dealer, or a motor vehicle leasing dealer, ~~or a manufactured home broker,~~ has more than one place of business in the county, the dealer ~~or the broker~~ shall make application, in such form as the registrar prescribes, for a certified copy of the license issued to the dealer ~~or manufactured home broker~~ for each place of business operated. In the event of the loss, mutilation, or destruction of a license issued under sections 4517.01 to 4517.65 of the Revised Code, any licensee may make application to the registrar, in such form as the registrar prescribes, for a duplicate copy thereof. The fee for a certified or duplicate copy of a motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's,~~ distributor's, or auction owner's license, is two dollars, and the fee for a duplicate copy of a salesperson's license is one dollar. All fees for such copies shall accompany the applications.

Beginning on ~~the effective date of this amendment~~ September 16, 2004, all motor vehicle dealers' licenses, motor vehicle leasing dealers' licenses, ~~manufactured home broker's licenses,~~ distributors' licenses, auction owners' licenses, and all salespersons' licenses issued or renewed shall expire biennially on a day within the two-year cycle that is prescribed by the registrar, unless sooner suspended or revoked. Before the first day after the day prescribed by the registrar in the year that the license expires, each licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker,~~ distributor, and auction owner and each licensed salesperson, in the year in which the license will expire, shall file an application, in such form as the registrar prescribes, for the renewal of such license. The fee provided in this section for the original renewing a motor vehicle dealer's license and a motor vehicle leasing dealer's license shall be fifty dollars. The fee for renewing a salesperson's license shall be ten dollars. The fee for renewing a motor vehicle auction owner's license shall be one hundred dollars for each location. The fee for renewing a distributor's license shall be one hundred dollars for each distributorship. In all cases the license renewal fee shall accompany the renewal application.

Any salesperson's license shall be suspended upon the termination, suspension, or revocation of the license of the motor vehicle dealer ~~or manufactured home broker~~ for whom the salesperson is acting, or upon the salesperson leaving the service of the motor vehicle dealer ~~or manufactured home broker~~; provided that upon the termination, suspension, or revocation of the license of the motor vehicle dealer ~~or manufactured home broker~~ for whom the salesperson is acting, or upon the salesperson leaving the service of a licensed motor vehicle dealer ~~or manufactured home broker~~, the licensed salesperson, upon entering the service of any other licensed motor vehicle dealer ~~or manufactured home broker~~, shall make application to the registrar, in such form as the registrar prescribes, to have the salesperson's license reinstated, transferred, and registered as a salesperson for the other dealer ~~or broker~~. If the information contained in the application is satisfactory to the registrar, the registrar shall have the salesperson's license reinstated, transferred, and registered as a salesperson for the other dealer ~~or broker~~. The fee for the reinstatement and transfer of license shall be two dollars. No license issued to a motor vehicle dealer, motor vehicle leasing dealer, auction owner, ~~manufactured home broker~~, or salesperson, under sections 4517.01 to 4517.65 of the Revised Code shall be transferable to any other person.

Each motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, distributor, and auction owner shall keep the license or a certified copy thereof and, in the case of a dealer ~~or broker~~, a current list of the dealer's ~~or the broker's~~ licensed salespersons, showing the names, addresses, and serial numbers of their licenses, posted in a conspicuous place in each place of business. Each salesperson shall carry the salesperson's license or a certified copy thereof and shall exhibit such license or copy upon demand to any inspector of the bureau of motor vehicles, state highway patrol trooper, police officer, or person with whom the salesperson seeks to transact business as a motor vehicle salesperson.

The notice of refusal to grant a license shall disclose the reason for refusal.

Sec. 4517.12. (A) The registrar of motor vehicles shall deny the application of any person for a license as a motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or motor vehicle auction owner and refuse to issue the license if the registrar finds that the applicant:

- (1) Has made any false statement of a material fact in the application;
- (2) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;
- (3) Is of bad business repute or has habitually defaulted on financial

obligations;

(4) Is engaged or will engage in the business of selling at retail any new motor vehicles without having written authority from the manufacturer or distributor thereof to sell new motor vehicles and to perform repairs under the terms of the manufacturer's or distributor's new motor vehicle warranty, except as provided in division (C) of this section and except that a person who assembles or installs special equipment or accessories for handicapped persons, as defined in section 4503.44 of the Revised Code, upon a motor vehicle chassis supplied by a manufacturer or distributor shall not be denied a license pursuant to division (A)(4) of this section;

(5) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in, or leasing, motor vehicles, or in connection with brokering manufactured homes;

(6) Has entered into or is about to enter into a contract or agreement with a manufacturer or distributor of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;

(7) Is insolvent;

(8) Is of insufficient responsibility to ensure the prompt payment of any final judgments that might reasonably be entered against the applicant because of the transaction of business as a motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or motor vehicle auction owner during the period of the license applied for, or has failed to satisfy any such judgment;

(9) Has no established place of business that, where applicable, is used or will be used for the purpose of selling, displaying, offering for sale, dealing in, or leasing motor vehicles at the location for which application is made;

(10) Has, less than twelve months prior to making application, been denied a motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's~~, or motor vehicle auction owner's license, or has any such license revoked.

(B) If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information the registrar may have. Immediately upon denying an application for any of the reasons in this section, the registrar shall enter a final order together with the registrar's findings and certify the same to the motor vehicle dealers' and salespersons'

licensing board.

(C) Notwithstanding division (A)(4) of this section, the registrar shall not deny the application of any person and refuse to issue a license if the registrar finds that the applicant is engaged or will engage in the business of selling at retail any new motor vehicles and demonstrates all of the following in the form prescribed by the registrar:

(1) That the applicant has posted a bond, surety, or certificate of deposit with the registrar in an amount not less than one hundred thousand dollars for the protection and benefit of the applicant's customers except that a new motor vehicle dealer who is not exclusively engaged in the business of selling remanufactured vehicles shall not be required to post the bond, surety, or certificate of deposit otherwise required by division (C)(1) of this section;

~~(2) That, at the time of the sale of the vehicle, each customer of the applicant will be furnished with a binding agreement ensuring that the customer has the right to have the vehicle serviced or repaired by a new motor vehicle dealer who is licensed to sell and service vehicles of the same line make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located within either twenty miles of the applicant's location and place of business or twenty miles of the customer's residence or place of business. If there is no such new motor vehicle dealer located within twenty miles of the applicant's location and place of business or the customer's residence or place of business, the binding agreement furnished to the customer may be with the new motor vehicle dealer who is franchised to sell and service vehicles of the same line make as the chassis of the remanufactured vehicle purchased by the customer and whose service or repair facility is located nearest to the remanufacturer's location and place of business or the customer's residence or place of business.~~

~~(3)~~ That, at the time of the sale of the vehicle, each customer of the applicant will be furnished with a warranty issued by the remanufacturer for a term of at least one year;

~~(4)~~(3) That the applicant provides and maintains at the applicant's location and place of business a permanent facility with all of the following:

(a) A showroom with space, under roof, for the display of at least one new motor vehicle;

(b) A service and parts facility for remanufactured vehicles;

(c) Full-time service and parts personnel with the proper training and technical expertise to service the remanufactured vehicles sold by the applicant.

Sec. 4517.13. The registrar of motor vehicles shall deny the application of any person for a license as a distributor and refuse to issue the license if the registrar finds that the applicant:

- (A) Has made any false statement of a material fact in the application;
- (B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;
- (C) Is of bad business repute or has habitually defaulted on financial obligations;
- (D) Is engaged or will engage in the business of distributing any new motor vehicle without having the authority of a contract with the manufacturer of the vehicle;
- (E) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;
- (F) Has entered into or is about to enter into a contract or agreement with a manufacturer of motor vehicles that is contrary to sections 4517.01 to 4517.45 of the Revised Code;
- (G) Is insolvent;
- (H) Is of insufficient responsibility to ensure the prompt payment of any financial judgment that might reasonably be entered against the applicant because of the transaction of business as a distributor during the period of the license applied for, or has failed to satisfy any such judgment;
- (I) Has no established place of business that, where applicable, is used or will be used exclusively for the purpose of distributing new motor vehicles at the location for which application is made;
- (J) Has, less than twelve months prior to making application, been denied a distributor's, motor vehicle dealer's, motor vehicle leasing dealer's, ~~manufactured home broker's~~, or motor vehicle auction owner's license, or had any such license revoked.

If the applicant is a corporation or partnership, the registrar may refuse to issue a license if any officer, director, employee, or partner of the applicant has been guilty of any act or omission that would be cause for refusing or revoking a license issued to such officer, director, employee, or partner as an individual. The registrar's finding may be based upon facts contained in the application or upon any other information the registrar may have. Immediately upon denying an application for any of the reasons in this section, the registrar shall enter a final order together with the registrar's findings and certify the same to the motor vehicle dealers board.

Sec. 4517.14. The registrar of motor vehicles shall deny the application of any person for a license as a salesperson and refuse to issue the license if the registrar finds that the applicant:

- (A) Has made any false statement of a material fact in the application;
- (B) Has not complied with sections 4517.01 to 4517.45 of the Revised Code;
- (C) Is of bad business repute or has habitually defaulted on financial obligations;
- (D) Has been guilty of a fraudulent act in connection with selling or otherwise dealing in motor vehicles;
- (E) Has not been designated to act as salesperson for a motor vehicle dealer ~~or manufactured home broker~~ licensed to do business in this state under section 4517.10 of the Revised Code, or intends to act as salesperson for more than one licensed motor vehicle dealer ~~or manufactured home broker~~ at the same time, except that a licensed salesperson may act as a salesperson at any licensed dealership owned or operated by the same ~~corporation~~ company, regardless of the county in which the dealership's facility is located;
- (F) Holds a current motor vehicle dealer's ~~or manufactured home broker's~~ license issued under section 4517.10 of the Revised Code, and intends to act as salesperson for another licensed motor vehicle dealer ~~or manufactured home broker~~;
- (G) Has, less than twelve months prior to making application, been denied a salesperson's license or had a salesperson's license revoked.

The registrar may refuse to issue a salesperson's license to an applicant who was salesperson for, or in the employ of, a motor vehicle dealer ~~or manufactured home broker~~ at the time the dealer's ~~or broker's~~ license was revoked. The registrar's finding may be based upon any statement contained in the application or upon any facts within the registrar's knowledge, and, immediately upon refusing to issue a salesperson's license, the registrar shall enter a final order and shall certify the final order together with his findings to the motor vehicle dealers board.

Sec. 4517.23. (A) Any licensed motor vehicle dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or distributor shall notify the registrar of motor vehicles concerning any change in status as a dealer, motor vehicle leasing dealer, ~~manufactured home broker~~, or distributor during the period for which the dealer, ~~broker~~, or distributor is licensed, if the change of status concerns any of the following:

- (1) Personnel of owners, partners, officers, or directors;
- (2) Location of office or principal place of business;
- (3) In the case of a motor vehicle dealer, any contract or agreement with any manufacturer or distributor; and in the case of a distributor, any contract or agreement with any manufacturer.

(B) The notification required by division (A) of this section shall be made by filing with the registrar, within fifteen days after the change of status, a supplemental statement in a form prescribed by the registrar showing in what respect the status has been changed. If the change involves a change in any contract or agreement between any manufacturer or distributor, and dealer, or any manufacturer and distributor, the supplemental statement shall be accompanied by such copies of contracts, statements, and certificates as would have been required by sections 4517.01 to 4517.45 of the Revised Code if the change had occurred prior to the licensee's application for license.

The motor vehicle dealers board may adopt a rule exempting from the notification requirement of division (A)(1) of this section any dealer if stock in the dealer or its parent company is publicly traded and if there are public records with state or federal agencies that provide the information required by division (A)(1) of this section.

(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

Sec. 4517.24. (A) No two motor vehicle dealers shall engage in business at the same location, unless they agree to be jointly, severally, and personally liable for any liability arising from their engaging in business at the same location. The agreement shall be filed with the motor vehicle dealers board, and shall also be made a part of the articles of incorporation of each such dealer filed with the secretary of state. Whenever the board has reason to believe that a dealer who has entered into such an agreement has revoked the agreement but continues to engage in business at the same location, the board shall revoke the dealer's license.

~~(B) This section does not apply to two or more motor vehicle dealers engaged in the business of selling new or used manufactured or mobile homes in the same manufactured home park.~~

~~(C) Whoever violates this section is guilty of a misdemeanor of the fourth degree.~~

Sec. 4517.44. (A) No manufacturer or distributor of motor vehicles, dealer in motor vehicles, ~~or manufactured home broker,~~ nor any owner, proprietor, person in control, or keeper of any garage, stable, shop, or other place of business, shall fail to keep or cause to be kept any record required by law.

(B) Whoever violates this section is guilty of a minor misdemeanor.

Sec. 4549.17. (A) No law enforcement officer employed by a law enforcement agency of a municipal corporation, township, or joint township police district shall issue any citation, summons, or ticket for a violation of

section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for a violation of section 5577.04 of the Revised Code or a substantially similar municipal ordinance, if all of the following apply:

(1) The citation, summons, or ticket would be issued for a violation described in division (A) of this section that occurs on a freeway that is part of the interstate system;

(2) The municipal corporation, township, or joint ~~township~~ police district that employs the law enforcement officer has less than eight hundred eighty yards of the freeway that is part of the interstate system within its jurisdiction;

(3) The law enforcement officer must travel outside the boundaries of the municipal corporation, township, or joint ~~township~~ police district that employs ~~him~~ the officer in order to enter onto the freeway;

(4) The law enforcement officer travels onto the freeway for the primary purpose of issuing citations, summonses, or tickets for violations of section 4511.21 of the Revised Code or a substantially similar municipal ordinance or for violations of section 5577.04 of the Revised Code or a substantially similar municipal ordinance.

(B) As used in this section, "interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 4582.12. (A)(1) Except as otherwise provided in division (E) of section 307.671 of the Revised Code, division (A) of this section does not apply to a port authority educational and cultural facility acquired, constructed, and equipped pursuant to a cooperative agreement entered into under section 307.671 of the Revised Code.

(2)(a) Except as provided in division (C) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections 9.33 to 9.335 of the Revised Code or with a design-build firm under sections 153.65 to 153.73 of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(2)(b) of this section and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the jurisdiction of the port authority. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code.

Every contract let shall be in writing and if the contract involves work or construction, it shall be accompanied by or shall refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code.

The port authority may reject any and all bids.

(b) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(2)(a) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(B) The board of directors of a port authority by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building, structure, or other improvement under any of the following circumstances:

(1) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(2) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(3) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(4) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(5) A single bid is received by the port authority after complying with the provisions of division (A) of this section.

(C)(1) If a contract is to be negotiated and awarded without competitive

bidding for the reason set forth in division (B)(2) of this section, the port authority shall publish a notice calling for technical proposals at least twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(2) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (B)(4) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

~~(D) No contract for the construction or repair of any building, structure, or other improvement and no loan agreement for the borrowing of funds for any such improvement undertaken by a port authority, where the port authority is the contracting entity, shall be executed unless laborers and mechanics employed on such improvements are paid at the prevailing rates of wages of laborers and mechanics for the class of work called for by the improvement. The wages shall be determined in accordance with the requirements of Chapter 4115. of the Revised Code for the determination of prevailing wage rates, provided that the requirements of this section do not apply where the federal government or any of its agencies furnishes by loan or grant all or any part of the funds used in connection with such project and prescribes predetermined minimum wages to be paid to the laborers and mechanics.~~

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

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

(2) Adopt an official seal;

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

(4) Acquire, construct, furnish, equip, maintain, repair, sell, exchange, lease to or from, or lease with an option to purchase, convey other interests in real or personal property, or any combination thereof, related to, useful for, or in furtherance of any authorized purpose and operate any property in connection with transportation, recreational, governmental operations, or cultural activities;

(5) Straighten, deepen, and improve any channel, river, stream, or other water course or way which may be necessary or proper in the development

of the facilities of a port authority;

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

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

(8) Issue port authority revenue bonds beyond the limit of bonded indebtedness provided by law, payable solely from revenues as provided in section 4582.48 of the Revised Code, for the purpose of providing funds to pay the costs of any port authority facility or facilities or parts thereof;

(9) Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones and establish, operate, and maintain foreign trade zones and to acquire, exchange, sell, lease to or from, lease with an option to purchase, or operate facilities, land, or property therefor in accordance with the "Foreign Trade Zones Act," 48 Stat. 998 (1934), 19 U.S.C. 81a to 81u;

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

(11) Maintain such funds as it considers necessary;

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

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

(14) Adopt rules, not in conflict with general law, it finds necessary or incidental to the performance of its duties and the execution of its powers under sections 4582.21 to 4582.54 of the Revised Code. Any such rule shall

be posted at no less than five public places in the port authority, as determined by the board of directors, for a period of not fewer than fifteen days, and shall be available for public inspection at the principal office of the port authority during regular business hours. No person shall violate any lawful rule adopted and posted as provided in this division.

(15) Do any of the following, in regard to any interests in any real or personal property, or any combination thereof, including, without limitation, machinery, equipment, plants, factories, offices, and other structures and facilities related to, useful for, or in furtherance of any authorized purpose, for such consideration and in such manner, consistent with Article VIII of the Ohio Constitution, as the board in its sole discretion may determine:

(a) Loan moneys to any person or governmental entity for the acquisition, construction, furnishing, and equipping of the property;

(b) Acquire, construct, maintain, repair, furnish, and equip the property;

(c) Sell to, exchange with, lease, convey other interests in, or lease with an option to purchase the same or any lesser interest in the property to the same or any other person or governmental entity;

(d) Guarantee the obligations of any person or governmental entity.

A port authority may accept and hold as consideration for the conveyance of property or any interest therein such property or interests therein as the board in its discretion may determine, notwithstanding any restrictions that apply to the investment of funds by a port authority.

(16) Sell, lease, or convey other interests in real and personal property, and grant easements or rights-of-way over property of the port authority. The board of directors shall specify the consideration and any terms for the sale, lease, or conveyance of other interests in real and personal property. Any determination made by the board under this division shall be conclusive. The sale, lease, or conveyance may be made without advertising and the receipt of bids.

(17) Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property, necessary or proper for any authorized purpose, pursuant to the procedure provided in sections 163.01 to 163.22 of the Revised Code, if funds equal to the appraised value of the property to be acquired as a result of such proceedings are available for that purpose. However, nothing contained in sections 4582.201 to 4582.59 of the Revised Code shall authorize a port authority to take or disturb property or facilities belonging to any agency or political subdivision of this state, public utility, cable operator, or common carrier, which property or facilities are necessary and convenient in the operation of the agency or political subdivision, public utility, cable

operator, or common carrier, unless provision is made for the restoration, relocation, or duplication of such property or facilities, or upon the election of the agency or political subdivision, public utility, cable operator, or common carrier, for the payment of compensation, if any, at the sole cost of the port authority, provided that:

(a) If any restoration or duplication proposed to be made under this section involves a relocation of the property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and shall not impair the ability of the public utility, cable operator, or common carrier to compete in its original area of operation;

(b) If any restoration or duplication made under this section involves a relocation of the property or facilities, the port authority shall acquire no interest or right in or to the appropriated property or facilities, except as provided in division (A)(15) of this section, until the relocated property or facilities are available for use and until marketable title thereto has been transferred to the public utility, cable operator, or common carrier.

As used in division (A)(17) of this section, "cable operator" has the same meaning as in the "Cable Communications Policy Act of 1984," Pub. L. No. 98-549, 98 Stat. 2780, 47 U.S.C. 522, as amended by the "Telecommunications Act of 1996," Pub. L. No. 104-104, 110 Stat. 56.

(18)(a) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers under sections 4582.21 to 4582.59 of the Revised Code.

(b)(i) Except as provided in division (A)(18)(c) of this section or except when the port authority elects to construct a building, structure, or other improvement pursuant to a contract made with a construction manager at risk under sections 9.33 to 9.335 of the Revised Code or with a design-build firm under section 153.65 to 153.73 of the Revised Code, when the cost of a contract for the construction of any building, structure, or other improvement undertaken by a port authority involves an expenditure exceeding the higher of one hundred thousand dollars or the amount as adjusted under division (A)(18)(b)(ii) of this section, and the port authority is the contracting entity, the port authority shall make a written contract after notice calling for bids for the award of the contract has been given by publication twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. Each such contract shall be let to the lowest responsive and responsible bidder in accordance with section 9.312 of the Revised Code. Every contract shall be accompanied by or shall

refer to plans and specifications for the work to be done, prepared for and approved by the port authority, signed by an authorized officer of the port authority and by the contractor, and shall be executed in triplicate.

Each bid shall be awarded in accordance with sections 153.54, 153.57, and 153.571 of the Revised Code. The port authority may reject any and all bids.

(ii) On January 1, 2012, and the first day of January of every even-numbered year thereafter, the director of commerce shall adjust the threshold level for contracts subject to the bidding requirements contained in division (A)(18)(b)(i) of this section. The director shall adjust this amount according to the average increase for each of the two years immediately preceding the adjustment as set forth in the producer price index for material and supply inputs for new nonresidential construction as determined by the bureau of labor statistics of the United States department of labor or, if that index no longer is published, a generally available comparable index. If there is no resulting increase, the threshold shall remain the same until the next scheduled adjustment on the first day of January of the next even-numbered year.

(c) The board of directors by rule may provide criteria for the negotiation and award without competitive bidding of any contract as to which the port authority is the contracting entity for the construction of any building or structure or other improvement under any of the following circumstances:

(i) There exists a real and present emergency that threatens damage or injury to persons or property of the port authority or other persons, provided that a statement specifying the nature of the emergency that is the basis for the negotiation and award of a contract without competitive bidding shall be signed by the officer of the port authority that executes that contract at the time of the contract's execution and shall be attached to the contract.

(ii) A commonly recognized industry or other standard or specification does not exist and cannot objectively be articulated for the improvement.

(iii) The contract is for any energy conservation measure as defined in section 307.041 of the Revised Code.

(iv) With respect to material to be incorporated into the improvement, only a single source or supplier exists for the material.

(v) A single bid is received by the port authority after complying with the provisions of division (A)(18)(b) of this section.

(d)(i) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(ii) of this section, the port authority shall publish a notice calling for technical proposals ~~at least~~

twice, with at least seven days between publications, in a newspaper of general circulation in the area of the port authority or as provided in section 7.16 of the Revised Code. After receipt of the technical proposals, the port authority may negotiate with and award a contract for the improvement to the proposer making the proposal considered to be the most advantageous to the port authority.

(ii) If a contract is to be negotiated and awarded without competitive bidding for the reason set forth in division (A)(18)(c)(iv) of this section, any construction activities related to the incorporation of the material into the improvement also may be provided without competitive bidding by the source or supplier of that material.

(e)(i) Any purchase, exchange, sale, lease, lease with an option to purchase, conveyance of other interests in, or other contract with a person or governmental entity that pertains to the acquisition, construction, maintenance, repair, furnishing, equipping, or operation of any real or personal property, or any combination thereof, related to, useful for, or in furtherance of an activity contemplated by Section 13 or 16 of Article VIII, Ohio Constitution, shall be made in such manner and subject to such terms and conditions as may be determined by the board of directors in its discretion.

(ii) Division (A)(18)(e)(i) of this section applies to all contracts that are subject to the division, notwithstanding any other provision of law that might otherwise apply, including, without limitation, any requirement of notice, any requirement of competitive bidding or selection, or any requirement for the provision of security.

(iii) Divisions (A)(18)(e)(i) and (ii) of this section do not apply to either of the following: any contract secured by or to be paid from moneys raised by taxation or the proceeds of obligations secured by a pledge of moneys raised by taxation; or any contract secured exclusively by or to be paid exclusively from the general revenues of the port authority. For the purposes of this section, any revenues derived by the port authority under a lease or other agreement that, by its terms, contemplates the use of amounts payable under the agreement either to pay the costs of the improvement that is the subject of the contract or to secure obligations of the port authority issued to finance costs of such improvement, are excluded from general revenues.

(19) Employ managers, superintendents, and other employees and retain or contract with consulting engineers, financial consultants, accounting experts, architects, attorneys, and any other consultants and independent contractors as are necessary in its judgment to carry out this chapter, and fix the compensation thereof. All expenses thereof shall be payable from any

available funds of the port authority or from funds appropriated for that purpose by a political subdivision creating or participating in the creation of the port authority.

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

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

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

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

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

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

(B) 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.

(C) Whoever violates division (A)(14) of this section is guilty of a minor misdemeanor.

Sec. 4585.10. The officer holding a writ for the sale of a watercraft, its apparel, or furniture, before ~~he proceeds~~ proceeding to sell it, shall give public notice of the time and place of sale for at least ten days previous thereto or as provided in section 7.16 of the Revised Code, by advertisement in a newspaper ~~published~~ of general circulation in the county, and by advertisement posted in at least five public places in the county. Such sales shall be conducted, and the court shall have the same power over them as sales upon execution.

Sec. 4705.021. (A) As used in this section:

(1) "Disciplinary counsel" means the disciplinary counsel appointed by

the board of commissioners on grievances and discipline of the supreme court under the Rules for the Government of the Bar of Ohio.

(2) "Certified grievance committee" means a duly constituted and organized committee of the Ohio state bar association or of one or more local bar associations of the state that complies with the criteria set forth in rule V, section 3 of the Rules for the Government of the Bar of Ohio.

(3) "Child support order" has the same meaning as in section 3119.01 of the Revised Code.

(B) If an individual who has been admitted to the bar by order of the supreme court in compliance with its published rules is determined pursuant to sections 3123.01 to 3123.07 of the Revised Code by a court or child support enforcement agency to be in default under a support order being administered or handled by a child support enforcement agency, that agency may send a notice listing the name and social security number or other identification number of the individual and a certified copy of the court or agency determination that the individual is in default to the secretary of the board of commissioners on grievances and discipline of the supreme court and to either the disciplinary counsel or the president, secretary, and chairperson of each certified grievance committee if both of the following are the case:

(1) At least ninety days have elapsed since the final and enforceable determination of default;

(2) In the preceding ninety days, the obligor has failed to pay at least fifty per cent of the total monthly obligation due through means other than those described in sections 3123.81 to 3123.85 of the Revised Code.

Sec. 4709.13. (A) The barber board may refuse to issue or renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for any one or more of the following causes:

(1) ~~Conviction of a felony shown by a certified copy of the record of the court of conviction;~~

~~(2)~~ Advertising by means of knowingly false or deceptive statements;

~~(3)~~(2) Habitual drunkenness or possession of or addiction to the use of any controlled drug prohibited by state or federal law;

~~(4)~~(3) Immoral or unprofessional conduct;

~~(5)~~(4) Continuing to be employed in a barber shop wherein rules of the board or department of health are violated;

~~(6)~~(5) Employing any person who does not have a current Ohio license to perform the practice of barbering;

~~(7)~~(6) Owning, managing, operating, or controlling any barber school or portion thereof, wherein the practice of barbering is carried on, whether in

the same building or not, without displaying a sign at all entrances to the places where the barbering is carried on, indicating that the work therein is done by students exclusively;

~~(8)~~(7) Owning, managing, operating, or controlling any barber shop, unless it displays a recognizable sign or barber pole indicating that it is a barber shop, and the sign or pole is clearly visible at the main entrance to the shop;

~~(9)~~(8) Violating any sanitary rules approved by the department of health or the board;

~~(10)~~(9) Employing another person to perform or ~~himself~~ personally perform the practice of barbering in a licensed barber shop unless that person is licensed as a barber under this chapter;

~~(11)~~(10) Gross incompetence.

(B)(1) The board may refuse to renew or may suspend or revoke or impose conditions upon any license issued pursuant to this chapter for conviction of or plea of guilty to a felony committed after the person has been issued a license under this chapter, shown by a certified copy of the record of the court in which the person was convicted or pleaded guilty.

(2) A conviction or plea of guilty to a felony committed prior to being issued a license under this chapter shall not disqualify a person from being issued an initial license under this chapter.

(C) Prior to taking any action under division (A) or (B) of this section, the board shall provide the person with a statement of the charges against ~~him~~ the person and notice of the time and place of a hearing on the charges. The board shall conduct the hearing according to Chapter 119. of the Revised Code. Any person dissatisfied with a decision of the board may appeal the board's decision to the court of common pleas in Franklin county.

~~(D)~~(D) The board may adopt rules in accordance with Chapter 119. of the Revised Code, specifying additional grounds upon which the board may take action under division (A) of this section.

Sec. 4725.34. (A) The state board of optometry shall charge the following nonrefundable fees:

(1) One hundred ~~ten~~ thirty dollars for application for a certificate of licensure;

(2) ~~Twenty-five~~ Forty-five dollars for application for a therapeutic pharmaceutical agents certificate, except when the certificate is to be issued pursuant to division (A)(3) of section 4725.13 of the Revised Code, in which case the fee shall be thirty-five dollars;

(3) One hundred ~~ten~~ thirty dollars for renewal of a certificate of licensure;

(4) ~~Twenty-five~~ Forty-five dollars for renewal of a topical ocular pharmaceutical agents certificate;

(5) ~~Twenty-five~~ Forty-five dollars for renewal of a therapeutic pharmaceutical agents certificate;

(6) ~~Seventy-five~~ One hundred twenty-five dollars for late completion or submission, or both, of continuing optometric education;

(7) ~~Seventy-five~~ One hundred twenty-five dollars for late renewal of one or more certificates that have expired;

(8) Seventy-five dollars for reinstatement of one or more certificates classified as delinquent under section 4725.16 of the Revised Code, multiplied by the number of years the one or more certificates have been classified as delinquent;

(9) Seventy-five dollars for reinstatement of one or more certificates placed on inactive status under section 4725.17 of the Revised Code;

(10) Seventy-five dollars for reinstatement under section 4725.171 of the Revised Code of one or more expired certificates;

(11) Additional fees to cover administrative costs incurred by the board, including fees for replacing licenses issued by the board and providing rosters of currently licensed optometrists. Such fees shall be established at a regular meeting of the board and shall comply with any applicable guidelines or policies set by the department of administrative services or the office of budget and management.

(B) The board, subject to the approval of the controlling board, may establish fees in excess of the amounts specified in division (A) of this section if the fees do not exceed the amounts specified by more than fifty per cent.

(C) All receipts of the board, from any source, shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund.

Sec. 4725.48. (A) Any person who desires to engage in optical dispensing, except as provided in section 4725.47 of the Revised Code, shall file a properly completed written application for an examination with the Ohio optical dispensers board or with the testing service the board has contracted with pursuant to section 4725.49 of the Revised Code. The application for examination shall be made on a form provided by the board or testing service and shall be accompanied by an examination fee the board shall establish by rule. Applicants must return the application to the board or testing service at least sixty days prior to the date the examination is scheduled to be administered.

(B) Except as provided in section 4725.47 of the Revised Code, any person who desires to engage in optical dispensing shall file a properly

completed written application for a license with the board with ~~the appropriate license~~ a licensure application fee ~~as set forth under section 4725.50 of the Revised Code~~ of fifty dollars.

No person shall be eligible to apply for a license under this division, unless the person is at least eighteen years of age, is of good moral character, is free of contagious or infectious disease, has received a passing score, as determined by the board, on the examination administered under division (A) of this section, is a graduate of an accredited high school of any state, or has received an equivalent education and has successfully completed either of the following:

(1) Two years of supervised experience under a licensed dispensing optician, optometrist, or physician engaged in the practice of ophthalmology, up to one year of which may be continuous experience of not less than thirty hours a week in an optical laboratory;

(2) A two-year college level program in optical dispensing that has been approved by the board and that includes, but is not limited to, courses of study in mathematics, science, English, anatomy and physiology of the eye, applied optics, ophthalmic optics, measurement and inspection of lenses, lens grinding and edging, ophthalmic lens design, keratometry, and the fitting and adjusting of spectacle lenses and frames and contact lenses, including methods of fitting contact lenses and post-fitting care.

(C) Any person who desires to obtain a license to practice as an ocularist shall file a properly completed written application with the board accompanied by the appropriate fee and proof that the applicant has met the requirements for licensure. The board shall establish, by rule, the application fee and the minimum requirements for licensure, including education, examination, or experience standards recognized by the board as national standards for ocularists. The board shall issue a license to practice as an ocularist to an applicant who satisfies the requirements of this division and rules adopted pursuant to this division.

Sec. 4725.50. (A) Except for a person who qualifies for licensure as an ocularist, each person who qualifies for licensure under sections 4725.40 to 4725.59 of the Revised Code shall receive from the Ohio optical dispensers board, under its seal, a certificate of licensure entitling ~~him~~ the person to practice as a licensed spectacle dispensing optician, licensed contact lens dispensing optician, or a licensed spectacle-contact lens dispensing optician. The appropriate certificate of licensure shall be issued by the board no later than sixty days after it has notified the applicant of ~~his~~ the applicant's approval for licensure.

(B) ~~The licensure fee shall be fifty dollars for applications submitted in~~

~~January through March; thirty seven dollars and fifty cents, in April through June; twenty five dollars, in July through September; and twelve dollars and fifty cents, in October through December.~~

(C) Each licensed dispensing optician shall display ~~his~~ the licensed dispensing optician's certificate of licensure in a conspicuous place in ~~his~~ the licensed dispensing optician's office or place of business. If a licensed dispensing optician maintains more than one office or place of business, ~~he~~ the licensed dispensing optician shall display a duplicate copy of such certificate at each location. The board shall issue duplicate copies of the appropriate certificate of licensure for this purpose upon the filing of an application form therefor and the payment of a five-dollar fee for each duplicate copy.

Sec. 4725.52. Any licensed dispensing optician may supervise a maximum of three apprentices who shall be permitted to engage in optical dispensing only under the supervision of the licensed dispensing optician.

~~A person serving~~ To serve as an apprentice, a person shall register ~~annually~~ with the Ohio optical dispensers board either on a form provided by the board or in the form of a statement giving the name and address of the supervising licensed dispensing optician, the location at which the apprentice will be employed, and any other information required by the board. ~~Each registrant~~ For the duration of the apprenticeship, the apprentice shall register annually on the form provided by the board or in the form of a statement.

Each apprentice shall pay a an initial registration fee of ten twenty dollars. For each registration renewal thereafter, each apprentice shall pay a registration renewal fee of twenty dollars.

A person who is gaining experience under the supervision of a licensed optometrist or ophthalmologist that would qualify ~~him~~ the person under division (B)(1) of section 4725.48 of the Revised Code to take the examination for optical dispensing is not required to register with the board.

Sec. 4725.57. An applicant for licensure as a licensed dispensing optician who is licensed or registered in another state shall be accorded the full privileges of practice within this state, upon the payment of a ~~seventy five~~ fifty-dollar fee and the submission of a certified copy of the license or certificate issued by such other state, without the necessity of examination, if the board determines that the applicant meets the ~~criteria of division (A) of section 4725.48 of the Revised Code and further determines that the educational background or experience of the applicant satisfies the remaining~~ requirements of division (B) of section 4725.48 of the Revised Code. The board may require that the applicant have received a passing

score, as determined by the board, on an examination that is substantially the same as the examination described in division (A) of section 4725.48 of the Revised Code.

Sec. 4729.50. (A) The state board of pharmacy may enter into contracts with private entities under which the entities process applications and renewal applications for wholesale distributors of dangerous drugs and terminal distributors of dangerous drugs. When entering into these contracts, the board shall give preference to entities that are Ohio-based companies.

Any revenue received by the board from contracts entered into under this section shall be deposited into the state treasury to the credit of the occupational licensing and regulatory fund. The money may be used for any purpose determined by the board to be relevant to its duties, including the establishment and maintenance of a drug database pursuant to section 4729.75 of the Revised Code.

(B) No enforcement or disciplinary authority granted to the board shall be transferred to a private entity through a contract entered into under this section.

Sec. 4729.52. (A) A person desiring to be registered as a wholesale distributor of dangerous drugs shall file with the executive director of the state board of pharmacy a verified application containing such information as the board requires of the applicant relative to the qualifications to be registered as a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted under that section. The board shall register as a wholesale distributor of dangerous drugs each applicant who has paid the required registration fee, if the board determines that the applicant meets the qualifications to be registered as a wholesale distributor of dangerous drugs set forth in section 4729.53 of the Revised Code and the rules adopted under that section.

(B) The board may register and issue to a person who does not reside in this state a registration certificate as a wholesale distributor of dangerous drugs if the person possesses a current and valid wholesale distributor of dangerous drugs registration certificate or license issued by another state that has qualifications for licensure or registration comparable to the registration requirements in this state and pays the required registration fee.

(C) All registration certificates issued pursuant to this section are effective for a period of twelve months from the first day of July of each year. A registration certificate shall be renewed annually by the board for a like period, pursuant to this section and the standard renewal procedure of Chapter 4745. of the Revised Code. A person desiring to renew a registration certificate shall submit an application for renewal and pay the

required renewal fee before the first day of July each year.

(D) Each registration certificate and its application shall describe not more than one establishment or place where the registrant or applicant may engage in the sale of dangerous drugs at wholesale. No registration certificate shall authorize or permit the wholesale distributor of dangerous drugs named therein to engage in the sale of drugs at wholesale or to maintain possession, custody, or control of dangerous drugs for any purpose other than for the registrant's own use and consumption at any establishment or place other than that described in the certificate.

(E)(1) The registration fee is ~~one~~ seven hundred fifty dollars and shall accompany each application for registration. The registration renewal fee is ~~one~~ seven hundred fifty dollars and shall accompany each renewal application.

A registration certificate that has not been renewed in any year by the first day of August may be reinstated upon payment of the renewal fee and a penalty of ~~fifty-five~~ one hundred fifty dollars.

(2) Renewal fees and penalties assessed under division (E)(1) of this section shall not be returned if the applicant fails to qualify for renewal.

(F) The registration of any person as a wholesale distributor of dangerous drugs subjects the person and the person's agents and employees to the jurisdiction of the board and to the laws of this state for the purpose of the enforcement of this chapter and the rules of the board. However, the filing of an application for registration as a wholesale distributor of dangerous drugs by, or on behalf of, any person or the registration of any person as a wholesale distributor of dangerous drugs shall not, of itself, constitute evidence that the person is doing business within this state.

Sec. 4729.552. (A) To be eligible to receive a license as a category III terminal distributor of dangerous drugs with a pain management clinic classification, an applicant shall submit evidence satisfactory to the board that the applicant's pain management clinic will be operated in accordance with the requirements specified in division (B) of this section and that the applicant meets any other applicable requirements under this chapter or Chapter 3719. of the Revised Code.

If the board determines that an applicant meets all of the requirements, the board shall issue to the applicant a license as a category III terminal distributor of dangerous drugs and specify on the license that the terminal distributor is classified as a pain management clinic.

(B) The holder of a terminal distributor license with a pain management clinic classification shall do all of the following:

(1) Be in control of a facility that is owned and operated solely by one

or more physicians authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) Ensure that any person employed by the facility complies with the requirements for the operation of a pain management clinic established by the state medical board in rules adopted under section 4731.054 of the Revised Code;

(3) Require any person with ownership of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and send the results of the criminal records check directly to the state board of pharmacy for review and decision under section 4729.071 of the Revised Code;

(4) Require all employees of the facility to submit to a criminal records check in accordance with section 4776.02 of the Revised Code and ensure that no person is employed who has previously been convicted of, or pleaded guilty to, ~~any felony in this state, another state, or the United States;~~ either of the following:

(a) A theft offense, described in division (K)(3) of section 2913.01 of the Revised Code, that would constitute a felony under the laws of this state, any other state, or the United States;

(b) A felony drug abuse offense, as defined in section 2925.01 of the Revised Code.

(5) Maintain a list of each person with ownership of the facility and notify the state board of pharmacy of any change to that list.

(C) No person shall operate a facility that under this chapter is subject to licensure as a category III terminal distributor of dangerous drugs with a pain management clinic classification without obtaining and maintaining the license with the classification.

No person who holds a category III license with a pain management clinic classification shall fail to remain in compliance with the requirements of division (A) of this section and any other applicable requirements under this chapter or Chapter 3719. of the Revised Code.

(D) The board may impose a fine of not more than five thousand dollars on a terminal distributor of dangerous drugs license holder who violates division (C) of this section. A separate fine may be imposed for each day the violation continues. In imposing the fine, the board's actions shall be taken in accordance with Chapter 119. of the Revised Code.

Sec. 4731.054. (A) As used in this section:

(1) "Chronic pain" has the same meaning as in section 4731.052 of the Revised Code.

(2) "Controlled substance" has the same meaning as in section 3719.01

of the Revised Code.

(3) "Hospital" means a hospital registered with the department of health under section 3701.07 of the Revised Code.

(4) "Owner" means each person included on the list maintained under division (B)(5) of section 4729.552 of the Revised Code.

~~(4)(5)~~(a) "Pain management clinic" means a facility to which all of the following apply:

(i) The primary component of practice is treatment of pain or chronic pain;

(ii) The majority of patients of the prescribers at the facility are provided treatment for pain or chronic pain that includes the use of controlled substances, tramadol, carisoprodol, or other drugs specified in rules adopted under this section;

(iii) The facility meets any other identifying criteria established in rules adopted under this section.

(b) "Pain management clinic" does not include any of the following:

(i) ~~A hospital registered with the department of health under section 3701.07 of the Revised Code or a facility owned in whole or in part by a hospital;~~

(ii) A facility operated by a hospital for the treatment of pain or chronic pain;

(iii) A physician practice owned or controlled, in whole or in part, by a hospital or by an entity that owns or controls, in whole or in part, one or more hospitals;

(iv) A school, college, university, or other educational institution or program to the extent that it provides instruction to individuals preparing to practice as physicians, podiatrists, dentists, nurses, physician assistants, optometrists, or veterinarians or any affiliated facility to the extent that it participates in the provision of that instruction;

~~(iii)~~(v) A hospice program licensed under Chapter 3712. of the Revised Code;

~~(iv)~~(vi) An ambulatory surgical facility licensed under section 3702.30 of the Revised Code;

(vii) An interdisciplinary pain rehabilitation program with three-year accreditation from the commission on accreditation of rehabilitation facilities.

~~(5)~~(6) "Physician" means an individual authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery.

~~(6)~~(7) "Prescriber" has the same meaning as in section 4729.01 of the Revised Code.

(B) Each owner shall supervise, control, and direct the activities of each individual, including an employee, volunteer, or individual under contract, who provides treatment of pain or chronic pain at the clinic or is associated with the provision of that treatment. The supervision, control, and direction shall be provided in accordance with rules adopted under this section.

(C) The state medical board shall adopt rules in accordance with Chapter 119. of the Revised Code that establish all of the following:

(1) Standards and procedures for the operation of a pain management clinic;

(2) Standards and procedures to be followed by a physician who provides care at a pain management clinic;

(3) For purposes of division (A)~~(4)~~(5)(a)(ii) of this section, the other drugs used to treat pain or chronic pain that identify a facility as a pain management clinic;

(4) For purposes of division (A)~~(4)~~(5)(a)(iii) of this section, the other criteria that identify a facility as a pain management clinic;

(5) For purposes of division (B) of this section, standards and procedures to be followed by an owner in providing supervision, direction, and control of individuals at a pain management clinic.

(D) The board may impose a fine of not more than twenty thousand dollars on a physician who fails to comply with rules adopted under this section. The fine may be in addition to or in lieu of any other action that may be taken under section 4731.22 of the Revised Code. The board shall deposit any amounts received under this division in accordance with section 4731.24 of the Revised Code.

Sec. 4731.15. (A)(1) The state medical board also shall regulate the following limited branches of medicine: massage therapy and cosmetic therapy, and to the extent specified in section 4731.151 of the Revised Code, naprapathy and mechanotherapy. The board shall adopt rules governing the limited branches of medicine under its jurisdiction. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(2) As used in this chapter, "cosmetic therapy" means the permanent removal of hair from the human body through the use of electric modalities approved by the board for use in cosmetic therapy, and additionally may include the systematic friction, stroking, slapping, and kneading or tapping of the face, neck, scalp, or shoulders.

(B) A certificate to practice a limited branch of medicine issued by the state medical board is valid for a two-year period, except when an initial certificate is issued for a shorter period or when division (C)(2) of this section is applicable. The certificate may be renewed in accordance with

division (C) of this section.

(C)(1) Except as provided in division (C)(2) of this section, all of the following apply with respect to the renewal of certificates to practice a limited branch of medicine:

(a) Each person seeking to renew a certificate to practice a limited branch of medicine shall apply for biennial registration with the state medical board on a renewal application form prescribed by the board. An applicant for renewal shall pay a biennial registration fee of ~~fifty~~ one hundred dollars.

(b) At least six months before a certificate expires, the board shall mail or cause to be mailed a renewal notice to the certificate holder's last known address.

(c) At least three months before a certificate expires, the certificate holder shall submit the renewal application and biennial registration fee to the board.

(2) Beginning with the 2009 registration period, the board shall implement a staggered renewal system that is substantially similar to the staggered renewal system the board uses under division (B) of section 4731.281 of the Revised Code.

(D) All persons who hold a certificate to practice a limited branch of medicine issued by the state medical board shall provide the board written notice of any change of address. The notice shall be submitted to the board not later than thirty days after the change of address.

(E) A certificate to practice a limited branch of medicine shall be automatically suspended if the certificate holder fails to renew the certificate in accordance with division (C) of this section. Continued practice after the suspension of the certificate to practice shall be considered as practicing in violation of sections 4731.34 and 4731.41 of the Revised Code.

If a certificate to practice has been suspended pursuant to this division for two years or less, it may be reinstated. The board shall reinstate the certificate upon an applicant's submission of a renewal application and payment of the biennial registration fee and the applicable monetary penalty. With regard to reinstatement of a certificate to practice cosmetic therapy, the applicant also shall submit with the application a certification that the number of hours of continuing education necessary to have a suspended certificate reinstated have been completed, as specified in rules the board shall adopt in accordance with Chapter 119. of the Revised Code. The penalty for reinstatement shall be twenty-five dollars.

If a certificate has been suspended pursuant to this division for more than two years, it may be restored. Subject to section 4731.222 of the

Revised Code, the board may restore the certificate upon an applicant's submission of a restoration application, the biennial registration fee, and the applicable monetary penalty and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore to an applicant a certificate to practice unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section ~~4731.18~~ 4731.17 of the Revised Code. The penalty for restoration is fifty dollars.

Sec. 4731.16. (A) The state medical board shall ~~conduct examinations of applicants for certification to practice~~ determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy. The examinations shall be conducted under rules adopted by the board and at such times and places as the board may determine. The fee for either examination is two hundred fifty dollars.

~~For the purpose of conducting examinations, the board may call to its aid any person of established reputation and known ability in the limited branch of medicine for which the examination is being held. A person called to assist in an examination shall be reimbursed for the person's services. Reimbursement shall be not more than one hundred dollars per day and an amount fixed and allowed by the board for the person's actual and necessary expenses.~~

~~Each examination shall be given in anatomy, physiology, chemistry, bacteriology, pathology, hygiene, diagnosis, and any other subjects appropriate to the limited branch of medicine for which certification is requested as the board may require, except that applicants for certificates to practice massage therapy shall not be examined in pathology.~~

~~If an applicant fails an examination more than twice, in whole or in part, the board may require that the applicant obtain additional training as a condition of being eligible for further examination.~~

(B) The board may administer an examination of competency to practice a limited branch of medicine. If it administers an examination, the board shall establish by rule a fee to cover the cost of administering the examination.

If it does not administer an examination, the board shall adopt rules under section 4731.05 of the Revised Code that specify both of the following:

- (1) An examination acceptable to the board as an examination of competency to practice a limited branch of medicine;
- (2) The score that constitutes evidence of passing the examination.

~~Sec. 4731.17. If an applicant passes the examination to practice massage therapy or cosmetic therapy conducted under section 4731.16 of the Revised Code and has paid the fee required under that section;~~ (A) The state medical board shall review all applications received under section 4731.19 of the Revised Code. The board shall determine whether an applicant meets the requirements for a certificate to practice the applicable limited branch of medicine. An affirmative vote of not fewer than six members of the board is required to determine that an applicant meets the requirements for a certificate.

(B) If the board determines that the applicant meets the requirements for a certificate and that the documentation required for a certificate is acceptable, the state medical board shall issue to the applicant the appropriate certificate to practice. Such ~~Each~~ Each certificate shall be signed by the president and secretary of the board and attested by its seal.

(C) A certificate shall authorize the holder thereof to practice the limited branch of medicine specified therein, but shall not permit the holder to practice any other for which the certificate was issued. No person who holds a certificate to practice a limited branch of medicine issued by the board under this section shall do any of the following:

(1) Practice a limited branch of medicine, nor shall it permit the holder to treat other than the limited branch of medicine for which the certificate was issued;

(2) Treat infectious, contagious, or venereal diseases, to prescribe;

(3) Prescribe or administer drugs, or to perform;

(4) Perform surgery or practice medicine in any other form.

Sec. 4731.171. In addition to any other eligibility requirement set forth in this chapter, each applicant for a certificate to practice massage therapy or cosmetic therapy shall comply with sections 4776.01 to 4776.04 of the Revised Code. The state medical board shall not grant to an applicant a certificate to practice massage therapy or cosmetic therapy unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a certificate issued pursuant to section ~~4731.18~~ 4731.17 of the Revised Code.

Sec. 4731.19. ~~(A) The state medical board shall determine the standing of the schools, colleges, or institutions giving instruction in the limited branches of medicine of massage therapy and cosmetic therapy.~~

(B) An applicant for A person seeking a certificate to practice a limited branch of medicine shall, as a condition of admission to the examination, have file with the state medical board an application in a manner prescribed by the board. The application shall include or be accompanied by evidence

of all of the following:

(1) That the applicant is at least eighteen years of age and of good moral character;

(2) That the applicant has attained high school graduation or its equivalent;

(3) That the applicant holds one of the following:

~~(1)(a) A diploma or certificate from a school, college, or institution in good standing as determined by the board, showing the completion of the required courses of instruction;~~

~~(2)(b) A current license, registration, or certificate that is in good standing in another state for massage therapy or cosmetic therapy, as applicable;~~

~~(3) Certification from a national certification body and a diploma or certificate from a school, college, or institution in another state or jurisdiction showing completion of a course of instruction that meets course requirements determined by the board through rules adopted under section 4731.05 of the Revised Code.~~

~~The entrance examiner of the board shall determine the sufficiency of the preliminary education of applicants for a certificate to practice massage therapy or cosmetic therapy in the same manner that sufficiency of preliminary education is determined under section 4731.09 of the Revised Code, except that the board may adopt rules defining and establishing for the limited branch of medicine preliminary educational requirements that are less exacting than those prescribed by such section, as the nature of the case may require;~~

(c) For not less than five years preceding application, a current license, registration, or certificate in good standing in another state for massage therapy or cosmetic therapy.

(4) Evidence that the applicant has successfully passed an examination, prescribed in rules described in section 4731.16 of the Revised Code, to determine competency to practice the applicable limited branch of medicine;

(5) An affidavit signed by the applicant attesting to the accuracy and truthfulness of information submitted under this section and consenting to release of information;

(6) Any other information the board requires.

(B) An applicant for a certificate to practice a limited branch of medicine shall comply with the requirements of section 4731.171 of the Revised Code.

(C) At the time of making application for a certificate to practice a limited branch of medicine, the applicant shall pay to the board a fee of one

hundred fifty dollars, no part of which shall be returned. No application shall be considered filed until the board receives the appropriate fee.

(D) The board may investigate the application materials received under this section and contact any agency or organization for recommendations or other information about the applicant.

Sec. 4731.222. Before restoring to good standing a certificate issued under this chapter that has been in a suspended or inactive state for any cause for more than two years, or before issuing a certificate pursuant to section ~~4731.18~~, 4731.29, 4731.295, 4731.57, or 4731.571 of the Revised Code to an applicant who for more than two years has not been engaged in the practice of medicine, osteopathic medicine, podiatric medicine and surgery, or a limited branch of medicine as an active practitioner, as a participant in a program of graduate medical education, as defined in section 4731.091 of the Revised Code, as a student in a college of podiatry determined by the board to be in good standing, or as a student in a school, college, or institution giving instruction in a limited branch of medicine determined by the board to be in good standing under section 4731.19 of the Revised Code, the state medical board may require the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice.

The authority of the board to impose terms and conditions includes the following:

(A) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(B) Restricting or limiting the extent, scope, or type of practice of the applicant.

The board shall consider the moral background and the activities of the applicant during the period of suspension or inactivity, in accordance with section 4731.08 of the Revised Code. The board shall not restore a certificate under this section unless the applicant complies with sections 4776.01 to 4776.04 of the Revised Code.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or

preparation of specimens.

(B) "Designated health services" means any of the following:

- (1) Clinical laboratory services;
- (2) Home health care services;
- (3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

(1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;

(2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, and the medicaid program established under Chapter 5111. of the Revised Code, ~~and the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or

otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code, occupational therapists who are licensed, certificated, or otherwise legally authorized to practice occupational therapy under sections 4755.04 to 4755.13 of the Revised Code, mechanotherapists who are licensed, certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item

or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4731.71. The auditor of state may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code within governmental health care programs administered by the state. The auditor of state shall report any violation of either section to the state medical board and shall certify to the attorney general in accordance with section 131.02 of the Revised Code the amount of any refund owed to a state-administered governmental health care program under section 4731.69 of the Revised Code as a result of a violation. If a refund is owed to the medicaid program established under Chapter 5111. of the Revised Code ~~or the children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code~~, the auditor of state also shall report the amount to the department of job and family services.

The state medical board also may implement procedures to detect violations of section 4731.66 or 4731.69 of the Revised Code.

Sec. 4733.15. (A) Registration expires ~~annually~~ on the last day of December ~~following initial registration or renewal of registration 2011~~, and becomes invalid on that date unless renewed ~~pursuant to this section and the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code. For renewals after that date, registration expires biennially on the last day of December following initial registration or renewal of registration and becomes invalid on that date unless renewed.~~ Renewal may be effected at ~~any time prior to the date of expiration for a period of one year~~ by the applicant's payment to the treasurer of state of a fee of ~~twenty~~ forty dollars for a renewal of registration as either a professional engineer or professional surveyor ~~and, for renewals for calendar year 2008 and thereafter,~~ demonstration of completion of the continuing professional development requirements of section 4733.151 of the Revised Code. When notified as required in this section, a registrant's failure to renew registration shall not deprive the registrant of the right of renewal within the following twelve months, but the fee to renew a registration within twelve months after expiration shall be increased fifty per cent, and the registrant shall certify completion of continuing professional development hours as required in section 4733.151 of the Revised Code.

The state board of registration for professional engineers and surveyors may, upon request, waive the payment of renewal fees or the completion of continuing professional development requirements for a registrant during the period when the registrant is on active duty in connection with any branch of the armed forces of the United States.

(B) Each certificate of authorization issued pursuant to section 4733.16 of the Revised Code shall authorize the holder to provide professional engineering or professional surveying services, through the registered professional engineer or professional surveyor designated as being in responsible charge of the professional engineering or professional surveying practice, from the date of issuance until the last day of June next succeeding the date upon which the certificate was issued, unless the certificate has been revoked or suspended for cause as provided in section 4733.20 of the Revised Code or has been suspended pursuant to section 3123.47 of the Revised Code.

(C) If a registrant fails to renew registration as provided under division (A) of this section, renewal and reinstatement may be effected under rules the board adopts regarding requirements for reexamination or reapplication, and reinstatement penalty fees. The board may require a registrant who fails to renew registration to complete ~~those~~ the required hours of continuing professional development ~~required from the effective date of this section,~~ as a condition of renewal and reinstatement if the registrant seeks renewal and reinstatement under this division ~~on or after January 1, 2009.~~

Sec. 4733.151. (A) ~~Each~~ For registrations expiring on the last day of December 2011, each registrant for renewal ~~for calendar year 2008 and thereafter~~ shall have completed, ~~within the preceding~~ in calendar year 2011, at least fifteen hours of continuing professional development for professional engineers and surveyors. Thereafter, each registrant shall complete at least thirty hours of continuing professional development during the two-year period immediately preceding the biennial renewal expiration date.

(B) The continuing professional development requirement may be satisfied by coursework or activities dealing with technical, ethical, or managerial topics relevant to the practice of engineering or surveying. A registrant may earn continuing professional development hours by completing or teaching university or college level coursework, attending seminars, workshops, or conferences, authoring relevant published papers, articles, or books, receiving patent awards, or actively participating in professional or technical societies serving the engineering or surveying professions.

In the case of the board disputing the content of any credit hours or coursework, then the board shall presume as a matter of law that any credit hours submitted by a registrant, or any coursework or activity submitted for approval, complies with this section if submitted and if a statement signed by a current registrant not otherwise participating in the event, affirms that the material is relevant to the registrant's practice and will assist the registrant's development in the profession.

Credit for university or college level coursework shall be based on the credit established by the university or college. One semester hour as established by the university or college shall be the equivalent of forty-five hours of continuing professional development, and one quarter hour as established by the university or college shall be the equivalent of thirty hours of continuing professional development.

Credit for seminars, workshops, or conferences offering continuing education units shall be based on the units awarded by the organization presenting the seminar, workshop, or conference. A registrant may earn ten continuing professional development hours for each continuing education unit awarded. Each hour of attendance at a seminar, workshop, or conference for which no continuing education units are offered shall be the equivalent of one continuing professional development hour.

A registrant may earn two continuing professional development hours for each year of service as an officer or active committee member of a professional or technical society or association that represents registrants or entities composed of registrants. A registrant may earn ten continuing professional development hours for authoring relevant published papers, articles, or books. A registrant may earn ten continuing professional development hours for each such published paper, article, or book. A registrant may earn ten continuing professional development hours for each patent award.

(C) A person registered as both a professional engineer and professional surveyor shall complete at least ~~five~~ ten of the ~~fifteen~~ thirty hours required under division (A) of this section in engineering-related coursework or activities and at least ~~five~~ ten of those ~~fifteen~~ thirty hours in surveying-related coursework or activities.

(D) A registrant is exempt from the continuing professional development requirements of this section during the first calendar year of registration.

(E) A registrant who completes more than ~~fifteen~~ thirty hours of approved coursework or activities in ~~any calendar year~~ a biennial renewal period may carry forward to the next ~~calendar year~~ biennial renewal period a

maximum of fifteen of the excess hours.

(F) A registrant shall maintain records to demonstrate completion of the continuing professional development requirements specified in this section for a period of ~~three~~ four calendar years beyond the year in which certification of the completion of the requirements is obtained by the registrant. The records shall include all of the following:

(1) A log specifying the type of coursework or activity, its location and duration along with the instructor's name, and the number of continuing professional development hours earned;

(2) Certificates of completion or other evidence verifying attendance.

(G) The records specified in division (F) of this section may be audited at any time by the state board of registration for professional engineers and surveyors. If the board discovers that a registrant has failed to complete coursework or activities, it shall notify the registrant of the deficiencies and allow the registrant six months from the date of the notice to rectify the deficiencies and to provide the board with evidence of satisfactory completion of the continuing professional development requirements. If the registrant fails to provide such evidence within that six-month period, the board may revoke or suspend the registration after offering an adjudication hearing in accordance with Chapter 119. of the Revised Code.

Sec. 4735.01. As used in this chapter:

(A) "Real estate broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration does any of the following:

(1) Sells, exchanges, purchases, rents, or leases, or negotiates the sale, exchange, purchase, rental, or leasing of any real estate;

(2) Offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of any real estate;

(3) Lists, or offers, attempts, or agrees to list, or auctions, or offers, attempts, or agrees to auction, any real estate;

(4) Buys or offers to buy, sells or offers to sell, or otherwise deals in options on real estate;

(5) Operates, manages, or rents, or offers or attempts to operate, manage, or rent, other than as custodian, caretaker, or janitor, any building or portions of buildings to the public as tenants;

(6) Advertises or holds self out as engaged in the business of selling,

exchanging, purchasing, renting, or leasing real estate;

(7) Directs or assists in the procuring of prospects or the negotiation of any transaction, other than mortgage financing, which does or is calculated to result in the sale, exchange, leasing, or renting of any real estate;

(8) Is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the broker undertakes primarily to promote the sale, exchange, purchase, rental, or leasing of real estate through its listing in a publication issued primarily for such purpose, or for referral of information concerning such real estate to brokers, or both, except that this division does not apply to a publisher of listings or compilations of sales of real estate by their owners;

(9) Collects rental information for purposes of referring prospective tenants to rental units or locations of such units and charges the prospective tenants a fee.

(B) "Real estate" includes leaseholds as well as any and every interest or estate in land situated in this state, whether corporeal or incorporeal, whether freehold or nonfreehold, and the improvements on the land, but does not include cemetery interment rights.

(C) "Real estate salesperson" means any person associated with a licensed real estate broker to do or to deal in any acts or transactions set out or comprehended by the definition of a real estate broker, for compensation or otherwise.

(D) "Institution of higher education" means either of the following:

(1) A nonprofit institution as defined in section 1713.01 of the Revised Code that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school;

(2) An institution operated for profit that otherwise qualifies under the definition of an institution in section 1713.01 of the Revised Code and that actually awards, rather than intends to award, degrees for fulfilling requirements of academic work beyond high school.

(E) "Foreign real estate" means real estate not situated in this state and any interest in real estate not situated in this state.

(F) "Foreign real estate dealer" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation, foreign or domestic, who for another, whether pursuant to a power of attorney or otherwise, and who for a fee, commission, or other valuable consideration, or with the intention, or in the expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, does or deals in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real

estate.

(G) "Foreign real estate salesperson" means any person associated with a licensed foreign real estate dealer to do or deal in any act or transaction specified or comprehended in division (A) of this section with respect to foreign real estate, for compensation or otherwise.

(H) Any person, partnership, association, limited liability company, limited liability partnership, or corporation, who, for another, in consideration of compensation, by fee, commission, salary, or otherwise, or with the intention, in the expectation, or upon the promise of receiving or collecting a fee, does, or offers, attempts, or agrees to engage in, any single act or transaction contained in the definition of a real estate broker, whether an act is an incidental part of a transaction, or the entire transaction, shall be constituted a real estate broker or real estate salesperson under this chapter.

(I)(1) The terms "real estate broker," "real estate salesperson," "foreign real estate dealer," and "foreign real estate salesperson" do not include a person, partnership, association, limited liability company, limited liability partnership, or corporation, or the regular employees thereof, who perform any of the acts or transactions specified or comprehended in division (A) of this section, whether or not for, or with the intention, in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration:

~~(1)~~(a) With reference to real estate situated in this state ~~or any interest in~~ ~~it~~ owned by such person, partnership, association, limited liability company, limited liability partnership, or corporation, or acquired on its own account in the regular course of, or as an incident to the management of the property and the investment in it;

~~(2)~~(b) As receiver or trustee in bankruptcy, as guardian, executor, administrator, trustee, assignee, commissioner, or any person doing the things mentioned in this section, under authority or appointment of, or incident to a proceeding in, any court, or as a bona fide public officer, or as executor, trustee, or other bona fide fiduciary under any trust agreement, deed of trust, will, or other instrument that has been executed in good faith creating a like bona fide fiduciary obligation;

~~(3)~~(c) As a public officer while performing the officer's official duties;

~~(4)~~(d) As an attorney at law in the performance of the attorney's duties;

~~(5)~~(e) As a person who engages in the brokering of the sale of business assets, not including the ~~negotiation of the~~ sale, lease, exchange, or assignment of any interest in real estate;

~~(6)~~(f) As a person who engages in the sale of manufactured homes as defined in division (C)(4) of section 3781.06 of the Revised Code, or of

mobile homes as defined in division (O) of section 4501.01 of the Revised Code, provided the sale does not include the negotiation, sale, lease, exchange, or assignment of any interest in real estate;

(7)(g) As a person who engages in the sale of commercial real estate pursuant to the requirements of section 4735.022 of the Revised Code.

(2) A person, partnership, association, limited liability company, limited liability partnership, or corporation exempt under division (I)(1)(a) of this section shall be limited by the legal interest in the real estate held by that person or entity to performing any of the acts or transactions specified in or comprehended by division (A) of this section.

(J) "~~Physically handicapped~~ Disabled licensee" means a person licensed pursuant to this chapter who is under a severe ~~physical~~ disability which is of such a nature as to prevent the person from being able to attend any instruction lasting at least three hours in duration.

(K) "Division of real estate" may be used interchangeably with, and for all purposes has the same meaning as, "division of real estate and professional licensing."

(L) "Superintendent" or "superintendent of real estate" means the superintendent of the division of real estate and professional licensing of this state. Whenever the division or superintendent of real estate is referred to or designated in any statute, rule, contract, or other document, the reference or designation shall be deemed to refer to the division or superintendent of real estate and professional licensing, as the case may be.

(M) "Inactive license" means the license status in which a salesperson's license is in the possession of the division, renewed as required under this chapter or rules adopted under this chapter, and not associated with a real estate broker.

(N) "Broker's license on deposit" means the license status in which a broker's license is in the possession of the division of real estate and professional licensing and renewed as required under this chapter or rules adopted under this chapter.

(O) "Suspended license" means the license status that prohibits a licensee from providing services that require a license under this chapter for a specified interval of time.

(P) "Reactivate" means the process prescribed by the superintendent of real estate and professional licensing to remove a license from an inactive, voluntary hold, suspended, or broker's license on deposit status to allow a licensee to provide services that require a license under this chapter.

(Q) "Revoked" means the license status in which the license is void and not eligible for reactivation.

(R) "Commercial real estate" means any parcel of real estate in this state other than real estate containing one to four residential units. "Commercial real estate" does not include single-family residential units such as condominiums, townhouses, manufactured homes, or homes in a subdivision when sold, leased, or otherwise conveyed on a unit-by-unit basis, even when those units are a part of a larger building or parcel of real estate containing more than four residential units.

(S) "Out-of-state commercial broker" includes any person, partnership, association, limited liability company, limited liability partnership, or corporation that is licensed to do business as a real estate broker in a jurisdiction other than Ohio.

(T) "Out-of-state commercial salesperson" includes any person affiliated with an out-of-state commercial broker who is not licensed as a real estate salesperson in Ohio.

(U) "Exclusive right to sell or lease listing agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker, the seller, or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement to anyone other than to specifically exempted persons or entities.

(V) "Exclusive agency agreement" means an agency agreement between a seller and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the seller in the sale or lease of the seller's property;

(2) Provides the broker will be compensated if the broker or any other person or entity produces a purchaser or tenant in accordance with the terms specified in the listing agreement or if the property is sold or leased during the term of the listing agreement, unless the property is sold or leased solely through the efforts of the seller or to the specifically exempted persons or entities.

(W) "Exclusive purchaser agency agreement" means an agency agreement between a purchaser and broker that meets the requirements of section 4735.55 of the Revised Code and does both of the following:

(1) Grants the broker the exclusive right to represent the purchaser in the purchase or lease of property;

(2) Provides the broker will be compensated in accordance with the terms specified in the exclusive agency agreement or if a property is purchased or leased by the purchaser during the term of the agency agreement unless the property is specifically exempted in the agency agreement.

The agreement may authorize the broker to receive compensation from the seller or the seller's agent and may provide that the purchaser is not obligated to compensate the broker if the property is purchased or leased solely through the efforts of the purchaser.

(X) "Seller" means a party in a real estate transaction who is the potential transferor of property. "Seller" includes an owner of property who is seeking to sell the property and a landlord who is seeking to rent or lease property to another person.

(Y) "Voluntary hold" means the license status in which a license is in the possession of the division of real estate and professional licensing for a period of not more than twelve months pursuant to section 4735.142 of the Revised Code, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(Z) "Resigned" means the license status in which a license has been voluntarily surrendered to or is otherwise in the possession of the division of real estate and professional licensing, is not renewed in accordance with the requirements specified in this chapter or the rules adopted pursuant to it, and is not associated with a real estate broker.

(AA) "Bona fide" means made in good faith or without purpose of circumventing license law.

Sec. 4735.02. (A) Except as provided in section 4735.022 of the Revised Code, no person, partnership, association, limited liability company, limited liability partnership, or corporation shall act as a real estate broker or real estate salesperson, or advertise or assume to act as such, without first being licensed as provided in this chapter. No person, partnership, association, limited liability company, limited liability partnership, or corporation shall provide services that require a license under this chapter if the licensee's license is inactive, suspended, placed on voluntary hold, resigned, or a broker's license on deposit, or if the license has been revoked. Nothing contained in this chapter shall be construed as authorizing a real estate broker or salesperson to perform any service constituting the practice of law.

(B) No partnership, association, limited liability company, limited liability partnership, or corporation holding a real estate license shall employ

as an officer, director, manager, or principal employee any person previously holding a license as a real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, whose license has been placed in inactive, voluntary hold, or resigned status, or is suspended, or revoked and who has not thereafter reactivated the license or received a new license.

Sec. 4735.03. There is hereby created the Ohio real estate commission, consisting of five members who shall be appointed by the governor, with the advice and consent of the senate. Four members shall have been engaged in the real estate business as licensed real estate brokers in the state for a period of ten years immediately preceding the appointment. One member shall represent the public. Terms of office shall be for five years, commencing on the first day of July and ending on the thirtieth day of June. Each member shall hold office from the date of appointment until the end of the term for which appointed. No more than three members shall be members of any one political party and no member of the commission concurrently may be a member of the commission and the real estate appraiser board created pursuant to section 4763.02 of the Revised Code. Each member, before entering upon the duties of office, shall subscribe to and file with the secretary of state the constitutional oath of office. All vacancies which occur shall be filled in the manner prescribed for the regular appointments to the commission. 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. No member shall hold office for more than two consecutive full terms. Annually, upon the qualification of the member appointed in such year, the commission shall organize by selecting from its members a president and vice-president, and shall do all things necessary and proper to carry out and enforce this chapter. A majority of the members of the commission shall constitute a quorum, but a lesser number may adjourn from time to time. Each member of the commission shall receive an amount fixed pursuant to section 124.14 of the Revised Code for each day employed in the discharge of official duties, and the member's actual and necessary expenses incurred in the discharge of those duties.

The commission or the superintendent of real estate may investigate complaints concerning the violation of section 4735.02 or 4735.25 of the Revised Code and may subpoena witnesses in connection with such

investigations as provided in section 4735.04 of the Revised Code. The commission or the superintendent may make application to the appropriate court for an order enjoining the violation of section 4735.02 or 4735.25 of the Revised Code, and upon a showing by the commission or the superintendent that any person, firm, partnership, association, limited liability company, limited liability partnership, or corporation has violated or is about to violate section 4735.02 or 4735.25 of the Revised Code, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court.

The commission shall:

- (A) Adopt canons of ethics for the real estate industry;
- (B) Upon appeal by any party affected, or may upon its own motion, review any order or application determination of the superintendent, and may reverse, vacate, or modify any order of the superintendent;
- (C) Administer the real estate education and research fund and hear appeals from orders of the superintendent regarding claims against that fund or against the real estate recovery fund;
- (D) Direct the superintendent on the content, scheduling, instruction, and offerings of real estate courses for salesperson and broker educational requirements;
- (E) Disseminate to licensees and the public, information relative to commission activities and decisions;
- (F) Notify licensees of changes in state and federal civil rights laws pertaining to discrimination in the purchase or sale of real estate and relevant case law, and inform licensees that they are subject to disciplinary action if they do not comply with the changes;
- (G) Publish and furnish to public libraries and to brokers booklets on housing and remedies available to dissatisfied clients under this chapter and Chapter 4112. of the Revised Code;
- (H) Provide training to commission members and employees of the division of real estate and professional licensing on issues relative to the real estate industry, which may include but not be limited to investigative techniques, real estate law, and real estate practices and procedures.

Sec. 4735.05. (A) The Ohio real estate commission is a part of the department of commerce for administrative purposes. The director of commerce is ex officio the executive officer of the commission, or the director may designate any employee of the department as superintendent of real estate and professional licensing to act as executive officer of the commission.

The commission and the real estate appraiser board created pursuant to

section 4763.02 of the Revised Code shall each submit to the director a list of three persons whom the commission and the board consider qualified to be superintendent within sixty days after the office of superintendent becomes vacant. The director shall appoint a superintendent from the lists submitted by the commission and the board, and the superintendent shall serve at the pleasure of the director.

(B) The superintendent, except as otherwise provided, shall do all of the following in regard to this chapter:

(1) Administer this chapter;

(2) Issue all orders necessary to implement this chapter;

(3) Investigate complaints concerning the violation of this chapter or the conduct of any licensee;

(4) Establish and maintain an investigation and audit section to investigate complaints and conduct inspections, audits, and other inquiries as in the judgment of the superintendent are appropriate to enforce this chapter. The investigators or auditors have the right to review and audit the business records of licensees and continuing education course providers during normal business hours.

(5) Appoint a hearing examiner for any proceeding involving disciplinary action under section 3123.47, 4735.052, or 4735.18 of the Revised Code;

(6) Administer the real estate recovery fund.

(C) The superintendent may do all of the following:

(1) In connection with investigations and audits under division (B) of this section, subpoena witnesses as provided in section 4735.04 of the Revised Code;

(2) Apply to the appropriate court to enjoin any violation of this chapter. Upon a showing by the superintendent that any person has violated or is about to violate any provision of this chapter, the court shall grant an injunction, restraining order, or other appropriate order.

(3) Upon the death of a licensed broker or the revocation or suspension of the broker's license, if there is no other licensed broker within the business entity of the broker, appoint upon application by any interested party, or, in the case of a deceased broker, subject to the approval by the appropriate probate court, recommend the appointment of, an ancillary trustee who is qualified as determined by the superintendent to conclude the business transactions of the deceased, revoked, or suspended broker;

(4) In conjunction with the enforcement of this chapter, when the superintendent of real estate has reasonable cause to believe that an applicant or licensee has committed a criminal offense, the superintendent of

real estate may request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check of the applicant or licensee. The superintendent of the bureau of criminal identification and investigation shall obtain information from the federal bureau of investigation as part of the criminal records check of the applicant or licensee. The superintendent of real estate may assess the applicant or licensee a fee equal to the fee assessed for the criminal records check.

(5) In conjunction with the enforcement of this chapter, issue advisory letters in lieu of initiating disciplinary action under section 4735.051 or 4735.052 of the Revised Code or issuing a citation under section 4735.16 or 4735.181 of the Revised Code.

(D) All information that is obtained by investigators and auditors performing investigations or conducting inspections, audits, and other inquiries pursuant to division (B)(4) of this section, from licensees, complainants, or other persons, and all reports, documents, and other work products that arise from that information and that are prepared by the investigators, auditors, or other personnel of the department, shall be held in confidence by the superintendent, the investigators and auditors, and other personnel of the department. Notwithstanding division (D) of section 2317.023 of the Revised Code, all information obtained by investigators or auditors from an informal mediation meeting held pursuant to section 4735.051 of the Revised Code, including but not limited to the agreement to mediate and the accommodation agreement, shall be held in confidence by the superintendent, investigators, auditors, and other personnel of the department.

(E) This section does not prevent the division of real estate and professional licensing from releasing information relating to licensees to the superintendent of financial institutions for purposes relating to the administration of sections 1322.01 to 1322.12 of the Revised Code, to the superintendent of insurance for purposes relating to the administration of Chapter 3953. of the Revised Code, to the attorney general, or to local law enforcement agencies and local prosecutors. Information released by the division pursuant to this section remains confidential.

Sec. 4735.052. (A) Upon receipt of a written complaint or upon the superintendent's own motion, the superintendent may investigate any person that has allegedly violated section 4735.02 or 4735.25 of the Revised Code, except that the superintendent shall not initiate an investigation, pursuant to this section, of any person who held a ~~valid~~ license on voluntary hold or a suspended or inactive license under this chapter ~~any time during the twelve months preceding~~ on the date of the alleged violation.

(B) If, after investigation, the superintendent determines there exists reasonable evidence of a violation of section 4735.02 or 4735.25 of the Revised Code, within ~~seven~~ fourteen business days after that determination, the superintendent shall send the party who is the subject of the investigation, a written notice, by regular mail, that includes all of the following information:

(1) A description of the activity in which the party allegedly is engaging or has engaged that is a violation of section 4735.02 or 4735.25 of the Revised Code;

(2) The applicable law allegedly violated;

(3) A statement informing the party that a hearing concerning the alleged violation will be held ~~at the next regularly scheduled meeting of the Ohio real estate commission, and a statement giving the date and place of that meeting;~~

~~(4) A statement informing the party that the party or the party's attorney may appear in person at the hearing and present evidence and examine witnesses appearing for and against the party, or the party may submit written testimony stating any positions, arguments, or contentions, upon the party's request, before a hearing examiner pursuant to Chapter 119. of the Revised Code.~~

~~(C) The commission~~ (1) If a hearing is requested, the hearing examiner shall hear the testimony of all parties present at the hearing and consider any written testimony submitted pursuant to ~~division (B)(4)~~ of this section, and determine if there has been a violation of section 4735.02 or 4735.25 of the Revised Code. ~~¶~~

(2) After the conclusion of formal hearings, the hearing examiner shall file a report of findings of fact and conclusions of law with the superintendent, the commission, the complainant, and the parties. Within twenty days of receipt of such copy of the written report of findings of fact and conclusions of law, the parties and the division may file with the commission written objections to the report, which shall be considered by the commission before approving, modifying, or disapproving the report.

(3) The commission shall review the hearing examiner's report at the next regularly scheduled commission meeting held at least twenty business days after receipt of the hearing examiner's report. The commission shall hear the testimony of the complainant or the parties.

(4) The commission shall decide whether to impose disciplinary sanctions upon a party for a violation of section 4735.02 of the Revised Code. If the commission finds that a violation has occurred, the commission may assess a civil penalty, in an amount it determines, not to exceed one

thousand dollars per violation. Each day a violation occurs or continues is a separate violation. The commission shall determine the terms of payment. The commission shall maintain a ~~transcript~~ record of the proceedings of the hearing and issue a written opinion to all parties, citing its findings and grounds for any action taken.

(D) Civil penalties collected under this section shall be deposited in the real estate ~~recovery~~ operating fund, which is created in the state treasury under section ~~4735.12~~ 4735.211 of the Revised Code.

(E) If a party fails to pay a civil penalty assessed pursuant to this section within the time prescribed by the commission, the superintendent shall forward to the attorney general the name of the party and the amount of the civil penalty, for the purpose of collecting that civil penalty. In addition to the civil penalty assessed pursuant to this section, the party also shall pay any fee assessed by the attorney general for collection of the civil penalty.

(F) The superintendent may reserve the right to bring a civil action against a party that fails to pay a civil penalty for breach of contract in a court of competent jurisdiction.

Sec. 4735.06. (A) Application for a license as a real estate broker shall be made to the superintendent of real estate on forms furnished by the superintendent and filed with the superintendent and shall be signed by the applicant or its members or officers. Each application shall state the name of the person applying and the location of the place of business for which the license is desired, and give such other information as the superintendent requires in the form of application prescribed by the superintendent.

If the applicant is a partnership, limited liability company, limited liability partnership, or association, the names of all the members also shall be stated, and, if the applicant is a corporation, the names of its president and of each of its officers also shall be stated. The superintendent has the right to reject the application of any partnership, association, limited liability company, limited liability partnership, or corporation if the name proposed to be used by such partnership, association, limited liability company, limited liability partnership, or corporation is likely to mislead the public or if the name is not such as to distinguish it from the name of any existing partnership, association, limited liability company, limited liability partnership, or corporation licensed under this chapter, unless there is filed with the application the written consent of such existing partnership, association, limited liability company, limited liability partnership, or corporation, executed by a duly authorized representative of it, permitting the use of the name of such existing partnership, association, limited liability company, limited liability partnership, or corporation.

(B) A fee of one hundred dollars shall accompany the application for a real estate broker's license, ~~which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. However, if the applicant was an inactive or active salesperson immediately preceding application for a broker's license, then the initial licensing period shall commence at the time the broker's license is issued and ends on the date the licensee's continuing education is due as set when the applicant was a salesperson.~~ The application fee shall be ~~retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one half shall be returned to the applicant nonrefundable.~~ A fee of one hundred dollars shall be charged by the superintendent for each successive application made by an applicant. In the case of issuance of a three-year license, upon passing the examination, or upon waiver of the examination requirement, if the superintendent determines it is necessary, the applicant shall submit an additional fee determined by the superintendent based upon the number of years remaining in a real estate salesperson's licensing period.

(C) One dollar of each application fee for a real estate broker's license shall be credited to the real estate education and research fund, which is hereby created in the state treasury. The Ohio real estate commission may use the fund in discharging the duties prescribed in divisions (E), (F), (G), and (H) of section 4735.03 of the Revised Code and shall use it in the advancement of education and research in real estate at any institution of higher education in the state, or in contracting with any such institution or a trade organization for a particular research or educational project in the field of real estate, or in advancing loans, not exceeding ~~eight hundred two thousand~~ two thousand dollars, to applicants for salesperson licenses, to defray the costs of satisfying the educational requirements of division (F) of section 4735.09 of the Revised Code. Such loans shall be made according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and they shall be repaid to the fund within three years of the time they are made. No more than ten thousand dollars shall be lent from the fund in any one year.

The governor may appoint a representative from the executive branch to be a member ex officio of the commission for the purpose of advising on research requests or educational projects. The commission shall report to the

general assembly on the third Tuesday after the third Monday in January of each year setting forth the total amount contained in the fund and the amount of each research grant that it has authorized and the amount of each research grant requested. A copy of all research reports shall be submitted to the state library of Ohio and the library of the legislative service commission.

(D) If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate broker's examination, pursuant to division (A) of section 4735.07 of the Revised Code, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(2) of section 4735.10 of the Revised Code.

Sec. 4735.07. (A) The superintendent of real estate, with the consent of the Ohio real estate commission, may enter into agreements with recognized national testing services to administer the real estate broker's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of such examination.

(B) No applicant for a real estate broker's license shall take the broker's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude, or if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant's activities and employment record since the adjudication show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will again violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to, this chapter, or, if the applicant has violated any such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) Has been a licensed real estate broker or salesperson for at least two years; during at least two of the five years preceding the person's application, has worked as a licensed real estate broker or salesperson for an average of at least thirty hours per week; and has completed one of the following:

(a) At least twenty real estate transactions, in which property was sold for another by the applicant while acting in the capacity of a real estate broker or salesperson;

(b) Such equivalent experience as is defined by rules adopted by the commission.

(6)(a) If licensed as a real estate salesperson prior to August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Thirty hours of classroom instruction in real estate practice;

(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Thirty hours of classroom instruction in real estate appraisal;

(iv) Thirty hours of classroom instruction in real estate finance;

(v) Three quarter hours, or its equivalent in semester hours, in financial management;

(vi) Three quarter hours, or its equivalent in semester hours, in human resource or personnel management;

(vii) Three quarter hours, or its equivalent in semester hours, in applied business economics;

(viii) Three quarter hours, or its equivalent in semester hours, in business law.

(b) If licensed as a real estate salesperson on or after August 1, 2001, successfully has completed at an institution of higher education all of the following:

(i) Forty hours of classroom instruction in real estate practice;

(ii) Forty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(iii) Twenty hours of classroom instruction in real estate appraisal;

(iv) Twenty hours of classroom instruction in real estate finance;

(v) The training in the amount of hours specified under divisions (B)(6)(a)(v), (vi), (vii), and (viii) of this section.

(c) Division (B)(6)(a) or (b) of this section does not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 2, 1972. Divisions (B)(6)(a)(v), (vi), (vii), and (viii) or division (B)(6)(b)(v) of this section do not apply to any applicant who holds a valid real estate salesperson's license issued prior to January 3, 1984.

(7) If licensed as a real estate salesperson on or after January 3, 1984, satisfactorily has completed a minimum of two years of post-secondary education, or its equivalent in semester or quarter hours, at an institution of higher education, and has fulfilled the requirements of division (B)(6)(a) or (b) of this section. The requirements of division (B)(6)(a) or (b) of this section may be included in the two years of post-secondary education, or its equivalent in semester or quarter hours, that is required by this division.

(C) Each applicant for a broker's license shall be examined in the principles of real estate practice, Ohio real estate law, and financing and appraisal, and as to the duties of real estate brokers and real estate salespersons, the applicant's knowledge of real estate transactions and instruments relating to them, and the canons of business ethics pertaining to them. The commission from time to time shall promulgate such canons and

cause them to be published in printed form.

(D) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. 12101. The contents of an examination shall be consistent with the requirements of division (B)(6) of this section and with the other specific requirements of this section. An applicant who has completed the requirements of division (B)(6) of this section at the time of application shall be examined no later than twelve months after the applicant is notified of admission to the examination.

(E) The superintendent may waive one or more of the requirements of this section in the case of an application from a nonresident real estate broker pursuant to a reciprocity agreement with the licensing authority of the state from which the nonresident applicant holds a valid real estate broker license.

(F) There shall be no limit placed on the number of times an applicant may retake the examination.

(G)(1) ~~Not earlier than the date of issue of a real estate broker's license to a licensee, but not later than twelve months after the date of issue of a real estate broker's license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion of ten hours of classroom instruction in real estate brokerage at an institution of higher education or any other institution that shall be completed in schools, seminars, and educational institutions that is are approved by the commission. That instruction shall include, but not be limited to, current issues in managing a real estate company or office~~ Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If the required proof of completion is not submitted to the superintendent within twelve months of the date a license is issued under this section, the license of the real estate broker is suspended automatically without the taking of any action by the superintendent. The broker's license shall not be reactivated by the superintendent until it is established, to the satisfaction of the superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent if the licensee fails to submit proof of completion of the education requirements specified under division (G)(1) of this section within twelve months of the date the license is suspended.

(2) If the license of a real estate broker is suspended pursuant to division (G)(1) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. However, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if all of the following occur:

(a) That broker subsequently submits satisfactory proof to the superintendent that the broker has complied with the requirements of division (G)(1) of this section and requests that the broker's license as a real estate broker be reactivated;

(b) The superintendent then reactivates the broker's license as a real estate broker;

(c) The associated real estate salesperson intends to continue to be associated with that broker and otherwise is in compliance with this chapter.

Sec. 4735.09. (A) Application for a license as a real estate salesperson shall be made to the superintendent of real estate on forms furnished by the superintendent and signed by the applicant. The application shall be in the form prescribed by the superintendent and shall contain such information as is required by this chapter and the rules of the Ohio real estate commission. The application shall be accompanied by the recommendation of the real estate broker with whom the applicant is associated or with whom the applicant intends to be associated, certifying that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, which conviction or adjudication the applicant has not disclosed to the superintendent, and recommending that the applicant be admitted to the real estate salesperson examination.

(B) A fee of sixty dollars shall accompany the application, which fee includes the fee for the initial year of the licensing period, if a license is issued. The initial year of the licensing period commences at the time the license is issued and ends on the applicant's first birthday thereafter. ~~The application fee shall be retained by the superintendent if the applicant is admitted to the examination for the license or the examination requirement is waived, but, if an applicant is not so admitted and a waiver is not involved, one half of the fee shall be retained by the superintendent to cover the expenses of processing the application and the other one half shall be returned to the applicant nonrefundable.~~ A fee of sixty dollars shall be charged by the superintendent for each successive application made by the

applicant. One dollar of each application fee shall be credited to the real estate education and research fund.

(C) There shall be no limit placed on the number of times an applicant may retake the examination.

(D) The superintendent, with the consent of the commission, may enter into an agreement with a recognized national testing service to administer the real estate salesperson's examination under the superintendent's supervision and control, consistent with the requirements of this chapter as to the contents of the examination.

If the superintendent, with the consent of the commission, enters into an agreement with a national testing service to administer the real estate salesperson's examination, the superintendent may require an applicant to pay the testing service's examination fee directly to the testing service. If the superintendent requires the payment of the examination fee directly to the testing service, each applicant shall submit to the superintendent a processing fee in an amount determined by the Ohio real estate commission pursuant to division (A)(1) of section 4735.10 of the Revised Code.

(E) The superintendent shall issue a real estate salesperson's license when satisfied that the applicant has received a passing score on each portion of the salesperson's examination as determined by rule by the real estate commission, except that the superintendent may waive one or more of the requirements of this section in the case of an applicant who is a licensed real estate salesperson in another state pursuant to a reciprocity agreement with the licensing authority of the state from which the applicant holds a valid real estate salesperson's license.

(F) No applicant for a salesperson's license shall take the salesperson's examination who has not established to the satisfaction of the superintendent that the applicant:

(1) Is honest, truthful, and of good reputation;

(2)(a) Has not been convicted of a felony or crime of moral turpitude or, if the applicant has been so convicted, the superintendent has disregarded the conviction because the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved;

(b) Has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate or, if the applicant has been so adjudged, at least two years have passed since the court decision and the

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superintendent has disregarded the adjudication because the applicant has proven, by a preponderance of the evidence, that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant again will violate the laws involved.

(3) Has not, during any period in which the applicant was licensed under this chapter, violated any provision of, or any rule adopted pursuant to this chapter, or, if the applicant has violated such provision or rule, has established to the satisfaction of the superintendent that the applicant will not again violate such provision or rule;

(4) Is at least eighteen years of age;

(5) If born after the year 1950, has a high school diploma or its equivalent as recognized by the state department of education;

~~(6)(a) If beginning instruction prior to August 1, 2001, has successfully completed at an institution of higher education all of the following:~~

~~(i) Thirty hours of classroom instruction in real estate practice;~~

~~(ii) Thirty hours of classroom instruction that includes the subjects of Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.~~

~~(iii) Thirty hours of classroom instruction in real estate appraisal;~~

~~(iv) Thirty hours of classroom instruction in real estate finance.~~

~~(b) Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the classroom instruction required by division (F)(6)(a) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.~~

~~(7) If beginning instruction, as determined by the superintendent, on or after August 1, 2001, has Has successfully completed at an institution of higher education all of the following:~~

~~(a) Forty hours of classroom instruction in real estate practice;~~

~~(b) Forty hours of classroom instruction that includes the subjects of~~

Ohio real estate law, municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination. If feasible, the classroom instruction in Ohio real estate law shall be taught by a member of the faculty of an accredited law school. If feasible, the classroom instruction in municipal, state, and federal civil rights law, new case law on housing discrimination, desegregation issues, and methods of eliminating the effects of prior discrimination shall be taught by a staff member of the Ohio civil rights commission who is knowledgeable with respect to those subjects. The requirements of this division do not apply to an applicant who is admitted to practice before the supreme court.

(c) Twenty hours of classroom instruction in real estate appraisal;

(d) Twenty hours of classroom instruction in real estate finance.

(G) ~~Not~~ Any person who has not been licensed as a real estate salesperson or broker within a four-year period immediately preceding the person's current application for the salesperson's examination shall have successfully completed the precicensure classroom instruction required by division (F)(6) of this section within a ten-year period immediately preceding the person's current application for the salesperson's examination.

(H) Not earlier than the date of issue of a real estate salesperson's license to a licensee, but not later than twelve months after the date of issue of a real estate salesperson license to a licensee, the licensee shall submit proof satisfactory to the superintendent, on forms made available by the superintendent, of the completion, at an institution of higher education or any other institution of ten hours of classroom instruction that shall be completed in schools, seminars, and educational institutions approved by the commission, of ten hours of classroom instruction in real estate courses that cover current issues regarding consumers, real estate practice, ethics, and real estate law. Approval of the curriculum and providers shall be granted according to rules adopted pursuant to section 4735.10 of the Revised Code.

If proof of completion of the required instruction is not submitted within twelve months of the date a license is issued under this section, the licensee's license is suspended automatically without the taking of any action by the superintendent. The superintendent immediately shall notify the broker with whom such salesperson is associated of the suspension of the salesperson's license. A salesperson whose license has been suspended under this division shall have twelve months after the date of the suspension of the salesperson's license to submit proof of successful completion of the instruction required under this division. No such license shall be reactivated by the superintendent until it is established, to the satisfaction of the

superintendent, that the requirements of this division have been met and that the licensee is in compliance with this chapter. A licensee's license is revoked automatically without the taking of any action by the superintendent when the licensee fails to submit the required proof of completion of the education requirements under division ~~(G)~~(H) of this section within twelve months of the date the license is suspended.

~~(H)~~(I) Examinations shall be administered with reasonable accommodations in accordance with the requirements of the "Americans with Disabilities Act of 1990," 104 Stat. 327, 42 U.S.C. ~~12101~~ 12189. The contents of an examination shall be consistent with the classroom instructional requirements of division (F)(6) ~~or (7)~~ of this section. An applicant who has completed the classroom instructional requirements of division (F)(6) ~~or (7)~~ of this section at the time of application shall be examined no later than twelve months after the applicant is notified of the applicant's admission to the examination.

Sec. 4735.10. (A)(1) The Ohio real estate commission may adopt reasonable rules in accordance with Chapter 119. of the Revised Code, necessary for implementing the provisions of this chapter relating, but not limited to, the following:

- (a) The form and manner of filing applications for ~~license~~ licensure;
- (b) Times and form of examination for license;
- (c) Placing an existing broker's license on deposit or a salesperson's license on an inactive status for an indefinite period;
- (d) Specifying the process by which a licensee may place the licensee's license on voluntary hold or resigned status;
- (e) Defining any additional license status that the commission determines is necessary and that is not otherwise defined in this chapter and establishing the process by which a licensee places the licensee's license in a status defined by the commission in the rules the commission adopts;

(f) Clarification of the activities that require a license under this chapter.

(2) The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code, for implementing the provisions of this chapter relating to the following:

- (a) The issuance, renewal, suspension, and revocation of licenses, other sanctions that may be imposed for violations of this chapter, the conduct of hearings related to these actions, and the process of reactivating a license;
- (b) ~~By not later than January 1, 2004, a~~ A three-year license and a three-year license renewal system;
- (c) Standards for the approval of the ten hour postlicensure courses as required by division (H) of section 4735.07 and division (H) of section

4735.09 of the Revised Code, courses of study required for licenses, ~~or~~ courses offered in preparation for license examinations, or courses required as continuing education for licenses.

(d) Guidelines to ensure that continuing education classes are open to all persons licensed under this chapter. The rules shall specify that an organization that sponsors a continuing education class may offer its members a reasonable reduction in the fees charged for the class.

(e) Requirements for trust accounts and property management accounts. The rules shall specify that:

(i) Brokerages engaged in the management of property for another may, pursuant to a written contract with the property owner, exercise signatory authority for withdrawals from property management accounts maintained in the name of the property owner. The exercise of authority for withdrawals does not constitute a violation of any provision of division (A) of section 4735.18 of the Revised Code.

(ii) The interest earned on property management trust accounts maintained in the name of the property owner or the broker shall be payable to the property owner unless otherwise specified in a written contract.

(f) Notice of renewal forms and filing deadlines;

(g) Special assessments under division (A) of section 4735.12 of the Revised Code.

(B) The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing standards and guidelines with which the superintendent of real estate shall comply in the exercise of the following powers:

(1) Appointment and recommendation of ancillary trustees under section 4735.05 of the Revised Code;

(2) Rejection of names proposed to be used by partnerships, associations, limited liability companies, limited liability partnerships, and corporations, under division (A) of section 4735.06 of the Revised Code;

(3) Acceptance and rejection of applications to take the broker and salesperson examinations and licensure, with appropriate waivers pursuant to division (E) of section 4735.07 and section 4735.09 of the Revised Code;

(4) Approval of applications of brokers to place their licenses ~~on deposit~~ in an inactive status and to become salespersons under section 4735.13 of the Revised Code;

(5) Appointment of hearing examiners under section 119.09 of the Revised Code;

(6) Acceptance and rejection of applications to take the foreign real estate dealer and salesperson examinations and licensure, with waiver of

examination, under sections 4735.27 and 4735.28 of the Revised Code;

(7) Qualification of foreign real estate under section 4735.25 of the Revised Code.

If at any time there is no rule in effect establishing a guideline or standard required by this division, the superintendent may adopt a rule in accordance with Chapter 119. of the Revised Code for such purpose.

(C) The commission or superintendent may hear testimony in matters relating to the duties imposed upon them, and the president of the commission and superintendent may administer oaths. The commission or superintendent may require other proof of the honesty, truthfulness, and good reputation of any person named in an application for a real estate broker's or real estate salesperson's license before admitting the applicant to the examination or issuing a license.

Sec. 4735.13. (A) Every real estate broker licensed under this chapter shall have and maintain a definite place of business in this state. A post office box address is not a definite place of business for purposes of this section. The license of a real estate broker shall be prominently displayed in the office or place of business of the broker, and no license shall authorize the licensee to do business except from the location specified in it. If the broker maintains more than one place of business within the state, the broker shall apply for and procure a duplicate license for each branch office maintained by the broker. Each branch office shall be in the charge of a licensed broker or salesperson. The branch office license shall be prominently displayed at the branch office location.

(B) The license of each real estate salesperson shall be mailed to and remain in the possession of the licensed broker with whom the salesperson is or is to be associated until the licensee places the license on inactive, voluntary hold, or resigned status or until the salesperson leaves the brokerage or is terminated. The broker shall keep each salesperson's license in a way that it can, and shall on request, be made immediately available for public inspection at the office or place of business of the broker. Except as provided in divisions (G) and (H) of this section, immediately upon the salesperson's leaving the association or termination of the association of a real estate salesperson with the broker, the broker shall return the salesperson's license to the superintendent of real estate.

The failure of a broker to return the license of a real estate salesperson or broker who leaves or who is terminated, via certified mail return receipt requested, within three business days of the receipt of a written request from the superintendent for the return of the license, is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

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(C) Any licensee ~~who~~ shall notify the superintendent in writing within fifteen days of any of the following occurrences:

(1) The licensee is convicted of a felony or,

(2) The licensee is convicted of a crime involving moral turpitude or of violating,

(3) The licensee is found to have violated any federal, state, or municipal civil rights law pertaining to discrimination in housing, or any court that issues a finding of an unlawful,

(4) The licensee is found to have engaged in a discriminatory practice pertaining to housing accommodations described in division (H) of section 4112.02 of the Revised Code or that convicts a,

(5) The licensee of a violation of is found to have violated any municipal civil rights law pertaining to housing discrimination, shall notify the superintendent of the conviction or finding within fifteen days. If,

(6) The licensee is the subject of an order by the department of commerce, the department of insurance, or the department of agriculture revoking or permanently surrendering any professional license, certificate, or registration.

(7) The licensee is the subject of an order by any government agency concerning real estate, financial matters, or the performance of fiduciary duties with respect to any license, certificate, or registration.

If a licensee fails to notify the superintendent within the required time, the superintendent immediately may ~~revoke~~ suspend the license of the licensee.

Any court that convicts a licensee of a violation of any municipal civil rights law pertaining to housing discrimination also shall notify the Ohio civil rights commission within fifteen days of the conviction.

(D) In case of any change of business location, a broker shall give notice ~~in writing~~ to the superintendent, on a form prescribed by the superintendent, within thirty days after the change of location, whereupon the superintendent shall issue new licenses for the unexpired period without charge. If a broker changes a business location without giving the required notice and without receiving new licenses that action is prima-facie evidence of misconduct under division (A)(6) of section 4735.18 of the Revised Code.

(E) If a real estate broker desires to associate with another real estate broker in the capacity of a real estate salesperson, the broker shall apply to the superintendent to deposit the broker's real estate broker's license with the superintendent and for the issuance of a real estate salesperson's license. The application shall be made on a form prescribed by the superintendent and

shall be accompanied by the recommendation of the real estate broker with whom the applicant intends to become associated and a fee of twenty-five dollars for the real estate salesperson's license. One dollar of the fee shall be credited to the real estate education and research fund. If the superintendent is satisfied that the applicant is honest, truthful, and of good reputation, has not been convicted of a felony or a crime involving moral turpitude, and has not been finally adjudged by a court to have violated any municipal, state, or federal civil rights laws relevant to the protection of purchasers or sellers of real estate, and that the association of the real estate broker and the applicant will be in the public interest, the superintendent shall grant the application and issue a real estate salesperson's license to the applicant. Any license so deposited with the superintendent shall be subject to this chapter. A broker who intends to deposit the broker's license with the superintendent, as provided in this section, shall give written notice of this fact in a format prescribed by the superintendent to all salespersons associated with the broker when applying to place the broker's license on deposit.

(F) If a real estate broker desires to become a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation that is or intends to become a licensed real estate broker, the broker shall notify the superintendent of the broker's intentions. The notice of intention shall be on a form prescribed by the superintendent and shall be accompanied by a fee of twenty-five dollars. One dollar of the fee shall be credited to the real estate education and research fund.

~~No~~ A licensed real estate broker who is a member or officer of a partnership, association, limited liability company, limited liability partnership, or corporation ~~that is a licensed real estate broker shall perform any acts only act~~ as a real estate broker ~~other than as the agent of the for such~~ partnership, association, limited liability company, limited liability partnership, or corporation, ~~and such broker shall not have any real estate salespersons associated with the broker.~~

(G) If a real estate broker or salesperson enters the armed forces, the broker or salesperson may place the broker's or salesperson's license on deposit with the Ohio real estate commission. The licensee shall not be required to renew the license until the renewal date that follows the date of discharge from the armed forces. Any license deposited with the commission shall be subject to this chapter. Any licensee whose license is on deposit under this division and who fails to meet the continuing education requirements of section 4735.141 of the Revised Code because the licensee is in the armed forces shall satisfy the commission that the licensee has complied with the continuing education requirements within

twelve months of the licensee's first birthday after discharge. The ~~commission~~ superintendent shall notify the licensee of the licensee's obligations under section 4735.141 of the Revised Code at the time the licensee applies for reactivation of the licensee's license.

(H) If a licensed real estate salesperson submits an application to the superintendent to leave the association of one broker to associate with a different broker, the broker possessing the licensee's license need not return the salesperson's license to the superintendent. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

Sec. 4735.14. (A) Each license issued under this chapter, shall be valid without further recommendation or examination until it is placed in an inactive, voluntary hold, or resigned status, is revoked or suspended, or such license expires by operation of law.

(B) Except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each licensed broker, brokerage, or salesperson shall file, on or before the date the Ohio real estate commission has adopted by rule for that licensee in accordance with division (A)(2)(f) of section 4735.10 of the Revised Code, a notice of renewal on a form prescribed by the superintendent of real estate. The notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the ~~most current~~ personal residence address of each broker or salesperson ~~as filed with the superintendent by the licensee and the place of business address of the brokerage that is on file with the division.~~ If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the notice of renewal shall be mailed by the superintendent two months prior to the filing deadline to the brokerage's business address on file with the division. A licensee shall not renew the licensee's license any earlier than two months prior to the filing deadline.

(C) Except as otherwise provided in division (B) of this section, the license of any real estate broker, brokerage, or salesperson that fails to file a notice of renewal on or before the filing deadline of each ensuing year shall be suspended automatically without the taking of any action by the superintendent. A suspended license may be reactivated within twelve months of the date of suspension, provided that the renewal fee plus a penalty fee of fifty per cent of the renewal fee is paid to the superintendent. Failure to reactivate the license as provided in this division shall result in automatic revocation of the license without the taking of any action by the superintendent. No person, partnership, association, corporation, limited

liability company, or limited partnership shall engage in any act or acts for which a real estate license is required while that entity's license is placed in an inactive, voluntary hold, or resigned status, or is suspended, or revoked. The commission shall adopt rules in accordance with Chapter 119. of the Revised Code to provide to licensees notice of suspension or revocation or both.

(D) Each licensee shall notify the commission of a change in personal residence address. A licensee's failure to notify the commission of a change in personal residence address does not negate the requirement to file the license renewal by the required deadline established by the commission by rule under division (A)(2)(f) of section 4735.10 of the Revised Code.

(E) The superintendent shall not renew a license if the licensee fails to comply with section 4735.141 of the Revised Code or is otherwise not in compliance with this chapter.

(F) The superintendent shall make notice of successful renewal available electronically to licensees as soon as practicable, but not later than thirty days after receipt by the division of a complete application and renewal fee. This notice shall serve as a notice of renewal for purposes of section 4745.02 of the Revised Code.

Sec. 4735.141. (A) Except as otherwise provided in this division and except for a licensee who has placed the licensee's license on voluntary hold or resigned status pursuant to section 4735.142 of the Revised Code, each person licensed under section 4735.07 or 4735.09 of the Revised Code shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed thirty hours of continuing education, as prescribed by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code, on or before the licensee's birthday occurring three years after the licensee's date of initial licensure, and on or before the licensee's birthday every three years thereafter.

Persons licensed as real estate salespersons who subsequently become licensed real estate brokers shall continue to submit proof of continuing education in accordance with the time period established in this section.

The requirements of this section shall not apply to any ~~physically handicapped~~ disabled licensee as provided in division (E) of this section.

Each licensee who is seventy years of age or older, within a continuing education reporting period, shall submit proof satisfactory to the superintendent of real estate that the licensee has satisfactorily completed a total of nine classroom hours of continuing education, including instruction in Ohio real estate law; recently enacted state and federal laws affecting the real estate industry; municipal, state, and federal civil rights law; and canons

of ethics for the real estate industry as adopted by the commission. The required proof of completion shall be submitted on or before the licensee's birthday that falls in the third year of that continuing education reporting period. A licensee who is seventy years of age or older whose license is in an inactive status is exempt from the continuing education requirements specified in this section. The commission shall adopt reasonable rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this paragraph.

(B) The continuing education requirements of this section shall be completed in schools, seminars, and educational institutions approved by the commission. Such approval shall be given according to rules established by the commission under the procedures of Chapter 119. of the Revised Code, and shall not be limited to institutions providing two-year or four-year degrees. Each school, seminar, or educational institution approved under this division shall be open to all licensees on an equal basis.

(C) If the requirements of this section are not met by a licensee within the period specified, the licensee's license shall be suspended automatically without the taking of any action by the superintendent. The superintendent shall notify the licensee of the license suspension, and such notification shall be sent by regular mail to the personal residence address of the licensee that is on file with the division. Any license so suspended shall remain suspended until it is reactivated by the superintendent. No such license shall be reactivated until it is established, to the satisfaction of the superintendent, that the requirements of this section have been met. If the requirements of this section are not met within twelve months from the date the license was suspended, the license shall be revoked automatically without the taking of any action by the superintendent.

(D) If the license of a real estate broker is suspended pursuant to division (C) of this section, the license of a real estate salesperson associated with that broker correspondingly is suspended pursuant to division (H) of section 4735.20 of the Revised Code. ~~However, the~~ A sole broker shall notify affiliated salespersons of the suspension in writing within three days of receiving the notice required by division (C) of this section.

(1) The suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation if ~~all of the following occur:~~

~~(1) That~~ that broker subsequently submits proof to the superintendent that the broker has complied with the requirements of this section and requests that the broker's license as a real estate broker be reactivated:

~~(2) The, and the~~ superintendent then reactivates the broker's license as a

real estate broker.

~~(3) The associated real estate salesperson intends to continue to be associated with that broker, has complied with the requirements of this section, and otherwise is in compliance with this chapter.~~

(2) If the real estate salesperson submits an application to leave the association of the suspended broker in order to associate with a different broker, the suspended license of the associated real estate salesperson shall be reactivated and no fee shall be charged or collected for that reactivation. The superintendent may process the application regardless of whether the licensee's license is returned to the superintendent.

~~Any person whose license is reactivated pursuant to this division shall submit proof satisfactory to the superintendent that the person has completed thirty hours of continuing education, as prescribed by the Ohio real estate commission, on or before the third year following the licensee's birthday occurring immediately after reactivation~~ comply with the requirements of this section and otherwise be in compliance with this chapter.

(E) Any licensee who is a ~~physically handicapped~~ disabled licensee at any time during the last three months of the third year of the licensee's continuing education reporting period may receive an extension of time as deemed appropriate by the superintendent to submit proof to the superintendent that the licensee has satisfactorily completed the required thirty hours of continuing education. To receive an extension of time, the licensee shall submit a request to the division of real estate for the extension and proof satisfactory to the commission that the licensee was a ~~physically handicapped~~ disabled licensee at some time during the last three months of the three-year reporting period. The proof shall include, but is not limited to, a signed statement by the licensee's attending physician describing the ~~physical~~ disability, certifying that the licensee's disability is of such a nature as to prevent the licensee from attending any instruction lasting at least three hours in duration, and stating the expected duration of the ~~physical~~ disability. The licensee shall request the extension and provide the physician's statement to the division no later than one month prior to the end of the licensee's three-year continuing education reporting period, unless the ~~physical~~ disability did not arise until the last month of the three-year reporting period, in which event the licensee shall request the extension and provide the physician's statement as soon as practical after the occurrence of the ~~physical~~ disability. A licensee granted an extension pursuant to this division who is no longer a ~~physically handicapped~~ disabled licensee and who submits proof of completion of the continuing education during the

extension period, shall submit, for future continuing education reporting periods, proof of completion of the continuing education requirements according to the schedule established in division (A) of this section.

(F) The superintendent shall not renew a license if the licensee fails to comply with this section, and the licensee shall be required to pay the penalty fee provided in section 4735.14 of the Revised Code.

(G) A licensee shall submit proof of completion of the required continuing education with the licensee's notice of renewal. The proof shall be submitted in the manner provided by the superintendent.

Sec. 4735.142. (A) Any person licensed under section 4735.07 or 4735.09 of the Revised Code, at any time prior to the date the licensee is required to file a notice of renewal pursuant to division (B) of section 4735.14 of the Revised Code may apply to the superintendent of real estate and professional licensing to place the licensee's license on voluntary hold or a resigned status.

(B) If the superintendent has placed a license on voluntary hold pursuant to a request made under division (A) of this section, the licensee who requested that the licensee's license be placed on voluntary hold may apply to the superintendent to reactivate that license within twelve months after the date the license is placed on voluntary hold. The superintendent shall reactivate that license if the licensee complies with the requirements for such reactivation that are specified in rules adopted by the Ohio real estate commission pursuant to division (A) of section 4735.10 of the Revised Code and satisfies all of the following requirements:

(1) The licensee complies with the postlicensure education requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable;

(2) The licensee complies with the continuing education requirements specified in section 4735.141 of the Revised Code;

(3) The licensee renews the licensee's license in accordance with section 4735.14 of the Revised Code and, if applicable, pays the annual brokerage assessment fee in accordance with the requirements specified in rules adopted by the commission.

(C) If a licensee does not apply to reactivate a license on voluntary hold pursuant to division (B) of this section during the twelve-month time period specified in that division or does not satisfy the requirements specified in that division during that twelve-month period, the superintendent shall consider that license to be in a resigned status. The superintendent shall not reactivate a resigned license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to this division wishes to

obtain an active license, the person shall apply for an active license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable.

(D) A licensee, at any time during which a license has been suspended pursuant to division (G) of section 4735.07, division ~~(G)~~(H) of section 4735.09, division (E) of section 4735.12, division (C) of section 4735.14, division (C) of section 4735.141, or section 4735.182 of the Revised Code, may apply to the superintendent on a form prescribed by the superintendent to voluntarily resign the licensee's license. The resignation of a license is considered to be final without the taking of any action by the superintendent. If a person whose license is in a resigned status pursuant to a request made under this division wishes to obtain an active or inactive license, the person shall apply for such a license in accordance with the requirements specified in section 4735.07 or 4735.09 of the Revised Code, as applicable, or in the rules adopted by the commission pursuant to division (A) of section 4735.10 of the Revised Code.

(E) If placing a broker's license on voluntary hold or a resigned status will result in the closure of the broker's brokerage, the broker, within three days after applying to the superintendent to place the license on voluntary hold or a resigned status, shall provide to each salesperson associated with that broker a written notice stating that fact.

(F) This section does not apply to any licensee whose license has been suspended pursuant to division (F) of section 4735.181 of the Revised Code or due to disciplinary action ordered by the commission pursuant to section 4735.051 of the Revised Code.

Sec. 4735.15. (A) The nonrefundable fees for reactivation or transfer of a license shall be as follows:

(1) Reactivation or transfer of a broker's license into or out of a partnership, association, limited liability company, limited liability partnership, or corporation or from one partnership, association, limited liability company, limited liability partnership, or corporation to another partnership, association, limited liability company, limited liability partnership, or corporation, twenty-five dollars. An application for such transfer shall be made to the superintendent of real estate on forms provided by the superintendent.

(2) Reactivation or transfer of a license by a real estate salesperson, twenty-five dollars.

(B) Except as may otherwise be specified pursuant to division (F) of this section, the nonrefundable fees for a branch office license, license renewal, late filing, and foreign real estate dealer and salesperson license are as

follows per year for each year of a licensing period:

- (1) Branch office license, fifteen dollars;
- (2) Renewal of a real estate broker's license, sixty dollars. If the licensee is a partnership, association, limited liability company, limited liability partnership, or corporation, the full broker's renewal fee shall be required for each member of such partnership, association, limited liability company, limited liability partnership, or corporation that is a real estate broker. If the real estate broker has not less than eleven nor more than twenty real estate salespersons associated with the broker, an additional fee of sixty-four dollars shall be assessed to the brokerage. For every additional ten real estate salespersons or fraction of that number, the brokerage assessment fee shall be increased in the amount of thirty-seven dollars.
- (3) Renewal of a real estate salesperson's license, forty-five dollars;
- (4) Renewal of a real estate broker's or salesperson's license filed within twelve months after the licensee's renewal date, an additional late filing penalty of fifty per cent of the required fee;
- (5) Foreign real estate dealer's license and each renewal of the license, thirty dollars per salesperson employed by the dealer, but not less than one hundred fifty dollars;
- (6) Foreign real estate salesperson's license and each renewal of the license, fifty dollars.

(C) All fees collected under this section shall be paid to the treasurer of state. One dollar of each such fee shall be credited to the real estate education and research fund, except that for fees that are assessed only once every three years, three dollars of each triennial fee shall be credited to the real estate education and research fund.

(D) In all cases, the fee and any penalty shall accompany the application for the license, license transfer, or license reactivation or shall accompany the filing of the renewal.

(E) The commission may establish by rule reasonable fees for services not otherwise established by this chapter.

(F) The commission may adopt rules that provide for a reduction in the fees established in divisions (B)(2) and (3) of this section.

Sec. 4735.16. (A) Every real estate broker licensed under this chapter ~~shall have and maintain a definite place of business in this state and~~ shall erect or maintain a sign on the business premises plainly stating that the licensee is a real estate broker. If the real estate broker maintains one or more branch offices, the real estate broker shall erect or maintain a sign at each branch office plainly stating that the licensee is a real estate broker.

(B)(1) Any licensed real estate broker or salesperson who advertises to

buy, sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, ~~including, but not limited to, any licensed real estate broker or salesperson who advertises to sell, exchange, or lease real estate that the licensee owns with respect to property the licensee does not own, shall be identified in the advertisement by name and by indicating that the licensee is a real estate broker or real estate salesperson. Except a real estate salesperson who advertises the sale, exchange, or lease of real estate that the salesperson owns and that is not listed for sale, exchange, or lease with a real estate broker, any real estate salesperson who advertises, as provided in this section, also shall indicate in the advertisement the name of the broker under whom the salesperson is licensed and the fact that the salesperson's broker is a real estate broker. The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement indicate the name of the brokerage with which the licensee is affiliated.~~

(2) Any licensed real estate broker or sales person who advertises to sell, exchange, or lease real estate, or to engage in any act regulated by this chapter, with respect to property that the licensee owns, shall be identified in the advertisement by name and indicate that the property is agent owned, and if the property is listed with a real estate brokerage, the advertisement shall also indicate the name of the brokerage with which the property is listed.

(3) The name of the brokerage shall be displayed in equal prominence with the name of the salesperson in the advertisement. For purposes of this section, "brokerage" means the name the real estate company or sole broker is doing business as, or if the real estate company or sole broker does not use such a name, the name of the real estate company or sole broker as licensed.

(4) A real estate broker who is representing a seller under an exclusive right to sell or lease listing agreement shall not advertise such property to the public as "for sale by owner" or otherwise mislead the public to believe that the seller is not represented by a real estate broker.

~~(3)~~(5) If any real estate broker or real estate salesperson advertises in a manner other than as provided in this section or the rules adopted under this section, that advertisement is prima-facie evidence of a violation under division (A)(21) of section 4735.18 of the Revised Code.

When the superintendent determines that prima-facie evidence of a violation of division (A)(21) of section 4735.18 of the Revised Code or any of the rules adopted thereunder exists, the superintendent may do either of the following:

(a) Initiate disciplinary action under section 4735.051 of the Revised

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Code for a violation of division (A)(21) of section 4735.18 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(b) Personally, or by certified mail, serve a citation upon the licensee.

(C)(1) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of two hundred dollars per violation, not to exceed two thousand five hundred dollars per citation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(2) If any licensee is cited three times within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

(3) If a licensee fails to request a hearing within thirty days of the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(4) Unless otherwise indicated, the licensee named in a final citation must meet all requirements contained in the final citation within thirty days of the effective date of that citation.

(5) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (C)(4) of this section.

(D) A real estate broker or salesperson obtaining the signature of a party to a listing or other agreement involved in a real estate transaction shall furnish a copy of the listing or other agreement to the party immediately after obtaining the party's signature. Every broker's office shall prominently display in the same immediate area as licenses are displayed a statement that it is illegal to discriminate against any person because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, national origin, military status as defined in that section, disability as defined in that section, or ancestry in the sale or rental of housing or residential lots, in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services and that blockbusting also is illegal. The statement shall bear the United States department of housing and urban development equal housing logo, shall contain the information that the broker and the broker's salespersons are licensed by the division of real estate and professional licensing and that the division can assist with any consumer complaints or inquiries, and shall explain the provisions of section 4735.12 of the Revised Code. The

statement shall provide the division's address and telephone number. The Ohio real estate commission shall provide by rule for the wording and size of the statement. The pamphlet required under section 4735.03 of the Revised Code shall contain the same statement that is required on the statement displayed as provided in this section and shall be made available by real estate brokers and salespersons to their clients. The commission shall provide the wording and size of the pamphlet.

Sec. 4735.17. Licenses may be issued under sections 4735.01 to 4735.23 of the Revised Code, to nonresidents of this state and to foreign corporations, subject to the following additional requirements:

(A) The licensee, if a broker, shall maintain an active place of business in this state. A post office box is not an active place of business for purposes of this section.

(B) Every nonresident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this state in which a cause of action may arise or in which the plaintiff may reside by the service of any process or pleading authorized by the laws of this state on the superintendent of real estate. The consent shall stipulate that such service shall be taken and held in all courts as valid and binding as if proper service had been made upon the applicant in this state. The instrument containing such consent shall be authenticated by signature or by corporate seal. All applications of firms or corporations shall be accompanied by a certified copy of the resolution of the proper officers or managing board authorizing the proper officer to execute them. A duplicate copy of any process or pleading served on the superintendent shall be immediately forwarded by certified mail to the main office of the licensee against which that process or pleading is directed.

Sec. 4735.18. (A) Subject to section 4735.32 of the Revised Code, the superintendent of real estate, upon the superintendent's own motion, may investigate the conduct of any licensee. Subject to section 4735.32 of the Revised Code, the Ohio real estate commission shall, ~~pursuant to section 4735.051 of the Revised Code,~~ impose disciplinary sanctions upon any licensee who, whether or not acting in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found to have been convicted of a felony or a crime of moral turpitude, and ~~shall, pursuant to section 4735.051 of the Revised Code,~~ may impose disciplinary sanctions upon any licensee who, in the licensee's capacity as a real estate broker or salesperson, or in handling the licensee's own property, is found guilty of:

(1) Knowingly making any misrepresentation;

(2) Making any false promises with intent to influence, persuade, or induce;

(3) A continued course of misrepresentation or the making of false promises through agents, salespersons, advertising, or otherwise;

(4) Acting for more than one party in a transaction except as permitted by and in compliance with section 4735.71 of the Revised Code;

(5) Failure within a reasonable time to account for or to remit any money coming into the licensee's possession which belongs to others;

(6) Dishonest or illegal dealing, gross negligence, incompetency, or misconduct;

(7)(a) By final adjudication by a court, a violation of any municipal or federal civil rights law relevant to the protection of purchasers or sellers of real estate or, by final adjudication by a court, any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate, in the licensee's practice as a licensed real estate broker or salesperson;

(b) A second or subsequent violation of any unlawful discriminatory practice pertaining to the purchase or sale of real estate prohibited by Chapter 4112. of the Revised Code or any second or subsequent violation of municipal or federal civil rights laws relevant to purchasing or selling real estate whether or not there has been a final adjudication by a court, provided that such violation arose out of a situation wherein parties were engaged in bona fide efforts to purchase, sell, or lease real estate. For any second offense under this division, the commission shall suspend for a minimum of two months or revoke the license of the broker or salesperson. For any subsequent offense, the commission shall revoke the license of the broker or salesperson.

(8) Procuring a license under this chapter, for the licensee or any salesperson by fraud, misrepresentation, or deceit;

(9) Having violated or failed to comply with any provision of sections 4735.51 to 4735.74 of the Revised Code or having willfully disregarded or violated any other provisions of this chapter;

(10) As a real estate broker, having demanded, without reasonable cause, other than from a broker licensed under this chapter, a commission to which the licensee is not entitled, or, as a real estate salesperson, having demanded, without reasonable cause, a commission to which the licensee is not entitled;

(11) Except as permitted under section 4735.20 of the Revised Code,

having paid commissions or fees to, or divided commissions or fees with, anyone not licensed as a real estate broker or salesperson under this chapter or anyone not operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(12) Having falsely represented membership in any real estate professional association of which the licensee is not a member;

(13) Having accepted, given, or charged any undisclosed commission, rebate, or direct profit on expenditures made for a principal;

(14) Having offered anything of value other than the consideration recited in the sales contract as an inducement to a person to enter into a contract for the purchase or sale of real estate or having offered real estate or the improvements on real estate as a prize in a lottery or scheme of chance;

(15) Having acted in the dual capacity of real estate broker and undisclosed principal, or real estate salesperson and undisclosed principal, in any transaction;

(16) Having guaranteed, authorized, or permitted any person to guarantee future profits which may result from the resale of real property;

(17) Having advertised or placed a sign on any property offering it for sale or for rent without the consent of the owner or the owner's authorized agent;

(18) Having induced any party to a contract of sale or lease to break such contract for the purpose of substituting in lieu of it a new contract with another principal;

(19) Having negotiated the sale, exchange, or lease of any real property directly with a seller, purchaser, lessor, or tenant knowing that such seller, purchaser, lessor, or tenant is represented by another broker under a written exclusive agency agreement, exclusive right to sell or lease listing agreement, or exclusive purchaser agency agreement with respect to such property except as provided for in section 4735.75 of the Revised Code;

(20) Having offered real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized agent, or on any terms other than those authorized by the owner or the owner's authorized agent;

(21) Having published advertising, whether printed, radio, display, or of any other nature, which was misleading or inaccurate in any material particular, or in any way having misrepresented any properties, terms, values, policies, or services of the business conducted;

(22) Having knowingly withheld from or inserted in any statement of account or invoice any statement that made it inaccurate in any material particular;

(23) Having published or circulated unjustified or unwarranted threats of legal proceedings which tended to or had the effect of harassing competitors or intimidating their customers;

(24) Having failed to keep complete and accurate records of all transactions for a period of three years from the date of the transaction, such records to include copies of listing forms, earnest money receipts, offers to purchase and acceptances of them, records of receipts and disbursements of all funds received by the licensee as broker and incident to the licensee's transactions as such, and records required pursuant to divisions (C)(4) and (5) of section 4735.20 of the Revised Code, and any other instruments or papers related to the performance of any of the acts set forth in the definition of a real estate broker;

(25) Failure of a real estate broker or salesperson to furnish all parties involved in a real estate transaction true copies of all listings and other agreements to which they are a party, at the time each party signs them;

(26) Failure to maintain at all times a special or trust bank account in a depository located in this state. The account shall be noninterest-bearing, separate and distinct from any personal or other account of the broker, and, except as provided in division (A)(27) of this section, shall be used for the deposit and maintenance of all escrow funds, security deposits, and other moneys received by the broker in a fiduciary capacity. The name, account number, if any, and location of the depository wherein such special or trust account is maintained shall be submitted in writing to the superintendent. Checks drawn on such special or trust bank accounts are deemed to meet the conditions imposed by section 1349.21 of the Revised Code. Funds deposited in the trust or special account in connection with a purchase agreement shall be maintained in accordance with section 4735.24 of the Revised Code.

(27) Failure to maintain at all times a special or trust bank account in a depository in this state, to be used exclusively for the deposit and maintenance of all rents, security deposits, escrow funds, and other moneys received by the broker in a fiduciary capacity in the course of managing real property. This account shall be separate and distinct from any other account maintained by the broker. The name, account number, and location of the depository shall be submitted in writing to the superintendent. This account may earn interest, which shall be paid to the property owners on a pro rata basis.

Division (A)(27) of this section does not apply to brokers who are not engaged in the management of real property on behalf of real property owners.

(28) Having failed to put definite expiration dates in all written agency agreements to which the broker is a party;

(29) Having an unsatisfied final judgment or lien in any court of record against the licensee arising out of the licensee's conduct as a licensed broker or salesperson;

(30) Failing to render promptly upon demand a full and complete statement of the expenditures by the broker or salesperson of funds advanced by or on behalf of a party to a real estate transaction to the broker or salesperson for the purpose of performing duties as a licensee under this chapter in conjunction with the real estate transaction;

(31) Failure within a reasonable time, after the receipt of the commission by the broker, to render an accounting to and pay a real estate salesperson the salesperson's earned share of it;

(32) Performing any service for another constituting the practice of law, as determined by any court of law;

(33) Having been adjudicated incompetent for the purpose of holding the license by a court, as provided in section 5122.301 of the Revised Code. A license revoked or suspended under this division shall be reactivated upon proof to the commission of the removal of the disability.

(34) Having authorized or permitted a person to act as an agent in the capacity of a real estate broker, or a real estate salesperson, who was not then licensed as a real estate broker or real estate salesperson under this chapter or who was not then operating as an out-of-state commercial real estate broker or salesperson under section 4735.022 of the Revised Code;

(35) Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration;

(36) Having failed to inform the licensee's client of the existence of an offer or counteroffer or having failed to present an offer or counteroffer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law;

(37) Having failed to comply with section 4735.24 of the Revised Code.

(B) Whenever the commission, pursuant to section 4735.051 of the Revised Code, imposes disciplinary sanctions for any violation of this section, the commission also may impose such sanctions upon the broker with whom the salesperson is affiliated if the commission finds that the broker had knowledge of the salesperson's actions that violated this section.

(C) The commission shall, pursuant to section 4735.051 of the Revised Code, impose disciplinary sanctions upon any foreign real estate dealer or salesperson who, in that capacity or in handling the dealer's or salesperson's

own property, is found guilty of any of the acts or omissions specified or comprehended in division (A) of this section insofar as the acts or omissions pertain to foreign real estate. If the commission imposes such sanctions upon a foreign real estate salesperson for a violation of this section, the commission also may suspend or revoke the license of the foreign real estate dealer with whom the salesperson is affiliated if the commission finds that the dealer had knowledge of the salesperson's actions that violated this section.

(D) The commission may suspend, in whole or in part, the imposition of the penalty of suspension of a license under this section.

~~(E) The commission immediately shall notify the real estate appraiser board of any disciplinary action taken under this section against a licensee who also is a state-certified real estate appraiser under Chapter 4763. of the Revised Code.~~

Sec. 4735.181. (A) No real estate broker or salesperson licensed pursuant to this chapter shall fail to comply with divisions (B) or (D) of section 4735.13, division (D) of section 4735.14, or sections 4735.55, 4735.56, and 4735.58 of the Revised Code or any rules adopted under those divisions or sections.

(B) When the superintendent determines that a licensee has violated division (A) of this section, the superintendent may do either of the following:

(1) Initiate disciplinary action under section 4735.051 of the Revised Code, in accordance with Chapter 119. of the Revised Code;

(2) Personally, or by certified mail, serve a citation and impose sanctions in accordance with this section upon the licensee.

(C) Every citation served under this section shall give notice to the licensee of the alleged violation or violations charged and inform the licensee of the opportunity to request a hearing in accordance with Chapter 119. of the Revised Code. The citation also shall contain a statement of a fine of up to two hundred dollars per violation. All fines collected pursuant to this section shall be credited to the real estate recovery fund, created in the state treasury under section 4735.12 of the Revised Code.

(D) If any licensee is cited three times under this section within twelve consecutive months, the superintendent shall initiate disciplinary action pursuant to section 4735.051 of the Revised Code for any subsequent violation that occurs within the same twelve-month period.

If a licensee fails to request a hearing within thirty days after the date of service of the citation, or the licensee and the superintendent fail to reach an alternative agreement, the citation shall become final.

(E) Unless otherwise indicated, the licensee named in a final citation under this section must meet all requirements contained in the final citation within thirty days after the effective date of that citation.

(F) The superintendent shall suspend automatically a licensee's license if the licensee fails to comply with division (E) of this section.

Sec. 4735.182. If a check or other draft instrument used to pay any fee required under this chapter is returned to the superintendent ~~for insufficient funds~~ unpaid by the financial institution upon which it is drawn for any reason, the superintendent shall notify the ~~licensee~~ entity or person that the check or other draft instrument was returned for insufficient funds ~~and~~.

(A) If the check or draft instrument was submitted by a licensee, the superintendent shall also notify the licensee that the licensee's license will be suspended unless the licensee, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the licensee does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent for insufficient funds unpaid by the financial institution upon which it is drawn for any reason, the license shall be suspended immediately without a hearing and the licensee shall cease activity as a licensee under this chapter.

(B) If the check or draft instrument was remitted by a person or entity applying to qualify foreign real estate or renew a property registration, the superintendent shall also notify the applicant that registration will be suspended, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of the fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the property registration shall be suspended immediately without a hearing and the applicant shall cease activity.

(C) If the check or draft instrument was remitted by an applicant for licensure, that application shall automatically be rejected or approval withdrawn, unless the applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

(D) If the check or draft instrument was remitted by an education course provider or course provider applicant, that application shall automatically be

rejected or approval withdrawn, unless applicant, within fifteen days after the mailing of the notice, submits the fee and a one-hundred-dollar fee to the superintendent. If the applicant does not submit both fees within that time period, or if any check or other draft instrument used to pay either of those fees is returned to the superintendent unpaid by the financial institution upon which it is drawn for any reason, the application shall be denied or approval withdrawn.

Sec. 4735.19. The Ohio real estate commission shall keep a record of its proceedings and, upon application of an interested party, or upon its own motion and notice to the interested parties, may ~~reverse, vacate, or modify~~ hold a hearing to consider reversing, vacating, or modifying its own orders. An application ~~to the commission to reverse, vacate, or modify an order~~ shall be filed with the division within fifteen days after the mailing of the notice of the order of the commission to the interested parties ~~pursuant to section 119.09 of the Revised Code. The commission may adopt rules in accordance with Chapter 119. of the Revised Code establishing the circumstances in which an interested party may request reconsideration.~~

Any applicant, ~~licensee, or complainant,~~ respondent dissatisfied with an order of the commission may appeal in accordance with Chapter 119. of the Revised Code.

Sec. 4735.20. (A) Except as provided in divisions (B), (C), and (G) of this section, no licensed real estate broker or licensed foreign real estate dealer shall pay a commission, fee, or other compensation for performing any of the acts specified in section 4735.01 of the Revised Code to any person who is not a licensed real estate broker or a licensed real estate salesperson or to any person who is not a licensed foreign real estate dealer or a licensed foreign real estate salesperson.

(B) A licensed real estate broker or licensed foreign real estate dealer may pay a commission to a licensed real estate broker or licensed foreign real estate dealer of another state or country and may receive a commission from a licensed real estate broker or licensed foreign real estate dealer of another state or country, but only when done in accordance with rules adopted by the Ohio real estate commission pursuant to section 4735.10 of the Revised Code.

(C) A licensed real estate broker may pay all or part of a fee, commission, or other compensation earned by an affiliated licensee to a partnership, association, limited liability company, limited liability partnership, or corporation that is not licensed as a real estate broker on the condition that all of the following conditions are satisfied:

(1) At least one of the partners, members, officers, or shareholders of

the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation holds a valid and active license issued under this chapter.

(2) At least one of the partners, members, officers, or shareholders of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation is the affiliated licensee who earned the fee, commission, or other compensation.

(3) The unlicensed partnership, association, limited liability company, limited liability partnership, or corporation does not engage in any of the acts specified in division (A) of section 4735.01 of the Revised Code.

(4) The broker verifies that the affiliated licensee complies with divisions (C)(1) and (2) of this section and keeps a record of this verification for a period of three years after the date of verification.

(5) The broker keeps a record of all of the following information for each transaction, for a period of three years after the date of the transaction:

(a) The name of the affiliated licensee who earned the fee, commission, or other compensation;

(b) The amount of the fee, commission, or other compensation that was earned;

(c) The name of the unlicensed partnership, association, limited liability company, limited liability partnership, or corporation to which the broker paid the affiliated licensee's fee, commission, or other compensation.

(D) Compliance with division (C) of this section does not relieve a broker described in that division of any obligations to supervise an affiliated licensee, or of any other requirements of this chapter or rules adopted pursuant to this chapter.

(E) Compliance with division (C) of this section does not render a broker described in that division or an affiliated licensee exempt from sections 4735.051, 4735.18, ~~or~~ and 4735.32 of the Revised Code, or immune from personal liability in a civil action against the broker or affiliated licensee for a violation of this chapter.

(F) No broker shall pay a fee, commission, or other compensation that is due to an affiliated licensee to a third-party creditor of the affiliated licensee.

(G) Any owner of any interest in foreign real estate may refer a prospective buyer to the person who sold the owner that foreign real estate with the expectation of receiving valuable consideration, if all of the following conditions are satisfied:

(1) The person who sold the owner that foreign real estate is selling qualified foreign real estate pursuant to section 4735.25 of the Revised Code.

(2) Any fee, commission, or other valuable consideration promised or collected during any period consisting of twelve consecutive months does not exceed one thousand dollars.

(3) The owner does not engage in referring prospective buyers of foreign real estate pursuant to this section in the ordinary course of business or as a regular business practice.

(4) The owner does not show the foreign real estate, discuss terms or conditions of purchasing the foreign real estate, or otherwise participate in negotiations with regard to the offering or sale of the foreign real estate.

(5) If a foreign real estate transaction is consummated with a buyer who was referred by the owner to the person who sold the owner that foreign real estate, the occurrence of the referral shall be disclosed by the person who sold the owner that foreign real estate.

(H) The suspension or revocation of a real estate broker's or foreign real estate dealer's license automatically shall suspend every real estate salesperson's or foreign real estate salesperson's license granted to any person by virtue of association with the broker or dealer whose license has been suspended or revoked, pending a change of broker or dealer and the issuance of a new license. Such new license shall be issued without charges, if granted during the same year in which the original license was granted.

(I) A violation of this section is cause for imposing disciplinary sanctions in accordance with the proceedings specified in sections 4735.051, 4735.18, and 4735.32 of the Revised Code.

(J) For purposes of this section, "affiliated licensee" means a person who holds a valid and active license issued under this chapter and who is associated with the broker that is paying a fee, commission, or other compensation at the time that that fee, commission, or other compensation is earned.

Sec. 4735.21. No right of action shall accrue to any person, partnership, association, or corporation for the collection of compensation for the performance of the acts mentioned in section 4735.01 of the Revised Code, without alleging and proving that such person, partnership, association, or corporation was licensed as a real estate broker or foreign real estate dealer. Nothing contained in this section shall prevent a right of action from accruing after the expiration of a real estate or foreign real estate license if the act giving rise to the cause of action was performed by a licensee prior to such expiration.

No real estate ~~salesman~~ salesperson or foreign real estate ~~salesman~~ salesperson shall collect any money in connection with any real estate or foreign real estate brokerage transaction, whether as a commission, deposit,

payment, rental, or otherwise, except in the name of and with the consent of the licensed real estate broker or licensed foreign real estate dealer under whom ~~he~~ the salesperson is licensed at the time the sales person earned the commission. Nor shall any real estate ~~salesman~~ salesperson or foreign real estate ~~salesman~~ salesperson commence or maintain any action for a commission or other compensation in connection with a real estate or foreign real estate brokerage transaction, against any person except a person licensed as a real estate broker or foreign real estate dealer under whom ~~he~~ the salesperson is licensed as a ~~salesman~~ salesperson at the time the cause of action arose.

A salesperson licensed under this chapter shall not sell, assign, or otherwise transfer the salesperson's interest in a commission or any portion thereof to an unlicensed person or entity. If a salesperson makes such assignment or transfer, the broker shall not pay the transferee or assignee any portion of the commission. No cause of action shall arise on behalf of any person against a broker for not paying an assignee or transferee any portion of such an assignment or transfer.

Sec. 4735.211. All fines imposed under section 4735.051 of the Revised Code, and all fees and charges collected under sections 4735.06, 4735.09, 4735.13, 4735.15, 4735.25, 4735.27, 4735.28, and 4735.29 of the Revised Code, except such fees as are paid to the real estate education and research fund and real estate recovery fund as provided in this chapter, shall be paid into the state treasury to the credit of the division of real estate operating fund, which is hereby created. All operating expenses of the division of real estate shall be paid from the division of real estate operating fund.

The division of real estate operating fund shall be assessed a proportionate share of the administrative costs of the department of commerce in accordance with procedures prescribed by the director of commerce and approved by the director of budget and management. Such assessments shall be paid from the division of real estate operating fund to the division of administration fund.

If funds in the division of real estate operating fund are determined by the director of commerce to be in excess of those necessary to fund all the expenses of the division in any biennium, ~~he shall~~ the director may pay the excess funds to the real estate education and research fund.

Sec. 4735.32. (A)(1) The Ohio real estate commission or the superintendent of real estate may commence, at any time within three years from the date on which an alleged violation of a provision of this or another chapter of the Revised Code occurred, any investigation that relates to the conduct of a licensed real estate broker, real estate salesperson, foreign real

estate dealer, or foreign real estate salesperson, that is authorized pursuant to section 1349.11, 4735.051, 4735.052, or 4735.18, or any other section of the Revised Code, and that is for purposes of determining whether ~~the a~~ a licensee, unlicensed person, or unlicensed entity has violated a provision of this or another chapter of the Revised Code and whether, as a consequence, ~~the a~~ a licensee's license should be suspended or revoked, or other disciplinary action taken, as provided in this or another chapter of the Revised Code. If such an investigation is not commenced within the three-year period, it shall be barred, and neither the commission nor the superintendent shall suspend or revoke the license of any licensee, or take other disciplinary action against any licensee, unlicensed person, or unlicensed entity because of the alleged violation of a provision of this or another chapter of the Revised Code that could have been the subject of the barred investigation.

(2) For purposes of division (A)(1) of this section, if an investigation that is authorized by section 4735.051 of the Revised Code is involved, it shall be considered to be commenced as of the date on which a person files ~~a the~~ the complaint with the division of real estate ~~pursuant to division (A) of that section.~~

(B) This section does not affect any criminal or civil liability that a licensed real estate broker, real estate salesperson, foreign real estate dealer, or foreign real estate salesperson, or any unlicensed person, may have under this or another chapter of the Revised Code or under the common law of this state.

Sec. 4735.55. (A) Each written agency agreement shall contain all of the following:

(1) An expiration date;

(2) A statement that it is illegal, pursuant to the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status as defined in section 4112.01 of the Revised Code, ancestry, military status as defined in that section, disability as defined in that section, or national origin or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services;

(3) A statement defining the practice known as "blockbusting" and stating that it is illegal;

(4) A copy of the United States department of housing and urban

development equal housing opportunity logotype, as set forth in 24 C.F.R. 109.30, as amended.

(B) Each written agency agreement shall contain a place for the licensee and the client to sign and date the agreement.

(C) A licensee shall furnish a copy of any written agency agreement to a client in a timely manner after the licensee and the client have signed and dated it.

Sec. 4735.58. (A)(1) A licensee who is a purchaser's agent or a seller's subagent working with a purchaser shall present the agency disclosure statement described in section 4735.57 of the Revised Code to the purchaser and request the purchaser to sign and date the statement no later than the preparation of an offer to purchase or lease, or a written request for a proposal to lease. The licensee shall deliver the statement signed by the purchaser to the seller's agent, or to the seller if the seller is not represented by an agent. Prior to presenting the seller with either a written offer to purchase or lease, or a written request for a proposal to lease, the seller's agent, or the purchaser's agent if the seller is not represented by an agent, shall present the agency disclosure statement to the seller and request the seller to sign and date the statement.

(2) A licensee shall indicate the accurate agency relationship on the agency disclosure statement.

(B) A licensee selling property at auction shall, prior to the auction, verbally disclose to the audience that the licensee represents the seller in the real estate transaction. The licensee shall provide the agency disclosure statement described in section 4735.57 of the Revised Code to the successful bidder prior to the bidder's signing a purchase contract.

(C) Evidence that a licensee has failed to comply with this section constitutes prima-facie evidence of misconduct in violation of division (A)(6) of section 4735.18 of the Revised Code.

(D) The disclosure requirements of this section do not apply in any of the following situations:

(1) The rental or leasing of residential premises as defined in section 5321.01 of the Revised Code, if the rental or lease agreement can be performed in eighteen months or less;

(2) The referral of a prospective purchaser or seller to another licensee;

(3) Transactions involving the sale, lease, or exchange of foreign real estate as defined in division (E) of section 4735.01 of the Revised Code;

(4) Transactions involving the sale of a cemetery lot or a cemetery interment right.

(E) The licensee is obligated to perform all duties imposed on a real

estate agent at common law except to the extent the duties are inconsistent with the duties prescribed in this chapter or are otherwise modified by agreement.

Sec. 4735.59. To change the party a licensee represents in a real estate transaction after an agency disclosure statement has been signed and dated or following verbal disclosure of the agency relationship, the licensee shall obtain written consent from the party originally represented to represent another party in the transaction. The licensee shall promptly notify all persons who had been notified of the original relationship.

The Ohio real estate commission may adopt rules in accordance with Chapter 119. of the Revised Code to provide for required disclosures when a licensee terminates an agency relationship and becomes a principal in the transaction.

Sec. 4735.62. In representing any client in an agency or subagency relationship, the licensee shall be a fiduciary of the client and shall use the licensee's best efforts to further the interest of the client including, but not limited to, doing all of the following:

- (A) Exercising reasonable skill and care in representing the client and carrying out the responsibilities of the agency relationship;
- (B) Performing the terms of any written agency agreement;
- (C) Following any lawful instructions of the client;
- (D) Performing all duties specified in this chapter in a manner that is loyal to the interest of the client;
- (E) Complying with all requirements of this chapter and other applicable statutes, rules, and regulations, including the Ohio fair housing law, division (H) of section 4112.02 of the Revised Code, and the federal fair housing law, 42 U.S.C.A. 3601, as amended;
- (F) Disclosing to the client any material facts of the transaction of which the licensee is aware or should be aware in the exercise of reasonable skill and care and that are not confidential information pursuant to a current or prior agency or dual agency relationship;
- (G) Advising the client to obtain expert advice related to material matters when necessary or appropriate;
- (H) Accounting in a timely manner for all moneys and property received in which the client has or may have an interest;
- (I) Keeping confidential all confidential information, unless the licensee is permitted to disclose the information pursuant to division (B) of section 4735.74 of the Revised Code. This requirement includes not disclosing confidential information to any licensee who is not an agent of the client.

Sec. 4735.68. (A) A licensee is not liable to any party for false

information that the licensee's client provided to the licensee and that the licensee in turn provided to another party in the real estate transaction, unless the licensee had actual knowledge that the information was false or acted with reckless disregard for the truth.

(B) No cause of action shall arise on behalf of any person against a client for any misrepresentation a licensee made while representing that client unless the client had actual knowledge of the licensee's misrepresentation.

(C) Knowledge of or information contained in a brokerage or an affiliated or past licensee's transaction records of any current or previous defect, adverse condition, or repair in real property shall not be imputed to that broker or to other licensees affiliated with that broker. No cause of action based on imputed knowledge shall accrue on behalf of any person against a broker or affiliated licensee for failure to disclose such defects, adverse condition, or repair.

Sec. 4735.71. (A) No licensee or brokerage shall participate in a dual agency relationship described in section 4735.70 of the Revised Code unless both the seller and the purchaser in the transaction have full knowledge of the dual representation and consent in writing to the dual representation on the agency disclosure statement described in section 4735.57 of the Revised Code. Before a licensee obtains the consent of any party to a dual agency relationship, the licensee shall disclose to both the purchaser and the seller all relevant information necessary to enable each party to make an informed decision as to whether to consent to the dual agency relationship. If, after consent is obtained, there is a material change in the information disclosed to the purchaser and the seller, the licensee shall disclose the change of information to the purchaser and the seller and give them an opportunity to revoke their consent.

(B) No brokerage shall participate in a dual agency relationship described in division (C) of section 4735.70 of the Revised Code, unless each of the following conditions is met:

(1) The brokerage has established a procedure under section 4735.54 of the Revised Code under which licensees, including management level licensees, who represent one client will not have access to and will not obtain confidential information concerning another client of the brokerage involved in the dual agency transaction.

(2) Each licensee fulfills the licensee's duties exclusively to the licensee's client.

(C) No salesperson or broker licensed under this chapter shall participate in a dual agency relationship in which the licensee is a party to

the transaction, either personally or as an officer or member of a partnership, association, limited liability company, limited liability partnership, or corporation that has an interest in the real property that is the subject of the transaction or an entity that has an intention of purchasing, leasing, or exchanging the real property.

Sec. 4735.74. Unless otherwise agreed in writing, a licensee owes no further duty to a client after performance of all duties or after any contract has terminated or expired, except for both of the following:

(A) Providing the client with an accounting of all moneys and property relating to the transaction;

(B) Keeping confidential all information received during the course of the transaction unless:

(1) The client permits disclosure;

(2) Disclosure is required by law or by court order;

(3) The information becomes public from a source other than the licensee;

(4) The information is necessary to prevent a crime the client intends to commit;

(5) Disclosure is necessary to defend the brokerage or its licensees against an accusation of wrongful conduct or to establish or defend a claim that a commission is owed on a transaction.

(6) Disclosure is regarding sales information requested by a registered appraiser assistant or a licensed or certified appraiser for the purposes of performing an appraisal. No cause of action shall arise on behalf of any person against a licensee for releasing information pursuant to this division.

Sec. 4736.12. (A) The state board of sanitarian registration shall charge the following fees:

(1) To apply as a sanitarian-in-training, eighty dollars;

(2) For sanitarians-in-training to apply for registration as sanitarians, eighty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(3) For persons other than sanitarians-in-training to apply for registration as sanitarians, including persons meeting the requirements of section 4736.16 of the Revised Code, one hundred sixty dollars. The applicant shall pay this fee only once regardless of the number of times the applicant takes an examination required under section 4736.08 of the Revised Code.

(4) The renewal fee for registered sanitarians shall be ~~seventy-four~~ eighty dollars.

(5) The renewal fee for sanitarians-in-training shall be ~~seventy-four~~ eighty dollars.

(6) For late application for renewal, ~~twenty-seven~~ an additional fifty dollars.

The board of sanitarian registration, with the approval of the controlling board, may establish fees in excess of the amounts provided in this section, provided that such fees do not exceed the amounts permitted by this section by more than fifty per cent.

(B) The board of sanitarian registration shall charge separate fees for examinations as required by section 4736.08 of the Revised Code, provided that the fees are not in excess of the actual cost to the board of conducting the examinations.

(C) The board of sanitarian registration may adopt rules establishing fees for all of the following:

(1) Application for the registration of a training agency approved under rules adopted by the board pursuant to section 4736.11 of the Revised Code and for the annual registration renewal of an approved training agency;

(2) Application for the review of continuing education hours submitted for the board's approval by approved training agencies or by registered sanitarians or sanitarians-in-training;

(3) Additional copies of pocket identification cards and wall certificates.

Sec. 4740.14. (A) There is hereby created within the department of commerce the residential construction advisory committee consisting of nine persons the director of commerce appoints. ~~Of the advisory committee's members, three~~ The advisory committee shall be made up of the following members:

(1) Three shall be general contractors who have recognized ability and experience in the construction of residential buildings, ~~two~~.

(2) Two shall be building officials who have experience administering and enforcing a residential building code, ~~one~~.

(3) One, chosen from a list of three names the Ohio fire chief's association submits, shall be from the fire service certified as a fire safety inspector who has at least ten years of experience enforcing fire or building codes, ~~one~~.

(4) One shall be a residential contractor who has recognized ability and experience in the remodeling and construction of residential buildings, ~~one~~.

(5) One shall be an architect registered pursuant to Chapter 4703. of the Revised Code, with recognized ability and experience in the architecture of residential buildings, ~~and one~~.

(6) One, chosen from a list of three names the Ohio municipal league

submits to the director, shall be a mayor of a municipal corporation in which the Ohio residential building code is being enforced in the municipal corporation by a certified building department.

~~(B) The director shall make appointments to the advisory committee within ninety days after May 27, 2005.~~

Terms of office shall be for three years, with each term ending on the date three years after the date of appointment. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. ~~The director shall fill a vacancy~~ Vacancies shall be filled in the manner provided for initial appointments. Any member appointed to fill a vacancy in an unexpired term shall hold office for the remainder of that term.

(C) The advisory committee shall do all of the following:

(1) Recommend to the board of building standards a building code for residential buildings. The committee shall recommend a code that it may model on a residential building code a national model code organization issues, with adaptations necessary to implement the code in this state. If the board of building standards decides not to adopt a code the committee recommends, the committee shall revise the code and resubmit it until the board adopts a code the committee recommends as the state residential building code;

(2) Advise the board regarding the establishment of standards for certification of building officials who enforce the state residential building code;

(3) Assist the board in providing information and guidance to residential contractors and building officials who enforce the state residential building code;

(4) Advise the board regarding the interpretation of the state residential building code;

(5) Provide other assistance the committee considers necessary;

(6) Provide the board with a written report of the committee's findings for each consideration required by division (D) of this section.

(D) The committee shall not make its recommendation to the board pursuant to divisions (C)(1), (2), and (4) of this section until the advisory committee has considered all of the following:

(1) The impact that the state residential building code may have upon the health, safety, and welfare of the public;

(2) The economic reasonableness of the residential building code;

(3) The technical feasibility of the residential building code;

(4) The financial impact that the residential building code may have on

the public's ability to purchase affordable housing.

(E) The advisory committee may provide the board with any rule the committee recommends to update or amend the state residential building code or any rule that the committee recommends to update or amend the state residential building code after receiving a petition described in division (A)(2) of section 3781.12 of the Revised Code.

(F) Members of the advisory committee shall receive no salary for the performance of their duties as members, but shall receive their actual and necessary expenses incurred in the performance of their duties as members of the advisory committee and shall receive a per diem for each day in attendance at an official meeting of the committee, to be paid from the labor operating fund in the state treasury, using fees collected in connection with residential buildings pursuant to division (F)(2) of section 3781.102 of the Revised Code and deposited in that fund.

(G) The advisory committee is not subject to divisions (A) and (B) of section 101.84 of the Revised Code.

Sec. 4757.31. (A) Subject to division (B) of this section, the counselor, social worker, and marriage and family therapist board shall establish, and may from time to time adjust, fees to be charged for the following:

(1) Examination for licensure as a professional clinical counselor, professional counselor, marriage and family therapist, independent marriage and family therapist, social worker, or independent social worker;

(2) Initial licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers, except that the board shall charge only one fee to a person who fulfills all requirements for more than one of the following initial licenses: an initial license as a social worker or independent social worker, an initial license as a professional counselor or professional clinical counselor, and an initial license as a marriage and family therapist or independent marriage and family therapist;

(3) Initial certificates of registration of social work assistants;

(4) Renewal and late renewal of licenses of professional clinical counselors, professional counselors, marriage and family therapists, independent marriage and family therapists, social workers, and independent social workers and renewal and late renewal of certificates of registration of social work assistants;

(5) Verification, to another jurisdiction, of a license or registration issued by the board;

(6) Continuing education programs offered by the board to licensees or registrants;

(7) Approval of continuing education programs:

(8) Approval of continuing education providers to be authorized to offer continuing education programs without prior approval from the board for each program offered:

(9) Issuance of a replacement copy of any wall certificate issued by the board.

(B) The fees charged under division (A)(1) of this section shall be established in amounts sufficient to cover the direct expenses incurred in examining applicants for licensure. The fees charged under divisions (A)(2) to ~~(6)~~(9) of this section shall be nonrefundable and shall be established in amounts sufficient to cover the necessary expenses in administering this chapter and rules adopted under it that are not covered by fees charged under division (A)(1) or (C) of this section. The renewal fee for a license or certificate of registration shall not be less than the initial fee for that license or certificate. The fees charged for licensure and registration and the renewal of licensure and registration may differ for the various types of licensure and registration, but shall not exceed one hundred twenty-five dollars each, unless the board determines that amounts in excess of one hundred twenty-five dollars are needed to cover its necessary expenses in administering this chapter and rules adopted under it and the amounts in excess of one hundred twenty-five dollars are approved by the controlling board.

(C) All receipts of the board shall be deposited in the state treasury to the credit of the occupational licensing and regulatory fund. All vouchers of the board shall be approved by the chairperson or executive director of the board, or both, as authorized by the board.

Sec. 4776.01. As used in this chapter:

(A) "License" means any of the following:

(1) An authorization evidenced by a license, certificate, registration, permit, card, or other authority that is issued or conferred by a licensing agency described in division (C)(1) of this section to a licensee or to an applicant for an initial license by which the licensee or initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity, or to have control of and operate certain specific equipment, machinery, or premises, over which the licensing agency has jurisdiction.

(2) An authorization evidenced by a license or certificate that is issued by a licensing agency described in division (C)(2) of this section pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code to a licensee or to an applicant for an initial license by which the licensee or

initial license applicant has or claims the privilege to engage in a profession, occupation, or occupational activity over which the licensing agency has jurisdiction.

(B) "Licensee" means the person to whom the license is issued by a licensing agency.

(C) "Licensing agency" means any of the following:

(1) The board authorized by Chapters 4701., 4717., 4725., 4729., 4730., 4731., 4732., 4734., 4740., 4741., 4755., 4757., 4759., 4760., 4761., 4762., and 4779. of the Revised Code to issue a license to engage in a specific profession, occupation, or occupational activity, or to have charge of and operate certain specified equipment, machinery, or premises.

(2) The state dental board, relative to its authority to issue a license pursuant to section 4715.12, 4715.16, 4715.21, or 4715.27 of the Revised Code.

(D) "Applicant for an initial license" includes persons seeking a license for the first time and persons seeking a license by reciprocity, endorsement, or similar manner of a license issued in another state.

(E) "Applicant for a restored license" includes persons seeking restoration of a certificate under section 4730.14, 4731.281, 4760.06, or 4762.06 of the Revised Code.

(F) "Criminal records check" has the same meaning as in ~~division (E) of~~ section 109.572 of the Revised Code.

Sec. 4906.01. As used in Chapter 4906. of the Revised Code:

(A) "Person" means an individual, corporation, business trust, association, estate, trust, or partnership or any officer, board, commission, department, division, or bureau of the state or a political subdivision of the state, or any other entity.

(B)(1) "Major utility facility" means:

~~(1)~~(a) Electric generating plant and associated facilities designed for, or capable of, operation at a capacity of fifty megawatts or more;

~~(2)~~(b) An electric transmission line and associated facilities of a design capacity of one hundred twenty-five kilovolts or more;

~~(3)~~(c) A gas or natural gas transmission line and associated facilities designed for, or capable of, transporting gas or natural gas at pressures in excess of one hundred twenty-five pounds per square inch.

(2) "Major utility facility" does not include electric gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, any solid waste facilities as defined in section 6123.01 of the Revised Code, or either of the following as defined by the power siting board:

~~(a) Electric, gas, natural gas distributing lines and gas or natural gas gathering lines and associated facilities as defined by the power siting board, nor gas or natural gas transmission lines over which an agency of the United States has exclusive jurisdiction, nor any solid waste facilities as defined in section 6123.01 of the Revised Code;~~

(b) Any manufacturing facility that creates byproducts that may be used in the generation of electricity.

(C) "Commence to construct" means any clearing of land, excavation, or other action that would adversely affect the natural environment of the site or route of a major utility facility, but does not include surveying changes needed for temporary use of sites or routes for nonutility purposes, or uses in securing geological data, including necessary borings to ascertain foundation conditions.

(D) "Certificate" means a certificate of environmental compatibility and public need issued by the power siting board under section 4906.10 of the Revised Code or a construction certificate issued by the board under rules adopted under division (E) of section 4906.03 of the Revised Code.

Sec. 4911.02. (A) The consumers' counsel shall be appointed by the consumers' counsel governing board, and shall hold office at the pleasure of the board.

(B)(1) The counsel may sue or be sued and has the powers and duties granted ~~him~~ the counsel under this chapter, and all necessary powers to carry out the purposes of this chapter.

(2) Without limitation because of enumeration, the counsel:

(a) Shall have all the rights and powers of any party in interest appearing before the public utilities commission regarding examination and cross-examination of witnesses, presentation of evidence, and other matters;

(b) May take appropriate action with respect to residential consumer complaints concerning quality of service, service charges, and the operation of the public utilities commission;

(c) May institute, intervene in, or otherwise participate in proceedings in both state and federal courts and administrative agencies on behalf of the residential consumers concerning review of decisions rendered by, or failure to act by, the public utilities commission;

(d) May conduct long range studies concerning various topics relevant to the rates charged to ~~residential~~ residential consumers.

(C) The counsel shall follow the policies of the state as set forth in Chapter 4929. of the Revised Code that involve supporting retail natural gas competition.

Sec. 4911.021. The consumers' counsel shall not operate a telephone

call center for consumer complaints. Any calls received by the consumers' counsel concerning consumer complaints shall be forwarded to the public utilities commission's call center.

Sec. 4927.17. (A) Except as provided in sections 4927.07 and 4927.12 of the Revised Code ~~and, if applicable, under rules adopted by the public utilities commission for the pilot program for community voicemail service created in S.B. 162 of the 128th general assembly,~~ a telephone company shall provide at least fifteen days' advance notice to its affected customers of any material change in the rates, terms, and conditions of a service and any change in the company's operations that are not transparent to customers and may impact service.

(B) A telephone company shall inform its customers of the commission's toll-free number and e-mail address on all bills and disconnection notices and any residential customers of the office of the consumers' counsel's toll-free number and e-mail address on all residential bills and disconnection notices.

Sec. 4928.20. (A) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, on or after the starting date of competitive retail electric service, it may aggregate in accordance with this section the retail electrical loads located, respectively, within the municipal corporation, township, or unincorporated area of the county and, for that purpose, may enter into service agreements to facilitate for those loads the sale and purchase of electricity. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For customers that are not mercantile customers, an ordinance or resolution under this division shall specify whether the aggregation will occur only with the prior, affirmative consent of each person owning, occupying, controlling, or using an electric load center proposed to be aggregated or will occur automatically for all such persons pursuant to the opt-out requirements of division (D) of this section. The aggregation of mercantile customers shall occur only with the prior, affirmative consent of each such person owning, occupying, controlling, or using an electric load center proposed to be aggregated. Nothing in this division, however, authorizes the aggregation of the retail electric loads of an electric load center, as defined in section 4933.81 of the Revised Code, that is located in the certified territory of a nonprofit electric supplier under sections 4933.81 to 4933.90 of the Revised Code or an electric load center served by transmission or distribution facilities of a municipal electric utility.

(B) If an ordinance or resolution adopted under division (A) of this section specifies that aggregation of customers that are not mercantile customers will occur automatically as described in that division, the ordinance or resolution shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the municipal corporation, township, or county. The legislative authority or board shall certify a copy of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section that provides for automatic aggregation of customers that are not mercantile customers as described in division (A) of this section, shall aggregate the electrical load of any electric load center located within its jurisdiction unless it in advance clearly discloses to the person owning, occupying, controlling, or using the load center that the person will be enrolled automatically in the aggregation program and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation program the opportunity to opt out of the program every three years, without paying a switching fee. Any such person that opts out before the commencement of the aggregation program pursuant to the stated procedure shall default to the standard service offer provided under section 4928.14 or division (D) of section 4928.35 of the Revised Code until the

person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in, respectively, the township or the unincorporated area of the county who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of electricity, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail electric service it provides and commission authority under this chapter.

(G) This section does not apply in the case of a municipal corporation that supplies such aggregated service to electric load centers to which its municipal electric utility also supplies a noncompetitive retail electric service through transmission or distribution facilities the utility singly or jointly owns or operates.

(H) A governmental aggregator shall not include in its aggregation the accounts of any of the following:

(1) A customer that has opted out of the aggregation;

(2) A customer in contract with a certified electric services company;

(3) A customer that has a special contract with an electric distribution utility;

(4) A customer that is not located within the governmental aggregator's governmental boundaries;

(5) Subject to division (C) of section 4928.21 of the Revised Code, a customer who appears on the "do not aggregate" list maintained under that section.

(I) Customers that are part of a governmental aggregation under this

section shall be responsible only for such portion of a surcharge under section 4928.144 of the Revised Code that is proportionate to the benefits, as determined by the commission, that electric load centers within the jurisdiction of the governmental aggregation as a group receive. The proportionate surcharge so established shall apply to each customer of the governmental aggregation while the customer is part of that aggregation. If a customer ceases being such a customer, the otherwise applicable surcharge shall apply. Nothing in this section shall result in less than full recovery by an electric distribution utility of any surcharge authorized under section 4928.144 of the Revised Code.

(J) On behalf of the customers that are part of a governmental aggregation under this section and by filing written notice with the public utilities commission, the legislative authority that formed or is forming that governmental aggregation may elect not to receive standby service within the meaning of division (B)(2)(d) of section 4928.143 of the Revised Code from an electric distribution utility in whose certified territory the governmental aggregation is located and that operates under an approved electric security plan under that section. Upon the filing of that notice, the electric distribution utility shall not charge any such customer to whom competitive retail electric generation service is provided by another supplier under the governmental aggregation for the standby service. Any such consumer that returns to the utility for competitive retail electric service shall pay the market price of power incurred by the utility to serve that consumer plus any amount attributable to the utility's cost of compliance with the alternative energy resource provisions of section 4928.64 of the Revised Code to serve the consumer. Such market price shall include, but not be limited to, capacity and energy charges; all charges associated with the provision of that power supply through the regional transmission organization, including, but not limited to, transmission, ancillary services, congestion, and settlement and administrative charges; and all other costs incurred by the utility that are associated with the procurement, provision, and administration of that power supply, as such costs may be approved by the commission. The period of time during which the market price and alternative energy resource amount shall be so assessed on the consumer shall be from the time the consumer so returns to the electric distribution utility until the expiration of the electric security plan. However, if that period of time is expected to be more than two years, the commission may reduce the time period to a period of not less than two years.

(K) The commission shall adopt rules to encourage and promote large-scale governmental aggregation in this state. For that purpose, the

commission shall conduct an immediate review of any rules it has adopted for the purpose of this section that are in effect on the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008. Further, within the context of an electric security plan under section 4928.143 of the Revised Code, the commission shall consider the effect on large-scale governmental aggregation of any nonbypassable generation charges, however collected, that would be established under that plan, except any nonbypassable generation charges that relate to any cost incurred by the electric distribution utility, the deferral of which has been authorized by the commission prior to the effective date of the amendment of this section by S.B. 221 of the 127th general assembly, July 31, 2008.

Sec. 4929.26. (A)(1) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate automatically, subject to the opt-out requirements of division (D) of this section, competitive retail natural gas service for the retail natural gas loads that are located, respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise its authority under this section jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets any of the following criteria:

(i) The person is both a distribution service customer and a mercantile customer on the date of commencement of service to the aggregated load, or the person becomes a distribution service customer after that date and also is a mercantile customer.

(ii) The person is supplied with commodity sales service pursuant to a

contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution.

(iii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code.

(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(ii) or (iii) of this section or upon the person no longer being a customer as described in division (A)(2)(a)(i) of this section or qualifying to be included in an aggregation described under division (A)(2)(a)(iii) of this section.

(B) An ordinance or resolution adopted under division (A) of this section shall direct the board of elections to submit the question of the authority to aggregate to the electors of the respective municipal corporation, township, or unincorporated area of a county at a special election on the day of the next primary or general election in the municipal corporation, township, or county. The legislative authority or board shall certify a copy of the ordinance or resolution to the board of elections not less than ninety days before the day of the special election. No ordinance or resolution adopted under division (A) of this section that provides for an election under this division shall take effect unless approved by a majority of the electors voting upon the ordinance or resolution at the election held pursuant to this division.

(C) Upon the applicable requisite authority under divisions (A) and (B) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(D) No legislative authority or board, pursuant to an ordinance or resolution under divisions (A) and (B) of this section, shall aggregate any retail natural gas load located within its jurisdiction unless it in advance clearly discloses to the person whose retail natural gas load is to be so

aggregated that the person will be enrolled automatically in the aggregation and will remain so enrolled unless the person affirmatively elects by a stated procedure not to be so enrolled. The disclosure shall state prominently the rates, charges, and other terms and conditions of enrollment. The stated procedure shall allow any person enrolled in the aggregation the opportunity to opt out of the aggregation every two years, without paying a switching fee. Any such person that opts out of the aggregation pursuant to the stated procedure shall default to the natural gas company providing distribution service for the person's retail natural gas load, until the person chooses an alternative supplier.

(E)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to divisions (A) to (D) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in the township or the unincorporated area of the county, respectively, who voted for the office of governor at the preceding general election for that office in that area.

(F) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of natural gas, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail natural gas service it provides and commission authority under this chapter.

Sec. 4929.27. (A)(1) The legislative authority of a municipal corporation may adopt an ordinance, or the board of township trustees of a township or the board of county commissioners of a county may adopt a resolution, under which, in accordance with this section and except as otherwise provided in division (A)(2) of this section, the legislative authority or board may aggregate, with the prior consent of each person whose retail natural gas load is proposed to be aggregated, competitive retail natural gas service for any such retail natural gas load that is located,

respectively, within the municipal corporation, township, or unincorporated area of the county and for which there is a choice of supplier of that service as a result of revised schedules approved under division (C) of section 4929.29 of the Revised Code, a rule or order adopted or issued by the commission under Chapter 4905. of the Revised Code, or an exemption granted by the commission under sections 4929.04 to 4929.08 of the Revised Code. An ordinance or a resolution adopted under this section shall expressly state that it is adopted pursuant to the authority conferred by this section. The legislative authority or board also may exercise such authority jointly with any other such legislative authority or board. For the purpose of the aggregation, the legislative authority or board may enter into service agreements to facilitate the sale and purchase of the service for the retail natural gas loads.

(2)(a) No aggregation under an ordinance or resolution adopted under division (A)(1) of this section shall include the retail natural gas load of any person that meets either of the following criteria:

(i) The person is supplied with commodity sales service pursuant to a contract with a retail natural gas supplier that is in effect on the effective date of the ordinance or resolution.

(ii) The person is supplied with commodity sales service as part of a retail natural gas load aggregation provided for pursuant to a rule or order adopted or issued by the commission under this chapter or Chapter 4905. of the Revised Code.

(b) Nothing in division (A)(2)(a) of this section precludes a governmental aggregation under this section from permitting the retail natural gas load of a person described in division (A)(2)(a) of this section from being included in the aggregation upon the expiration of any contract or aggregation as described in division (A)(2)(a)(i) or (ii) of this section or upon the person no longer qualifying to be included in an aggregation.

(B) Upon the applicable requisite authority under division (A) of this section, the legislative authority or board shall develop a plan of operation and governance for the aggregation program so authorized. Before adopting a plan under this division, the legislative authority or board shall hold at least two public hearings on the plan. Before the first hearing, the legislative authority or board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the jurisdiction or as provided in section 7.16 of the Revised Code. The notice shall summarize the plan and state the date, time, and location of each hearing.

(C)(1) With respect to a governmental aggregation for a municipal corporation that is authorized pursuant to division (A) of this section,

resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.41 of the Revised Code.

(2) With respect to a governmental aggregation for a township or the unincorporated area of a county, which aggregation is authorized pursuant to division (A) of this section, resolutions may be proposed by initiative or referendum petitions in accordance with sections 731.28 to 731.40 of the Revised Code, except that:

(a) The petitions shall be filed, respectively, with the township fiscal officer or the board of county commissioners, who shall perform those duties imposed under those sections upon the city auditor or village clerk.

(b) The petitions shall contain the signatures of not less than ten per cent of the total number of electors in the township or the unincorporated area of the county, respectively, who voted for the office of governor at the preceding general election for that office in that area.

(D) A governmental aggregator under division (A) of this section is not a public utility engaging in the wholesale purchase and resale of natural gas, and provision of the aggregated service is not a wholesale utility transaction. A governmental aggregator shall be subject to supervision and regulation by the public utilities commission only to the extent of any competitive retail natural gas service it provides and commission authority under this chapter.

Sec. 4931.40. As used in sections 4931.40 to 4931.70 of the Revised Code:

(A) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.

(B) "Basic 9-1-1" means a 9-1-1 system in which a caller provides information on the nature of and the location of an emergency, and the personnel receiving the call must determine the appropriate emergency service provider to respond at that location.

(C) "Enhanced 9-1-1" means a 9-1-1 system capable of providing both enhanced wireline 9-1-1 and wireless enhanced 9-1-1.

(D) "Enhanced wireline 9-1-1" means a 9-1-1 system in which the wireline telephone network, in providing wireline 9-1-1, automatically routes the call to emergency service providers that serve the location from which the call is made and immediately provides to personnel answering the 9-1-1 call information on the location and the telephone number from which the call is being made.

(E) "Wireless enhanced 9-1-1" means a 9-1-1 system that, in providing wireless 9-1-1, has the capabilities of phase I and, to the extent available, phase II enhanced 9-1-1 services as described in 47 C.F.R. 20.18 (d) to (h).

(F)(1) "Wireless service" means federally licensed commercial mobile

service as defined in 47 U.S.C. 332(d) and further defined as commercial mobile radio service in 47 C.F.R. 20.3, and includes service provided by any wireless, two-way communications device, including a radio-telephone communications line used in cellular telephone service or personal communications service, a network radio access line, or any functional or competitive equivalent of such a radio-telephone communications or network radio access line.

(2) Nothing in sections 4931.40 to 4931.70 of the Revised Code applies to paging or any service that cannot be used to call 9-1-1.

(G) "Wireless service provider" means a facilities-based provider of wireless service to one or more end users in this state.

(H) "Wireless 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireless service provider.

(I) "Wireline 9-1-1" means the emergency calling service provided by a 9-1-1 system pursuant to a call originating in the network of a wireline service provider.

(J) "Wireline service provider" means a facilities-based provider of wireline service to one or more end-users in this state.

(K) "Wireline service" means basic local exchange service, as defined in section 4927.01 of the Revised Code, that is transmitted by means of interconnected wires or cables by a wireline service provider authorized by the public utilities commission.

(L) "Wireline telephone network" means the selective router and data base processing systems, trunking and data wiring cross connection points at the public safety answering point, and all other voice and data components of the 9-1-1 system.

(M) "Subdivision" means a county, municipal corporation, township, township fire district, joint fire district, township police district, joint police district, joint ambulance district, or joint emergency medical services district that provides emergency service within its territory, or that contracts with another municipal corporation, township, or district or with a private entity to provide such service; and a state college or university, port authority, or park district of any kind that employs law enforcement officers that act as the primary police force on the grounds of the college or university or port authority or in the parks operated by the district.

(N) "Emergency service" means emergency law enforcement, firefighting, ambulance, rescue, and medical service.

(O) "Emergency service provider" means the state highway patrol and an emergency service department or unit of a subdivision or that provides

emergency service to a subdivision under contract with the subdivision.

(P) "Public safety answering point" means a facility to which 9-1-1 system calls for a specific territory are initially routed for response and where personnel respond to specific requests for emergency service by directly dispatching the appropriate emergency service provider, relaying a message to the appropriate provider, or transferring the call to the appropriate provider.

(Q) "Customer premises equipment" means telecommunications equipment, including telephone instruments, on the premises of a public safety answering point that is used in answering and responding to 9-1-1 system calls.

(R) "Municipal corporation in the county" includes any municipal corporation that is wholly contained in the county and each municipal corporation located in more than one county that has a greater proportion of its territory in the county to which the term refers than in any other county.

(S) "Board of county commissioners" includes the legislative authority of a county established under Section 3 of Article X, Ohio Constitution, or Chapter 302. of the Revised Code.

(T) "Final plan" means a final plan adopted under division (B) of section 4931.44 of the Revised Code and, except as otherwise expressly provided, an amended final plan adopted under section 4931.45 of the Revised Code.

(U) "Subdivision served by a public safety answering point" means a subdivision that provides emergency service for any part of its territory that is located within the territory of a public safety answering point whether the subdivision provides the emergency service with its own employees or pursuant to a contract.

(V) A township's population includes only population of the unincorporated portion of the township.

(W) "Telephone company" means a company engaged in the business of providing local exchange telephone service by making available or furnishing access and a dial tone to persons within a local calling area for use in originating and receiving voice grade communications over a switched network operated by the provider of the service within the area and gaining access to other telecommunications services. "Telephone company" includes a wireline service provider and a wireless service provider unless otherwise expressly specified. For purposes of sections 4931.52 and 4931.53 of the Revised Code, "telephone company" means a wireline service provider.

Sec. 4931.51. (A)(1) For the purpose of paying the costs of establishing, equipping, and furnishing one or more public safety answering points as part

of a countywide 9-1-1 system effective under division (B) of section 4931.44 of the Revised Code and paying the expense of administering and enforcing this section, the board of county commissioners of a county, in accordance with this section, may fix and impose, on each lot or parcel of real property in the county that is owned by a person, municipal corporation, township, or other political subdivision and is improved, or is in the process of being improved, reasonable charges to be paid by each such owner. The charges shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels.

(2) For the purpose of paying the costs of operating and maintaining the answering points and paying the expense of administering and enforcing this section, the board, in accordance with this section, may fix and impose reasonable charges to be paid by each owner, as provided in division (A)(1) of this section, that shall be sufficient to pay only the estimated allowed costs and shall be equal in amount for all such lots or parcels. The board may fix and impose charges under this division pursuant to a resolution adopted for the purposes of both divisions (A)(1) and (2) of this section or pursuant to a resolution adopted solely for the purpose of division (A)(2) of this section, and charges imposed under division (A)(2) of this section may be separately imposed or combined with charges imposed under division (A)(1) of this section.

(B) Any board adopting a resolution under this section pursuant to a final plan initiating the establishment of a 9-1-1 system or pursuant to an amendment to a final plan shall adopt the resolution within sixty days after the board receives the final plan for the 9-1-1 system pursuant to division (C) of section 4931.43 of the Revised Code. The board by resolution may change any charge imposed under this section whenever the board considers it advisable. Any resolution adopted under this section shall declare whether securities will be issued under Chapter 133. of the Revised Code in anticipation of the collection of unpaid special assessments levied under this section.

(C) The board shall adopt a resolution under this section at a public meeting held in accordance with section 121.22 of the Revised Code. Additionally, the board, before adopting any such resolution, shall hold at least two public hearings on the proposed charges. Prior to the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall include a listing of the charges proposed in the resolution and the date, time, and location of each of the hearings. The board shall hear any person who

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wishes to testify on the charges or the resolution.

(D) No resolution adopted under this section shall be effective sooner than thirty days following its adoption nor shall any such resolution be adopted as an emergency measure. The resolution is subject to a referendum in accordance with sections 305.31 to 305.41 of the Revised Code unless, in the resolution, the board of county commissioners directs the board of elections of the county to submit the question of imposing the charges to the electors of the county at the next primary or general election in the county occurring not less than ninety days after the resolution is certified to the board. No resolution shall go into effect unless approved by a majority of those voting upon it in any election allowed under this division.

(E) To collect charges imposed under division (A) of this section, the board of county commissioners shall certify them to the county auditor of the county who then shall place them upon the real property duplicate against the properties to be assessed, as provided in division (A) of this section. Each assessment shall bear interest at the same rate that securities issued in anticipation of the collection of the assessments bear, is a lien on the property assessed from the date placed upon the real property duplicate by the auditor, and shall be collected in the same manner as other taxes.

(F) All money collected by or on behalf of a county under this section shall be paid to the county treasurer of the county and kept in a separate and distinct fund to the credit of the county. The fund shall be used to pay the costs allowed in division (A) of this section and specified in the resolution adopted under that division. In no case shall any surplus so collected be expended for other than the use and benefit of the county.

Sec. 4931.52. (A) This section applies only to a county that meets both of the following conditions:

(1) A final plan for a countywide 9-1-1 system either has not been approved in the county under section 4931.44 of the Revised Code or has been approved but has not been put into operation because of a lack of funding;

(2) The board of county commissioners, at least once, has submitted to the electors of the county the question of raising funds for a 9-1-1 system under section 4931.51, 5705.19, or 5739.026 of the Revised Code, and a majority of the electors has disapproved the question each time it was submitted.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system, which public safety answering points

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shall be only twenty-four-hour dispatching points already existing in the county. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board may not impose a charge greater than the amount approved by the electors without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary equipment costs of establishing and maintaining no more than three public safety answering points of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the public utilities commission with regard to operating and maintaining a 9-1-1 system.

(E) Pursuant to the voter approval required by division (C) of this

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section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section 4931.45 of the Revised Code.

Sec. 4931.53. (A) This section applies only to a county that has a final plan for a countywide 9-1-1 system that either has not been approved in the county under section 4931.44 of the Revised Code or has been approved but has not been put into operation because of a lack of funding.

(B) A board of county commissioners may adopt a resolution imposing a monthly charge on telephone access lines to pay for the operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system. The resolution shall state the amount of the charge, which shall not exceed fifty cents per month, and the month the charge will first be imposed, which shall be no earlier than four months after the special election held pursuant to this section. Each residential and business telephone company customer within the area of the county served by the 9-1-1 system shall pay the monthly charge for each of its residential or business customer access lines or their equivalent.

Before adopting a resolution under this division, the board of county commissioners shall hold at least two public hearings on the proposed charge. Before the first hearing, the board shall publish notice of the hearings once a week for two consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code. The notice shall state the amount of the proposed charge, an explanation of the necessity for the charge, and the date, time, and location of each of the hearings.

(C) A resolution adopted under division (B) of this section shall direct the board of elections to submit the question of imposing the charge to the electors of the county at a special election on the day of the next primary or general election in the county. The board of county commissioners shall certify a copy of the resolution to the board of elections not less than ninety days before the day of the special election. No resolution adopted under division (B) of this section shall take effect unless approved by a majority of the electors voting upon the resolution at an election held pursuant to this section.

In any year, the board of county commissioners may impose a lesser charge than the amount originally approved by the electors. The board may change the amount of the charge no more than once a year. The board shall not impose a charge greater than the amount approved by the electors

without first holding an election on the question of the greater charge.

(D) Money raised from a monthly charge on telephone access lines under this section shall be deposited into a special fund created in the county treasury by the board of county commissioners pursuant to section 5705.12 of the Revised Code, to be used only for the necessary operating and equipment costs of establishing and maintaining no more than one public safety answering point of a countywide 9-1-1 system pursuant to a resolution adopted under division (B) of this section. In complying with this division, any county may seek the assistance of the public utilities commission with regard to operating and maintaining a 9-1-1 system.

(E) Nothing in sections 4931.40 to 4931.53 of the Revised Code precludes a final plan adopted in accordance with those sections from being amended to provide that, by agreement included in the plan, a public safety answering point of another countywide 9-1-1 system is the public safety answering point of a countywide 9-1-1 system funded through a monthly charge imposed in accordance with this section. In that event, the county for which the public safety answering point is provided shall be deemed the subdivision operating the public safety answering point for purposes of sections 4931.40 to 4931.53 of the Revised Code, except that, for the purpose of division (D) of section 4931.41 of the Revised Code, the county shall pay only so much of the costs associated with establishing, equipping, furnishing, operating, or maintaining the public safety answering point specified in the agreement included in the final plan.

(F) Pursuant to the voter approval required by division (C) of this section, the final plan for a countywide 9-1-1 system that will be funded through a monthly charge imposed in accordance with this section, or that will be amended to include an agreement described in division (E) of this section, shall be amended by the existing 9-1-1 planning committee, and the amendment of such a final plan is not an amendment of a final plan for the purpose of division (A) of section 4931.45 of the Revised Code.

Sec. 5101.16. (A) As used in this section and sections 5101.161 and 5101.162 of the Revised Code:

(1) "Disability financial assistance" means the financial assistance program established under Chapter 5115. of the Revised Code.

(2) " Supplemental nutrition assistance program" means the program administered by the department of job and family services pursuant to section 5101.54 of the Revised Code.

(3) "Medicaid" means the medical assistance program established by Chapter 5111. of the Revised Code, excluding transportation services provided under that chapter.

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(4) "Ohio works first" means the program established by Chapter 5107. of the Revised Code.

(5) "Prevention, retention, and contingency" means the program established by Chapter 5108. of the Revised Code.

(6) "Public assistance expenditures" means expenditures for all of the following:

- (a) Ohio works first;
- (b) County administration of Ohio works first;
- (c) Prevention, retention, and contingency;
- (d) County administration of prevention, retention, and contingency;
- (e) Disability financial assistance;
- (f) County administration of disability financial assistance;
- (g) County administration of the supplemental nutrition assistance program;
- (h) County administration of medicaid.

(7) "Title IV-A program" has the same meaning as in section 5101.80 of the Revised Code.

(B) Each board of county commissioners shall pay the county share of public assistance expenditures in accordance with section 5101.161 of the Revised Code. Except as provided in division (C) of this section, a county's share of public assistance expenditures is the sum of all of the following for state fiscal year 1998 and each state fiscal year thereafter:

(1) The amount that is twenty-five per cent of the county's total expenditures for disability financial assistance and county administration of that program during the state fiscal year ending in the previous calendar year that the department of job and family services determines are allowable.

(2) The amount that is ten per cent, or other percentage determined under division (D) of this section, of the county's total expenditures for county administration of the supplemental nutrition assistance program and medicaid during the state fiscal year ending in the previous calendar year that the department determines are allowable, less the amount of federal reimbursement credited to the county under division (E) of this section for the state fiscal year ending in the previous calendar year;

(3) A percentage of the actual amount of the county share of program and administrative expenditures during federal fiscal year 1994 for assistance and services, other than child care, provided under Titles IV-A and IV-F of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as those titles existed prior to the enactment of the "Personal Responsibility and Work Opportunity Reconciliation Act of 1996," 110 Stat. 2105. The department of job and family services shall determine the actual amount of

the county share from expenditure reports submitted to the United States department of health and human services. The percentage shall be the percentage established in rules adopted under division (F) of this section.

(C)(1) If a county's share of public assistance expenditures determined under division (B) of this section for a state fiscal year exceeds one hundred ~~ten~~ five per cent of the county's share for those expenditures for the immediately preceding state fiscal year, the department of job and family services shall reduce the county's share for expenditures under divisions (B)(1) and (2) of this section so that the total of the county's share for expenditures under division (B) of this section equals one hundred ~~ten~~ five per cent of the county's share of those expenditures for the immediately preceding state fiscal year.

(2) A county's share of public assistance expenditures determined under division (B) of this section may be increased pursuant to section 5101.163 of the Revised Code and a sanction under section 5101.24 of the Revised Code. An increase made pursuant to section 5101.163 of the Revised Code may cause the county's share to exceed the limit established by division (C)(1) of this section.

(D)(1) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and division (D)(2) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the per capita tax duplicate of the county and the denominator is the per capita tax duplicate of the state as a whole. The department of job and family services shall compute the per capita tax duplicate for the state and for each county by dividing the tax duplicate for the most recent available year by the current estimate of population prepared by the department of development.

(2) If the percentage of families in a county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state and division (D)(1) of this section does not apply to the county, the percentage to be used for the purpose of division (B)(2) of this section is the product of ten multiplied by a fraction of which the numerator is the percentage of families in the state with an annual income of less than three thousand dollars a year and the denominator is the percentage of such families in the county. The department of job and family services shall compute the percentage of families with an annual income of less than three thousand dollars for the state and for each county by multiplying the most recent estimate of such families published by the department of development, by a fraction, the numerator of which is the estimate of