

average annual personal income published by the bureau of economic analysis of the United States department of commerce for the year on which the census estimate is based and the denominator of which is the most recent such estimate published by the bureau.

(3) If the per capita tax duplicate of a county is less than the per capita tax duplicate of the state as a whole and the percentage of families in the county with an annual income of less than three thousand dollars is greater than the percentage of such families in the state, the percentage to be used for the purpose of division (B)(2) of this section shall be determined as follows:

(a) Multiply ten by the fraction determined under division (D)(1) of this section;

(b) Multiply the product determined under division (D)(3)(a) of this section by the fraction determined under division (D)(2) of this section.

(4) The department of job and family services shall determine, for each county, the percentage to be used for the purpose of division (B)(2) of this section not later than the first day of July of the year preceding the state fiscal year for which the percentage is used.

(E) The department of job and family services shall credit to a county the amount of federal reimbursement the department receives from the United States departments of agriculture and health and human services for the county's expenditures for administration of the supplemental nutrition assistance program and medicaid that the department determines are allowable administrative expenditures.

(F)(1) The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code to establish all of the following:

(a) The method the department is to use to change a county's share of public assistance expenditures determined under division (B) of this section as provided in division (C) of this section;

(b) The allocation methodology and formula the department will use to determine the amount of funds to credit to a county under this section;

(c) The method the department will use to change the payment of the county share of public assistance expenditures from a calendar-year basis to a state fiscal year basis;

(d) The percentage to be used for the purpose of division (B)(3) of this section, which shall, except as provided in section 5101.163 of the Revised Code, meet both of the following requirements:

(i) The percentage shall not be less than seventy-five per cent nor more than eighty-two per cent;

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(ii) The percentage shall not exceed the percentage that the state's qualified state expenditures is of the state's historic state expenditures as those terms are defined in 42 U.S.C. 609(a)(7).

(e) Other procedures and requirements necessary to implement this section.

(2) The director of job and family services may amend the rule adopted under division (F)(1)(d) of this section to modify the percentage on determination that the amount the general assembly appropriates for Title IV-A programs makes the modification necessary. The rule shall be adopted and amended as if an internal management rule and in consultation with the director of budget and management.

Sec. 5101.181. (A) As used in this section and section 5101.182 of the Revised Code, "~~public~~:"

(1) "Public assistance" includes, in addition to Ohio works first, means any or all of the following:

~~(1)(a) Ohio works first;~~

~~(b) Prevention, retention, and contingency;~~

~~(2) Medicaid;~~

~~(3)(c) Disability financial assistance;~~

~~(4)(d) General assistance provided prior to July 17, 1995, under former Chapter 5113. of the Revised Code.~~

(2) "Medical assistance" means medical assistance provided pursuant to, or under programs established by, section 5101.49, sections 5101.50 to 5101.529, Chapter 5111., or any other provision of the Revised Code.

(B) As part of the procedure for the determination of overpayment to a recipient of public assistance under Chapter 5107., 5108., ~~5111.~~, or 5115. of the Revised Code, the director of job and family services ~~shall~~ may furnish quarterly the name and social security number of each individual who receives public assistance to the director of administrative services, the administrator of the bureau of workers' compensation, and each of the state's retirement boards. Within fourteen days after receiving the name and social security number of an individual who receives public assistance, the director of administrative services, administrator, or board shall inform the auditor of state as to whether such individual is receiving wages or benefits, the amount of any wages or benefits being received, the social security number, and the address of the individual. The director of administrative services, administrator, boards, and any agent or employee of those officials and boards shall comply with the rules of the director of job and family services restricting the disclosure of information regarding recipients of public assistance. Any person who violates this provision shall thereafter be

disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(C) The auditor of state may enter into a reciprocal agreement with the director of job and family services or comparable officer of any other state for the exchange of names, current or most recent addresses, or social security numbers of persons receiving public assistance under Title IV-A ~~or under Title XIX~~ of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(D)~~(H)~~ The auditor of state shall retain, for not less than two years, at least one copy of all information received under this section and sections 145.27, 742.41, 3307.20, 3309.22, 4123.27, 5101.182, and 5505.04 of the Revised Code. ~~The~~

(E) On the request of the director of job and family services, the auditor of state may conduct an audit of an individual who receives medical assistance. If the auditor decides to conduct an audit, the auditor shall enter into an interagency agreement with the department of job and family services that specifies that the auditor agrees to comply with section 5101.271 of the Revised Code with respect to any information the auditor receives pursuant to the audit.

(F) The auditor shall review the information described in division (D) of this section to determine whether overpayments were made to recipients of public assistance under Chapters 5107., 5108., ~~5111.~~, and 5115. of the Revised Code. The auditor of state shall initiate action leading to prosecution, where warranted, of recipients who received overpayments by forwarding the name of each recipient who received overpayment, together with other pertinent information, to the director of job and family services and the attorney general, to the district director of job and family services of the district through which public assistance was received, and to the county director of job and family services and county prosecutor of the county through which public assistance was received.

~~(G)~~(G) The auditor of state and the attorney general or their designees may examine any records, whether in computer or printed format, in the possession of the director of job and family services or any county director of job and family services. They shall provide safeguards which restrict access to such records to purposes directly connected with an audit or investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of the programs and shall comply with the sections 5101.27 and 5101.271 of the Revised Code and adopts rules of the director of job and family services restricting the disclosure of

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information regarding recipients of public assistance or medical assistance. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state board, commission, or agency.

(~~3~~)(H) Costs incurred by the auditor of state in carrying out the auditor of state's duties under this ~~division~~ section shall be borne by the auditor of state.

Sec. 5101.182. As part of the procedure for the determination of overpayment to a recipient of public assistance ~~under Chapter 5107., 5111., or 5115.~~ pursuant to section 5101.181 of the Revised Code, the director of job and family services ~~shall~~ may semiannually, at times determined jointly by the auditor of state and the tax commissioner, furnish to the tax commissioner in computer format the name and social security number of each individual who receives public assistance. Within sixty days after receiving the name and social security number of a recipient of public assistance, the commissioner shall inform the auditor of state whether the individual filed an Ohio individual income tax return, separate or joint, as provided by section 5747.08 of the Revised Code, for either or both of the two taxable years preceding the year in which the director furnished the names and social security numbers to the commissioner. If the individual did so file, at the same time the commissioner shall also inform the auditor of state of the amount of the federal adjusted gross income as reported on such returns and of the addresses on such returns. The commissioner shall also advise the auditor of state whether such returns were filed on a joint basis, as provided in section 5747.08 of the Revised Code, in which case the federal adjusted gross income as reported may be that of the individual or the individual's spouse.

If the auditor of state determines that further investigation is needed, the auditor of state may request the commissioner to determine whether the individual filed income tax returns for any previous taxable years in which the individual received public assistance and for which the tax department retains income tax returns. Within fourteen days of receipt of the request, the commissioner shall inform the auditor of state whether the individual filed an individual income tax return for the taxable years in question, of the amount of the federal adjusted gross income as reported on such returns, of the addresses on such returns, and whether the returns were filed on a joint or separate basis.

If the auditor of state determines that further investigation is needed of a recipient of public assistance who filed an Ohio individual income tax return, the auditor of state may request a certified copy of the Ohio

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individual income tax return or returns of that person for the taxable years described above, together with any other documents the commissioner has concerning the return or returns. Within fourteen days of receipt of such a request in writing, the commissioner shall forward the returns and documents to the auditor of state.

The director of job and family services, ~~district director of job and family services~~, county director of job and family services, county prosecutor, attorney general, auditor of state, or any agent or employee of those officials having access to any information or documents furnished by the commissioner pursuant to this section shall not divulge or use any such information except for the purpose of determining overpayment of public assistance, or for an audit, investigation, or prosecution, or in accordance with a proper judicial order. Any person who violates this provision shall thereafter be disqualified from acting as an agent or employee or in any other capacity under appointment or employment of any state or county board, commission, or agency.

Sec. 5101.183. (A) ~~The~~ Except as provided in section 5111.12 of the Revised Code, the director of job and family services, in accordance with section 111.15 of the Revised Code, may adopt rules under which county ~~departments of job and family services or public children services~~ agencies shall take action to recover the cost of ~~social~~ the following benefits and services:

(1) Benefits or services provided to any of the following:

~~(1)(a)~~ (a) Persons who were not eligible for ~~social~~ the benefits or services but who secured ~~social~~ the benefits or services through fraud or misrepresentation;

~~(2)(b)~~ (b) Persons who were eligible for ~~social~~ the benefits or services but who intentionally diverted the benefits or services to other persons who were not eligible for the benefits or services.

(2) Any benefits or services provided by a county family services agency for which recovery is required or permitted by federal law for the federal programs administered by the agency.

(B) A county ~~department of job and family services or public children services~~ agency may bring a civil action against a recipient of ~~social~~ benefits or services to recover any costs described in division (A) of this section.

(C) A county ~~department of job and family services or public children services~~ agency shall retain any money it recovers under division (A) of this section and shall use the money ~~for the provision of social~~ to meet a family services duty, except that, if federal law requires the department of job and family services to return any portion of the money so recovered to the

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federal government, the county ~~department or~~ family services agency shall pay that portion to the department of job and family services.

Sec. 5101.244. (A) If the department of job and family services determines that a grant awarded to a county grantee in a grant agreement entered into under section 5101.21 of the Revised Code, an allocation, advance, or reimbursement the department makes to a county family services agency, or a cash draw a county family services agency makes exceeds the allowable amount for the grant, allocation, advance, reimbursement, or cash draw, the department may ~~adjust~~ take one or more of the following actions to recover the excess amount:

(1) The department may adjust, offset, withhold, or reduce an allocation, cash draw, advance, reimbursement, or other financial assistance to the county grantee or county family services agency as necessary to recover the excess amount of the excess grant, allocation, advance, reimbursement, or cash draw.

(2) The department may enter into an agreement with the county grantee or county family services agency for repayment of the excess amount by the grantee or agency. The department may require that the repayment include interest on the excess amount, calculated from the day that the excess occurred at a rate not exceeding the rate per annum prescribed by section 5703.47 of the Revised Code.

(3) The department may certify a claim to the attorney general under section 131.02 of the Revised Code for the attorney general to take action under that section against the county grantee or county family services agency to recover the excess amount. The

~~(B) In taking an action authorized under this section, the department is not required to make the adjustment, offset, withholding, or reduction take the action~~ in accordance with section 5101.24 of the Revised Code.

(C) The director of job and family services may adopt rules under section 111.15 of the Revised Code as necessary to implement this section. The director shall adopt the rules as if they were internal management rules.

Sec. 5101.26. As used in this section and in sections 5101.27 to 5101.30 of the Revised Code:

(A) "County agency" means a county department of job and family services or a public children services agency.

(B) "Fugitive felon" means an individual who is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the individual is fleeing, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual is fleeing or, in the case of New Jersey, a high misdemeanor,

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regardless of whether the individual has departed from the individual's usual place of residence.

(C) "Information" means records as defined in section 149.011 of the Revised Code, any other documents in any format, and data derived from records and documents that are generated, acquired, or maintained by the department of job and family services, a county agency, or an entity performing duties on behalf of the department or a county agency.

(D) "Law enforcement agency" means the state highway patrol, an agency that employs peace officers as defined in section 109.71 of the Revised Code, the adult parole authority, a county department of probation, a prosecuting attorney, the attorney general, similar agencies of other states, federal law enforcement agencies, and postal inspectors. "Law enforcement agency" includes the peace officers and other law enforcement officers employed by the agency.

(E) "Medical assistance ~~provided under a public assistance program~~" means medical assistance provided pursuant to, or under the programs established under sections by, section 5101.49, sections 5101.50, 5101.51, 5101.52, and 5101.5211 to 5101.5216 to 5101.529, Chapter 5111., or any other provision of the Revised Code.

(F) "Medical assistance recipient" means an applicant for or recipient or former recipient of medical assistance.

(G) "Public assistance" means financial assistance, ~~medical assistance,~~ or social services that are not medical assistance provided under a program administered by the department of job and family services or a county agency pursuant to Chapter 329., 5101., 5104., 5107., 5108., ~~5111.,~~ or 5115. of the Revised Code or an executive order issued under section 107.17 of the Revised Code.

~~(G)~~(H) "Public assistance recipient" means an applicant for or recipient or former recipient of public assistance.

Sec. 5101.27. (A) Except as permitted by this section, section ~~5101.272~~ 5101.273, 5101.28, or 5101.29 of the Revised Code, or ~~the rules adopted under division (A) of~~ section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall solicit, disclose, receive, use, or knowingly permit, or participate in the use of any information regarding a public assistance recipient for any purpose not directly connected with the administration of a public assistance program.

(B) To the extent permitted by federal law, the department of job and family services and county agencies shall do all of the following:

(1) Release information regarding a public assistance recipient for purposes directly connected to the administration of the program to a

government entity responsible for administering that public assistance program;

(2) Provide information regarding a public assistance recipient to a law enforcement agency for the purpose of any investigation, prosecution, or criminal or civil proceeding relating to the administration of that public assistance program;

(3) Provide, for purposes directly connected to the administration of a program that assists needy individuals with the costs of public utility services, information regarding a recipient of financial assistance provided under a program administered by the department or a county agency pursuant to Chapter 5107. or 5108. of the Revised Code or sections 5115.01 to 5115.07 of the Revised Code to an entity administering the public utility services program.

(C) To the extent permitted by federal law and section 1347.08 of the Revised Code, the department and county agencies shall provide access to information regarding a public assistance recipient to all of the following:

- (1) The recipient;
- (2) The authorized representative;
- (3) The legal guardian of the recipient;

(4) The attorney of the recipient, if the attorney has written authorization that complies with section ~~5101.271~~ 5101.272 of the Revised Code from the recipient.

(D) To the extent permitted by federal law and subject to division (E) of this section, the department and county agencies may do both of the following:

(1) Release information about a public assistance recipient if the recipient gives voluntary, written authorization that complies with section ~~5101.271~~ 5101.272 of the Revised Code;

(2) Release information regarding a public assistance recipient to a state, federal, or federally assisted program that provides cash or in-kind assistance or services directly to individuals based on need or for the purpose of protecting children to a government entity responsible for administering a children's protective services program.

(E) Except when the release is required by division (B), (C), or (D)(2) of this section, the department or county agency shall release the information only in accordance with the authorization. The department or county agency shall provide, at no cost, a copy of each written authorization to the individual who signed it.

~~(F) The department or county agency may release information under division (D) of this section concerning the receipt of medical assistance~~

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~~provided under a public assistance program only if all of the following conditions are met:~~

~~(1) The release of information is for purposes directly connected to the administration of or provision of medical assistance provided under a public assistance program;~~

~~(2) The information is released to persons or government entities that are subject to standards of confidentiality and safeguarding information substantially comparable to those established for medical assistance provided under a public assistance program;~~

~~(3) The department or county agency has obtained an authorization consistent with section 5101.271 of the Revised Code.~~

~~(G) Information concerning the receipt of medical assistance provided under a public assistance program may be released only if the release complies with this section and rules adopted by the department pursuant to section 5101.30 of the Revised Code or, if more restrictive, the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d, et seq., as amended, and regulations adopted by the United States department of health and human services to implement the act.~~

~~(H) The department of job and family services may adopt rules defining "authorized representative" for purposes of division (C)(2) of this section.~~

Sec. 5101.271. (A) Except as permitted by this section, section 5101.273, or rules adopted under section 5101.30 of the Revised Code, or when required by federal law, no person or government entity shall use or disclose information regarding a medical assistance recipient for any purpose not directly connected with the administration of the medical assistance program.

(B) Both of the following shall be considered to be purposes directly connected with the administration of the medical assistance program:

(1) Treatment, payment, or other operations or activities authorized by 42 C.F.R. Chapter IV;

(2) Any administrative function or duty the department of job and family services performs alone or jointly with a federal government entity, another state government entity, or a local government entity implementing a provision of federal law.

(C) The department or a county agency may disclose information regarding a medical assistance recipient to any of the following:

(1) The recipient or the recipient's authorized representative;

(2) The recipient's legal guardian in accordance with division (C) of section 2111.13 of the Revised Code;

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(3) The attorney of the recipient, if the department or county agency has obtained authorization from the recipient, the recipient's authorized representative, or the recipient's legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1955, 42 U.S.C. 1320d et seq., as amended, regulations promulgated by the United States department of health and human services to implement the act, section 5101.272 of the Revised Code, and any rules the director of job and family services adopts under section 5101.30 of the Revised Code;

(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R. 164.502(e)(2) and has been authorized by the recipient, the recipient's authorized representative, or the recipient's legal guardian to receive the recipient's electronic health records in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code;

(5) A court if pursuant to a written order of the court.

(D) The department may receive from county departments of job and family services information regarding any medical assistance recipient for purposes of training and verifying the accuracy of eligibility determinations for medical assistance. The department may assemble information received under this division into a report if the report is in a form specified by the department. Information received and assembled into a report under this division shall remain confidential and not be subject to disclosure pursuant to section 149.43 or 1347.08 of the Revised Code.

(E) The department shall notify courts in this state regarding its authority, under division (C)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

Sec. ~~5101.274~~ 5101.272. (A) For the purposes of ~~section~~ sections 5101.27 and 5101.271 of the Revised Code, an authorization shall be made on a form that uses language understandable to the average person and contains all of the following:

(1) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion;

(2) The name or other specific identification of the person or class of persons authorized to make the requested use or disclosure;

(3) The name or other specific identification of the person or governmental entity to which the information may be released;

(4) A description of each purpose of the requested use or disclosure of the information;

(5) The date on which the authorization expires or an event related

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either to the individual who is the subject of the request or to the purposes of the requested use or disclosure, the occurrence of which will cause the authorization to expire;

(6) A statement that the information used or disclosed pursuant to the authorization may be disclosed by the recipient of the information and may no longer be protected from disclosure;

(7) The signature of the individual or the individual's authorized representative and the date on which the authorization was signed;

(8) If signed by an authorized representative, a description of the representative's authority to act for the individual;

(9) A statement of the individual or authorized representative's right to prospectively revoke the written authorization in writing, along with one of the following:

(a) A description of how the individual or authorized representative may revoke the authorization;

(b) If the department of job and family services' privacy notice contains a description of how the individual or authorized representative may revoke the authorization, a reference to that privacy notice.

(10) A statement that treatment, payment, enrollment, or eligibility for public assistance or medical assistance cannot be conditioned on signing the authorization unless the authorization is necessary for determining eligibility for the public assistance or medical assistance program.

(B) An authorization for the release of information regarding a medical assistance recipient to the recipient's attorney under division (C)(3) of section 5101.271 of the Revised Code may include a provision specifically authorizing the release of the recipient's electronic health records, if any, in accordance with rules the director of job and family services adopts under section 5101.30 of the Revised Code.

(C) When an individual requests information pursuant to section 5101.27 or 5101.271 of the Revised Code regarding the individual's receipt of public assistance or medical assistance and does not wish to provide a statement of purpose, the statement "at request of the individual" is a sufficient description for purposes of division (A)(4) of this section.

~~Sec. 5101.272 5101.273. Not later than August 31, 2007, the director of job and family services shall submit a report to the general assembly on the costs and potential three-year cost savings associated with participation in the federally administered public assistance reporting information system. If cost savings are indicated in the report, not later than October 1, 2007, the~~ The department of job and family services shall enter into any necessary agreements with the United States department of health and human services

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and neighboring states to join and participate as an active member in the public assistance reporting information system. The department may disclose information regarding a public assistance recipient or medical assistance recipient to the extent necessary to participate as an active member in the public assistance reporting information system.

Sec. 5101.28. (A)(1) On request of the department of job and family services or a county agency, a law enforcement agency shall provide information regarding public assistance recipients to enable the department or county agency to determine, for eligibility purposes, whether a recipient or a member of a recipient's assistance group is a fugitive felon or violating a condition of probation, a community control sanction, parole, or a post-release control sanction imposed under state or federal law.

(2) A county agency may enter into a written agreement with a local law enforcement agency establishing procedures concerning access to information and providing for compliance with division (F) of this section.

(B) To the extent permitted by federal law, the department and county agencies shall provide information, ~~except information directly related to the receipt of medical assistance or medical services,~~ regarding recipients of public assistance under a program administered by the state department or a county agency pursuant to Chapter 5107., 5108., or 5115. of the Revised Code to law enforcement agencies on request for the purposes of investigations, prosecutions, and criminal and civil proceedings that are within the scope of the law enforcement agencies' official duties.

(C) Information about a public assistance recipient shall be exchanged, obtained, or shared only if the department, county agency, or law enforcement agency requesting the information gives sufficient information to specifically identify the recipient. In addition to the recipient's name, identifying information may include the recipient's current or last known address, social security number, other identifying number, age, gender, physical characteristics, any information specified in an agreement entered into under division (A) of this section, or any information considered appropriate by the department or agency.

(D)(1) The department and its officers and employees are not liable in damages in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. This section does not affect any immunity or defense that the department and its officers and employees may be entitled to under another section of the Revised Code or the common law of this state, including section 9.86 of the Revised Code.

(2) The county agencies and their employees are not liable in damages

in a civil action for any injury, death, or loss to person or property that allegedly arises from the release of information in accordance with divisions (A), (B), and (C) of this section. "Employee" has the same meaning as in division (B) of section 2744.01 of the Revised Code. This section does not affect any immunity or defense that the county agencies and their employees may be entitled to under another section of the Revised Code or the common law of this state, including section 2744.02 and division (A)(6) of section 2744.03 of the Revised Code.

(E) To the extent permitted by federal law, the department and county agencies shall provide access to information to the auditor of state acting pursuant to Chapter 117. or sections 5101.181 and 5101.182 of the Revised Code and to any other government entity authorized by federal law to conduct an audit of, or similar activity involving, a public assistance program.

(F) The auditor of state shall prepare an annual report on the outcome of the agreements required under division (A) of this section. The report shall include the number of fugitive felons, probation and parole violators, and violators of community control sanctions and post-release control sanctions apprehended during the immediately preceding year as a result of the exchange of information pursuant to that division. The auditor of state shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives. The state department, county agencies, and law enforcement agencies shall cooperate with the auditor of state's office in gathering the information required under this division.

(G) To the extent permitted by federal law, the department of job and family services, county departments of job and family services, and employees of the departments may report to a public children services agency or other appropriate agency information on known or suspected physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment, of a child receiving public assistance, if circumstances indicate that the child's health or welfare is threatened.

(H) As used in this section:

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

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

Sec. 5101.30. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code implementing sections 5101.26 to 5101.30 of the Revised Code and governing the custody,

use, disclosure, and preservation of the information generated or received by the department of job and family services, county agencies, other state and county entities, contractors, grantees, private entities, or officials participating in the administration of public assistance or medical assistance programs. The rules shall comply with applicable federal statutes and regulations. ~~The~~

~~(1) The rules shall specify conditions and procedures for the release of information. The rules shall comply with applicable federal statutes and regulations. To the extent permitted by federal law which may include, among other conditions and procedures, both of the following:~~

~~(1) The rules may permit (a) Permitting~~ providers of services or assistance under public assistance programs limited access to information that is essential for the providers to render services or assistance or to bill for services or assistance rendered. The department of aging, when investigating a complaint under section 173.20 of the Revised Code, shall be granted any limited access permitted in the rules pursuant to division (A)(1) of this section.

~~(2) The rules may permit (b) Permitting~~ a contractor, grantee, or other state or county entity limited access to information that is essential for the contractor, grantee, or entity to perform administrative or other duties on behalf of the department or county agency. A contractor, grantee, or entity given access to information pursuant to division (A)(2) of this section is bound by the director's rules, and disclosure of the information by the contractor, grantee, or entity in a manner not authorized by the rules is a violation of section 5101.27 of the Revised Code.

~~(2) The rules may define who is an "authorized representative" for purposes of sections 5101.27, 5101.271, and 5101.272 of the Revised Code.~~

(B) Whenever names, addresses, or other information relating to public assistance recipients is held by any agency other than the department or a county agency, that other agency shall adopt rules consistent with sections 5101.26 to 5101.30 of the Revised Code to prevent the publication or disclosure of names, lists, or other information concerning those recipients.

Sec. 5101.341. (A) The Ohio commission on fatherhood annually shall elect a chairperson from among its members. ~~The~~

~~(B) The governor shall appoint an individual to serve as the commission's executive director. The executive director shall serve at the pleasure of the governor and shall report to the director of job and family services or the director's designee.~~

The governor shall fix the executive director's salary on the basis of the executive director's experience and the executive director's responsibilities

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and duties. The executive director shall be in the unclassified civil service.

The department of job and family services shall provide staff and other support services as necessary for the commission to fulfill its duties.

~~(B)~~(C) The commission may accept gifts, grants, donations, contributions, benefits, and other funds from any public agency or private source to carry out any or all of the commission's duties. The funds shall be deposited into the Ohio commission on fatherhood fund, which is hereby created in the state treasury. All gifts, grants, donations, contributions, benefits, and other funds received by the commission pursuant to this division shall be used solely to support the operations of the commission.

Sec. 5101.342. The Ohio commission on fatherhood shall do both of the following:

(A) Organize a state summit on fatherhood every four years;

~~(B)~~(4) Prepare a report each year that ~~identifies~~ does the following:

(1) Identifies resources available to fund fatherhood-related programs and explores the creation of initiatives to do the following:

(a) Build the parenting skills of fathers;

(b) Provide employment-related services for low-income, noncustodial fathers;

(c) Prevent premature fatherhood;

(d) Provide services to fathers who are inmates in or have just been released from imprisonment in a state correctional institution, as defined in section 2967.01 of the Revised Code, or in any other detention facility, as defined in section 2921.01 of the Revised Code, so that they are able to maintain or reestablish their relationships with their families;

(e) Reconcile fathers with their families;

(f) Increase public awareness of the critical role fathers play.

(2) Describes the commission's expectations for the outcomes of fatherhood-related programs and initiatives and the methods the commission uses for conducting annual measures of those outcomes.

(C) The portion of the report prepared pursuant to division (B)(2) of this section shall be prepared by the commission in collaboration with the director of job and family services.

~~(D)~~ The commission shall submit each report prepared pursuant to division ~~(B)~~(4) of this section to the president and minority leader of the senate, speaker and minority leader of the house of representatives, governor, and chief justice of the supreme court. The first report is due not later than one year after the last of the initial appointments to the commission is made under section 5101.341 of the Revised Code.

Sec. 5101.35. (A) As used in this section:

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(1) "Agency" means the following entities that administer a family services program:

- (a) The department of job and family services;
- (b) A county department of job and family services;
- (c) A public children services agency;

(d) A private or government entity administering, in whole or in part, a family services program for or on behalf of the department of job and family services or a county department of job and family services or public children services agency.

(2) "Appellant" means an applicant, participant, former participant, recipient, or former recipient of a family services program who is entitled by federal or state law to a hearing regarding a decision or order of the agency that administers the program.

(3) "Family services program" means assistance provided under a Title IV-A program as defined in section 5101.80 of the Revised Code or under Chapter 5104., 5111., or 5115. or section ~~473.35~~ 5119.69, 5101.141, 5101.46, 5101.461, 5101.54, 5153.163, or 5153.165 of the Revised Code, other than assistance provided under section 5101.46 of the Revised Code by the department of mental health, the department of developmental disabilities, a board of alcohol, drug addiction, and mental health services, or a county board of developmental disabilities.

(B) Except as provided by divisions (G) and (H) of this section, an appellant who appeals under federal or state law a decision or order of an agency administering a family services program shall, at the appellant's request, be granted a state hearing by the department of job and family services. This state hearing shall be conducted in accordance with rules adopted under this section. The state hearing shall be recorded, but neither the recording nor a transcript of the recording shall be part of the official record of the proceeding. A state hearing decision is binding upon the agency and department, unless it is reversed or modified on appeal to the director of job and family services or a court of common pleas.

(C) Except as provided by division (G) of this section, an appellant who disagrees with a state hearing decision may make an administrative appeal to the director of job and family services in accordance with rules adopted under this section. This administrative appeal does not require a hearing, but the director or the director's designee shall review the state hearing decision and previous administrative action and may affirm, modify, remand, or reverse the state hearing decision. Any person designated to make an administrative appeal decision on behalf of the director shall have been admitted to the practice of law in this state. An administrative appeal

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decision is the final decision of the department and is binding upon the department and agency, unless it is reversed or modified on appeal to the court of common pleas.

(D) An agency shall comply with a decision issued pursuant to division (B) or (C) of this section within the time limits established by rules adopted under this section. If a county department of job and family services or a public children services agency fails to comply within these time limits, the department may take action pursuant to section 5101.24 of the Revised Code. If another agency fails to comply within the time limits, the department may force compliance by withholding funds due the agency or imposing another sanction established by rules adopted under this section.

(E) An appellant who disagrees with an administrative appeal decision of the director of job and family services or the director's designee issued under division (C) of this section may appeal from the decision to the court of common pleas pursuant to section 119.12 of the Revised Code. The appeal shall be governed by section 119.12 of the Revised Code except that:

(1) The person may appeal to the court of common pleas of the county in which the person resides, or to the court of common pleas of Franklin county if the person does not reside in this state.

(2) The person may apply to the court for designation as an indigent and, if the court grants this application, the appellant shall not be required to furnish the costs of the appeal.

(3) The appellant shall mail the notice of appeal to the department of job and family services and file notice of appeal with the court within thirty days after the department mails the administrative appeal decision to the appellant. For good cause shown, the court may extend the time for mailing and filing notice of appeal, but such time shall not exceed six months from the date the department mails the administrative appeal decision. Filing notice of appeal with the court shall be the only act necessary to vest jurisdiction in the court.

(4) The department shall be required to file a transcript of the testimony of the state hearing with the court only if the court orders the department to file the transcript. The court shall make such an order only if it finds that the department and the appellant are unable to stipulate to the facts of the case and that the transcript is essential to a determination of the appeal. The department shall file the transcript not later than thirty days after the day such an order is issued.

(F) The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section, including rules governing the following:

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(1) State hearings under division (B) of this section. The rules shall include provisions regarding notice of eligibility termination and the opportunity of an appellant appealing a decision or order of a county department of job and family services to request a county conference with the county department before the state hearing is held.

(2) Administrative appeals under division (C) of this section;

(3) Time limits for complying with a decision issued under division (B) or (C) of this section;

(4) Sanctions that may be applied against an agency under division (D) of this section.

(G) The department of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code establishing an appeals process for an appellant who appeals a decision or order regarding a Title IV-A program identified under division (A)(4)(c), (d), (e), or (f) of section 5101.80 of the Revised Code that is different from the appeals process established by this section. The different appeals process may include having a state agency that administers the Title IV-A program pursuant to an interagency agreement entered into under section 5101.801 of the Revised Code administer the appeals process.

(H) If an appellant receiving medicaid through a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code is appealing a denial of medicaid services based on lack of medical necessity or other clinical issues regarding coverage by the health insuring corporation, the person hearing the appeal may order an independent medical review if that person determines that a review is necessary. The review shall be performed by a health care professional with appropriate clinical expertise in treating the recipient's condition or disease. The department shall pay the costs associated with the review.

A review ordered under this division shall be part of the record of the hearing and shall be given appropriate evidentiary consideration by the person hearing the appeal.

(I) The requirements of Chapter 119. of the Revised Code apply to a state hearing or administrative appeal under this section only to the extent, if any, specifically provided by rules adopted under this section.

Sec. 5101.37. (A) The department of job and family services and each county department of job and family services and child support enforcement agency may ~~make~~ conduct any audits or investigations that are necessary in the performance of their duties, and to that end they shall have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or

papers.

The department and each county department and agency shall keep a record of their audits and investigations stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

Witnesses shall be paid the fees and mileage provided for under section 119.094 of the Revised Code.

(B) In conducting hearings pursuant to Chapters 3119., 3121., and 3123. or pursuant to division (B) of section 5101.35 of the Revised Code, the department and each child support enforcement agency have the same power as a judge of a county court to administer oaths and to enforce the attendance and testimony of witnesses and the production of books or papers. The department and each agency shall keep a record of those hearings stating the time, place, charges, or subject; witnesses summoned and examined; and their conclusions.

The issuance of a subpoena by the department or a child support enforcement agency to enforce attendance and testimony of witnesses and the production of books or papers at a hearing is discretionary and the department or agency is not required to pay the fees of witnesses for attendance and travel.

(C) Any judge of any division of the court of common pleas, upon application of the department or a county department or child support enforcement agency, may compel the attendance of witnesses, the production of books or papers, and the giving of testimony before the department, county department, or agency, by a judgment for contempt or otherwise, in the same manner as in cases before those courts.

(D) Until an audit report is formally released by the department of job and family services, the audit report or any working paper or other document or record prepared by the department and related to the audit that is the subject of the audit report is not a public record under section 149.43 of the Revised Code.

(E) The director of job and family services may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

Sec. 5101.46. (A) As used in this section:

(1) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C.A. 1397, as amended.

(2) "Respective local agency" means, with respect to the department of job and family services, a county department of job and family services; with respect to the department of mental health, a board of alcohol, drug

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addiction, and mental health services; and with respect to the department of developmental disabilities, a county board of developmental disabilities.

(3) "Federal poverty guidelines" means the poverty guidelines as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C.A. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

(B) The departments of job and family services, mental health, and developmental disabilities, with their respective local agencies, shall administer the provision of social services funded through grants made under Title XX. The social services furnished with Title XX funds shall be directed at the following goals:

(1) Achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) Achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) Preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating, or reuniting families;

(4) Preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care;

(5) Securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institutions.

(C)(1) All federal funds received under Title XX shall be appropriated as follows:

(a) Seventy-two and one-half per cent to the department of job and family services;

(b) Twelve and ninety-three one-hundredths per cent to the department of mental health;

(c) Fourteen and fifty-seven one-hundredths per cent to the department of developmental disabilities.

(2) Each of the state department departments shall, subject to the approval of the controlling board, develop ~~formulas~~ a formula for the distribution of ~~their the~~ Title XX ~~appropriations~~ funds appropriated to the department to their its respective local agencies. The ~~formulas~~ formula developed by each state department shall take into account all of the following for each of its respective local agencies:

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(a) ~~The~~ total population of the area that is served by the respective local agency, the

(b) ~~The~~ percentage of the population in the area served that falls below the federal poverty guidelines, ~~and the~~

(c) The respective local agency's history of and ability to utilize Title XX funds.

(3) Each of the state departments shall expend ~~no~~ for state administrative costs not more than three per cent of ~~its~~ the Title XX ~~appropriation for state administrative costs~~ funds appropriated to the department. ~~Each of the department's respective local agencies shall expend no more than fourteen per cent of its Title XX appropriation~~

Each state department shall establish for each of its respective local agencies the maximum percentage of the Title XX funds distributed to the respective local agency that the respective local agency may expend for local administrative costs. The percentage shall be established by rule and shall comply with federal law governing the use of Title XX funds. The rules shall be adopted in accordance with section 111.15 of the Revised Code as if they were internal management rules.

(4) The department of job and family services shall expend ~~no~~ for the training of the following not more than two per cent of ~~its~~ the Title XX ~~appropriation for the training of the following~~ funds appropriated to the department:

(a) Employees of county departments of job and family services;

(b) Providers of services under contract with the state departments' respective local agencies;

(c) Employees of a public children services agency directly engaged in providing Title XX services.

(D) The department of job and family services shall prepare a biennial comprehensive Title XX social services plan on the intended use of Title XX funds. The department shall develop a method for obtaining public comment during the development of the plan and following its completion.

For each state fiscal year, the department of job and family services shall prepare a report on the actual use of Title XX funds. The department shall make the annual report available for public inspection.

The departments of mental health and developmental disabilities shall prepare and submit to the department of job and family services the portions of each biennial plan and annual report that apply to services for mental health and mental retardation and developmental disabilities. Each respective local agency of the three state departments shall submit information as necessary for the preparation of biennial plans and annual

reports.

(E) Each county department shall adopt a county profile for the administration and provision of Title XX social services in the county. In developing its county profile, the county department shall take into consideration the comments and recommendations received from the public by the county family services planning committee pursuant to section 329.06 of the Revised Code. As part of its preparation of the county profile, the county department may prepare a local needs report analyzing the need for Title XX social services.

The county department shall submit the county profile to the board of county commissioners for its review. Once the county profile has been approved by the board, the county department shall file a copy of the county profile with the department of job and family services. The department shall approve the county profile if the department determines the profile provides for the Title XX social services to meet the goals specified in division (B) of this section.

(F) Any of the three state departments and their respective local agencies may require that an entity under contract to provide social services with Title XX funds submit to an audit on the basis of alleged misuse or improper accounting of funds. If an audit is required, the social services provider shall reimburse the state department or respective local agency for the cost it incurred in conducting the audit or having the audit conducted.

If an audit demonstrates that a social services provider is responsible for one or more adverse findings, the provider shall reimburse the appropriate state department or its respective local agency the amount of the adverse findings. The amount shall not be reimbursed with Title XX funds received under this section. The three state departments and their respective local agencies may terminate or refuse to enter into a Title XX contract with a social services provider if there are adverse findings in an audit that are the responsibility of the provider.

(G) ~~The~~ Except with respect to the matters for which each of the state departments must adopt rules under division (C)(3) of this section, the department of job and family services may adopt any rules it considers necessary to implement and carry out the purposes of this section. Rules governing financial and operational matters of the department or matters between the department and county departments of job and family services shall be adopted as internal management rules in accordance with section 111.15 of the Revised Code. Rules governing eligibility for services, program participation, and other matters pertaining to applicants and participants shall be adopted in accordance with Chapter 119. of the Revised

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Code.

Sec. 5101.47. (A) Except as provided in ~~division~~ divisions (B) and (C) of this section, the ~~director~~ department of job and family services may accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for one or more of the following:

(1) The medicaid program established by Chapter 5111. of the Revised Code;

(2) The children's health insurance program parts I, II, and III provided for under sections 5101.50, ~~5101.51, and 5101.52~~ to 5101.529 of the Revised Code;

(3) Publicly funded child care provided under Chapter 5104. of the Revised Code;

(4) The supplemental nutrition assistance program administered by the department ~~of job and family services~~ pursuant to section 5101.54 of the Revised Code;

(5) Other programs the director of job and family services determines are supportive of children, adults, or families;

(6) Other programs regarding which the director determines administrative cost savings and efficiency may be achieved through the department accepting applications, determining eligibility, redetermining eligibility, or performing related administrative activities.

(B) To the extent permitted by federal law, the department may enter into agreements with one or more other state agencies, local government entities, or political subdivisions to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities on behalf of the department with respect to the medicaid program and the children's health insurance program.

(C) If federal law requires a face-to-face interview to complete an eligibility determination for a program specified in or pursuant to division (A) of this section, the face-to-face interview shall not be conducted by the department of job and family services.

~~(C)~~(D) Subject to division ~~(B)~~(C) of this section, if the ~~director~~ department elects to accept applications, determine eligibility, redetermine eligibility, and perform related administrative activities for a program specified in or pursuant to division (A) of this section, both of the following apply:

(1) An individual seeking services under the program may apply for the program to the ~~director~~ department or to the entity that state law governing the program authorizes to accept applications for the program.

(2) The ~~director~~ department is subject to federal statutes and regulations

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and state statutes and rules that require, permit, or prohibit an action regarding accepting applications, determining or redetermining eligibility, and performing related administrative activities for the program.

~~(D)~~(E) The director may adopt rules as necessary to implement this section.

Sec. 5101.57. (A) As used in this section:

(1) "Nontherapeutic abortion" has the same meaning as in section 124.85 of the Revised Code.

(2) "Political subdivision" means any body corporate and politic that is responsible for governmental activities in a geographic area smaller than the state, except that "political subdivision" does not include either of the following:

(a) A municipal corporation;

(b) A county that has adopted a charter under Section 3 of Article X, Ohio Constitution, to the extent that it is exercising the powers of local self-government as provided in that charter and is subject to Section 3 of Article XVIII, Ohio Constitution.

(3) "Public facility" means any institution, structure, equipment, or physical asset that is owned, leased, or controlled by this state or any agency, institution, instrumentality, or political subdivision thereof. "Public facility" includes any state university, state medical college, health district, joint hospital, or public hospital agency.

(B) No public facility shall be used for the purpose of performing or inducing a nontherapeutic abortion.

Sec. 5101.571. As used in sections 5101.571 to 5101.591 of the Revised Code:

(A) "Information" means all of the following:

(1) An individual's name, address, date of birth, and social security number;

(2) The group or plan number, or other identifier, assigned by a third party to a policy held by an individual or a plan in which the individual participates and the nature of the coverage;

(3) Any other data the director of job and family services specifies in rules adopted under section 5101.591 of the Revised Code.

(B) "Medical assistance" means medical items or services provided under any of the following:

(1) Medicaid, as defined in section 5111.01 of the Revised Code;

(2) The children's health insurance program part I, part II, and part III established under sections 5101.50, 5101.51, and 5101.52 of the Revised Code;

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~~(3) The children's buy-in program established under sections 5101.5211 to 5101.5216 of the Revised Code.~~

(C) "Medical support" means support specified as support for the purpose of medical care by order of a court or administrative agency.

(D) "Public assistance" means medical assistance or assistance under the Ohio works first program established under Chapter 5107. of the Revised Code.

(E)(1) Subject to division (E)(2) of this section, and except as provided in division (E)(3) of this section, "third party" means all of the following:

(a) A person authorized to engage in the business of sickness and accident insurance under Title XXXIX of the Revised Code;

(b) A person or governmental entity providing coverage for medical services or items to individuals on a self-insurance basis;

(c) A health insuring corporation as defined in section 1751.01 of the Revised Code;

(d) A group health plan as defined in 29 U.S.C. 1167;

(e) A service benefit plan as referenced in 42 U.S.C. 1396a(a)(25);

(f) A managed care organization;

(g) A pharmacy benefit manager;

(h) A third party administrator;

(i) Any other person or governmental entity that is, by law, contract, or agreement, responsible for the payment or processing of a claim for a medical item or service for a public assistance recipient or participant.

(2) Except when otherwise provided by 42 U.S.C. 1395y(b), a person or governmental entity listed in division (E)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for medically handicapped children established under section 3701.023 of the Revised Code.

Sec. 5101.573. (A) Subject to divisions (B) and (C) of this section, a third party shall do all of the following:

(1) Accept the department of job and family services' right of recovery under section 5101.58 of the Revised Code and the assignment of rights to the department that are described in section 5101.59 of the Revised Code;

(2) Respond to an inquiry by the department regarding a claim for payment of a medical item or service that was submitted to the third party not later than ~~three~~ six years after the date of the provision of such medical item or service;

(3) Not charge a fee to do either of the following for a claim described

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

(a) Determine whether the claim should be paid;

(b) Process the claim.

(4) Pay a claim described in division (A)(2) of this section;

~~(5)~~ Not deny a claim submitted by the department solely on the basis of the date of submission of the claim, type or format of the claim form, or a failure by the medical assistance recipient who is the subject of the claim to present proper documentation of coverage at the time of service, if both of the following are true:

(a) The claim was submitted by the department not later than ~~three~~ six years after the date of the provision of the medical item or service.

(b) An action by the department to enforce its right of recovery under section 5101.58 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

~~(5)~~(6) Consider the department's payment of a claim for a medical item or service to be the equivalent of the medical assistance recipient having obtained prior authorization for the item or service from the third party;

~~(6)~~(7) Not deny a claim described in division (A)~~(5)~~(6) of this section that is submitted by the department solely on the basis of the medical assistance recipient's failure to obtain prior authorization for the medical item or service.

(B) For purposes of the requirements in division (A) of this section, a third party shall treat a managed care organization as the department for a claim in which both of the following are true:

(1) The individual who is the subject of the claim received a medical item or service through a managed care organization that has entered into a contract with the department of job and family services under section 5111.17 of the Revised Code;

(2) The department has assigned its right of recovery for the claim to the managed care organization.

(C) The time limitations associated with the requirements in divisions (A)(2) and ~~(A)(4)~~(5) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which 42 U.S.C. 1396a(a)(25)(I) applies.

Sec. 5101.58. (A) The acceptance of public assistance gives an automatic right of recovery to the department of job and family services and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the public assistance recipient or participant. When an action or claim is brought against a third party by a public assistance recipient or participant, any

payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of job and family services or county department of job and family services. Except in the case of a recipient or participant who receives medical assistance through a managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by a department on behalf of the recipient or participant. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by a department shall not preclude a department from enforcing its rights under this section.

(B) In the case of a recipient or participant who receives medical assistance through a managed care organization, the amount of the department's or county department's claim shall be the amount the managed care organization pays for medical assistance rendered to the recipient or participant, even if that amount is more than the amount a department pays to the managed care organization for the recipient's or participant's medical assistance.

(C) A recipient or participant, and the recipient's or participant's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the recipient or participant, or the recipient's or participant's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the department of job and family services when medical assistance under medicaid ~~or the children's buy-in program~~ has been paid.

(D) The written notice that must be given under division (C) of this section shall disclose the identity and address of any third party against whom the recipient or participant has or may have a right of recovery.

(E) No settlement, compromise, judgment, or award or any recovery in any action or claim by a recipient or participant where the departments have a right of recovery shall be made final without first giving the appropriate departments written notice as described in division (C) of this section and a reasonable opportunity to perfect their rights of recovery. If the departments are not given the appropriate written notice, the recipient or participant and, if there is one, the recipient's or participant's attorney, are liable to reimburse the departments for the recovery received to the extent of medical payments made by the departments.

(F) The departments shall be permitted to enforce their recovery rights against the third party even though they accepted prior payments in discharge of their rights under this section if, at the time the departments

received such payments, they were not aware that additional medical expenses had been incurred but had not yet been paid by the departments. The third party becomes liable to the department of job and family services or county department of job and family services as soon as the third party is notified in writing of the valid claims for recovery under this section.

(G)(1) Subject to division (G)(2) of this section, the right of recovery of a department does not apply to that portion of any judgment, award, settlement, or compromise of a claim, to the extent of attorneys' fees, costs, or other expenses incurred by a recipient or participant in securing the judgment, award, settlement, or compromise, or to the extent of medical, surgical, and hospital expenses paid by such recipient or participant from the recipient's or participant's own resources.

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the recipient or participant in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, the department of job and family services or appropriate county department of job and family services shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of job and family services or the appropriate county department of job and family services. To enforce their recovery rights, the departments may do any of the following:

(1) Intervene or join in any action or proceeding brought by the recipient or participant or on the recipient's or participant's behalf against any third party who may be liable for the cost of medical assistance paid;

(2) Institute and pursue legal proceedings against any third party who may be liable for the cost of medical assistance paid;

(3) Initiate legal proceedings in conjunction with any injured, diseased, or disabled recipient or participant or the recipient's or participant's attorney or representative.

(I) A recipient or participant shall not assess attorney fees, costs, or other expenses against the department of job and family services or a county department of job and family services when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section does not include rights to support from any other person assigned to the state under sections 5107.20 and 5115.07 of the Revised Code, but includes

payments made by a third party under contract with a person having a duty to support.

Sec. 5101.60. As used in sections 5101.60 to 5101.71 of the Revised Code:

(A) "Abuse" means the infliction upon an adult by self or others of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish.

(B) "Adult" means any person sixty years of age or older within this state who is handicapped by the infirmities of aging or who has a physical or mental impairment which prevents the person from providing for the person's own care or protection, and who resides in an independent living arrangement. An "independent living arrangement" is a domicile of a person's own choosing, including, but not limited to, a private home, apartment, trailer, or rooming house. An "independent living arrangement" includes an adult care facility licensed pursuant to Chapter ~~3722~~ 5119 of the Revised Code, but does not include other institutions or facilities licensed by the state or facilities in which a person resides as a result of voluntary, civil, or criminal commitment.

(C) "Caretaker" means the person assuming the responsibility for the care of an adult on a voluntary basis, by contract, through receipt of payment for care, as a result of a family relationship, or by order of a court of competent jurisdiction.

(D) "Court" means the probate court in the county where an adult resides.

(E) "Emergency" means that the adult is living in conditions which present a substantial risk of immediate and irreparable physical harm or death to self or any other person.

(F) "Emergency services" means protective services furnished to an adult in an emergency.

(G) "Exploitation" means the unlawful or improper act of a caretaker using an adult or an adult's resources for monetary or personal benefit, profit, or gain.

(H) "In need of protective services" means an adult known or suspected to be suffering from abuse, neglect, or exploitation to an extent that either life is endangered or physical harm, mental anguish, or mental illness results or is likely to result.

(I) "Incapacitated person" means a person who is impaired for any reason to the extent that the person lacks sufficient understanding or capacity to make and carry out reasonable decisions concerning the person's self or resources, with or without the assistance of a caretaker. Refusal to

consent to the provision of services shall not be the sole determinative that the person is incapacitated. "Reasonable decisions" are decisions made in daily living which facilitate the provision of food, shelter, clothing, and health care necessary for life support.

(J) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(K) "Neglect" means the failure of an adult to provide for self the goods or services necessary to avoid physical harm, mental anguish, or mental illness or the failure of a caretaker to provide such goods or services.

(L) "Peace officer" means a peace officer as defined in section 2935.01 of the Revised Code.

(M) "Physical harm" means bodily pain, injury, impairment, or disease suffered by an adult.

(N) "Protective services" means services provided by the county department of job and family services or its designated agency to an adult who has been determined by evaluation to require such services for the prevention, correction, or discontinuance of an act of as well as conditions resulting from abuse, neglect, or exploitation. Protective services may include, but are not limited to, case work services, medical care, mental health services, legal services, fiscal management, home health care, homemaker services, housing-related services, guardianship services, and placement services as well as the provision of such commodities as food, clothing, and shelter.

(O) "Working day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday as defined in section 1.14 of the Revised Code.

Sec. 5101.61. (A) As used in this section:

(1) "Senior service provider" means any person who provides care or services to a person who is an adult as defined in division (B) of section 5101.60 of the Revised Code.

(2) "Ambulatory health facility" means a nonprofit, public or proprietary freestanding organization or a unit of such an agency or organization that:

(a) Provides preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished to an outpatient or ambulatory patient, by or under the direction of a physician or dentist in a facility which is not a part of a hospital, but which is organized and operated to provide medical care to outpatients;

(b) Has health and medical care policies which are developed with the advice of, and with the provision of review of such policies, an advisory

committee of professional personnel, including one or more physicians, one or more dentists, if dental care is provided, and one or more registered nurses;

(c) Has a medical director, a dental director, if dental care is provided, and a nursing director responsible for the execution of such policies, and has physicians, dentists, nursing, and ancillary staff appropriate to the scope of services provided;

(d) Requires that the health care and medical care of every patient be under the supervision of a physician, provides for medical care in a case of emergency, has in effect a written agreement with one or more hospitals and other centers or clinics, and has an established patient referral system to other resources, and a utilization review plan and program;

(e) Maintains clinical records on all patients;

(f) Provides nursing services and other therapeutic services in accordance with programs and policies, with such services supervised by a registered professional nurse, and has a registered professional nurse on duty at all times of clinical operations;

(g) Provides approved methods and procedures for the dispensing and administration of drugs and biologicals;

(h) Has established an accounting and record keeping system to determine reasonable and allowable costs;

(i) "Ambulatory health facilities" also includes an alcoholism treatment facility approved by the joint commission on accreditation of healthcare organizations as an alcoholism treatment facility or certified by the department of alcohol and drug addiction services, and such facility shall comply with other provisions of this division not inconsistent with such accreditation or certification.

(3) "Community mental health facility" means a facility which provides community mental health services and is included in the comprehensive mental health plan for the alcohol, drug addiction, and mental health service district in which it is located.

(4) "Community mental health service" means services, other than inpatient services, provided by a community mental health facility.

(5) "Home health agency" means an institution or a distinct part of an institution operated in this state which:

(a) Is primarily engaged in providing home health services;

(b) Has home health policies which are established by a group of professional personnel, including one or more duly licensed doctors of medicine or osteopathy and one or more registered professional nurses, to govern the home health services it provides and which includes a

requirement that every patient must be under the care of a duly licensed doctor of medicine or osteopathy;

(c) Is under the supervision of a duly licensed doctor of medicine or doctor of osteopathy or a registered professional nurse who is responsible for the execution of such home health policies;

(d) Maintains comprehensive records on all patients;

(e) Is operated by the state, a political subdivision, or an agency of either, or is operated not for profit in this state and is licensed or registered, if required, pursuant to law by the appropriate department of the state, county, or municipality in which it furnishes services; or is operated for profit in this state, meets all the requirements specified in divisions (A)(5)(a) to (d) of this section, and is certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(6) "Home health service" means the following items and services, provided, except as provided in division (A)(6)(g) of this section, on a visiting basis in a place of residence used as the patient's home:

(a) Nursing care provided by or under the supervision of a registered professional nurse;

(b) Physical, occupational, or speech therapy ordered by the patient's attending physician;

(c) Medical social services performed by or under the supervision of a qualified medical or psychiatric social worker and under the direction of the patient's attending physician;

(d) Personal health care of the patient performed by aides in accordance with the orders of a doctor of medicine or osteopathy and under the supervision of a registered professional nurse;

(e) Medical supplies and the use of medical appliances;

(f) Medical services of interns and residents-in-training under an approved teaching program of a nonprofit hospital and under the direction and supervision of the patient's attending physician;

(g) Any of the foregoing items and services which:

(i) Are provided on an outpatient basis under arrangements made by the home health agency at a hospital or skilled nursing facility;

(ii) Involve the use of equipment of such a nature that the items and services cannot readily be made available to the patient in the patient's place of residence, or which are furnished at the hospital or skilled nursing facility while the patient is there to receive any item or service involving the use of such equipment.

Any attorney, physician, osteopath, podiatrist, chiropractor, dentist, psychologist, any employee of a hospital as defined in section 3701.01 of

the Revised Code, any nurse licensed under Chapter 4723. of the Revised Code, any employee of an ambulatory health facility, any employee of a home health agency, any employee of an adult care facility as defined in section ~~3722.01~~ 5119.70 of the Revised Code, any employee of a nursing home, residential care facility, or home for the aging, as defined in section 3721.01 of the Revised Code, any senior service provider, any peace officer, coroner, clergyman, any employee of a community mental health facility, and any person engaged in social work or counseling having reasonable cause to believe that an adult is being abused, neglected, or exploited, or is in a condition which is the result of abuse, neglect, or exploitation shall immediately report such belief to the county department of job and family services. This section does not apply to employees of any hospital or public hospital as defined in section 5122.01 of the Revised Code.

(B) Any person having reasonable cause to believe that an adult has suffered abuse, neglect, or exploitation may report, or cause reports to be made of such belief to the department.

(C) The reports made under this section shall be made orally or in writing except that oral reports shall be followed by a written report if a written report is requested by the department. Written reports shall include:

(1) The name, address, and approximate age of the adult who is the subject of the report;

(2) The name and address of the individual responsible for the adult's care, if any individual is, and if the individual is known;

(3) The nature and extent of the alleged abuse, neglect, or exploitation of the adult;

(4) The basis of the reporter's belief that the adult has been abused, neglected, or exploited.

(D) Any person with reasonable cause to believe that an adult is suffering abuse, neglect, or exploitation who makes a report pursuant to this section or who testifies in any administrative or judicial proceeding arising from such a report, or any employee of the state or any of its subdivisions who is discharging responsibilities under section 5101.62 of the Revised Code shall be immune from civil or criminal liability on account of such investigation, report, or testimony, except liability for perjury, unless the person has acted in bad faith or with malicious purpose.

(E) No employer or any other person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, or reduce benefits, pay, or work privileges, or take any other action detrimental to an employee or in any way retaliate against an employee as a result of the employee's having filed a report under this

section.

(F) Neither the written or oral report provided for in this section nor the investigatory report provided for in section 5101.62 of the Revised Code shall be considered a public record as defined in section 149.43 of the Revised Code. Information contained in the report shall upon request be made available to the adult who is the subject of the report, to agencies authorized by the department to receive information contained in the report, and to legal counsel for the adult.

Sec. 5101.98. (A) There is hereby created in the state treasury the military injury relief fund, which shall consist of money contributed to it under section 5747.113 of the Revised Code, of incentive grants authorized by the "Jobs for Veterans Act," 116 Stat. 2033 (2002), and of contributions made directly to it. Any person or entity may contribute directly to the fund in addition to or independently of the income tax refund contribution system established in section 5747.113 of the Revised Code.

(B) Upon application, the director of job and family services shall grant money in the fund to individuals injured while in active service as a member of the armed forces of the United States while serving under operation Iraqi freedom, operation new dawn, or operation enduring freedom and to individuals diagnosed with post-traumatic stress disorder while serving, or after having served, in operation Iraqi freedom, operation new dawn, or operation enduring freedom.

(C) An individual who receives a grant under this section is precluded from receiving additional grants under this section during the same state fiscal year but is not precluded from being considered for or receiving other assistance offered by the department of job and family services.

(D) The director shall adopt rules under Chapter 119. of the Revised Code establishing:

(1) Forms and procedures by which individuals may apply for a grant under this section;

(2) Criteria for reviewing, evaluating, and approving or denying grant applications;

(3) Criteria for determining the amount of grants awarded under this section;

(4) Definitions and standards applicable to determining whether an individual meets the requirements established in division (B) of this section;

(5) The process for appealing eligibility determinations; and

(6) Any other rules necessary to administer the grant program established in this section.

(E) An eligibility determination, a grant approval, or a grant denial

made under this section may not be appealed under Chapter 119., section 5101.35, or any other provision of the Revised Code.

Sec. 5104.01. As used in this chapter:

(A) "Administrator" means the person responsible for the daily operation of a center or type A home. The administrator and the owner may be the same person.

(B) "Approved child day camp" means a child day camp approved pursuant to section 5104.22 of the Revised Code.

(C) "Authorized provider" means a person authorized by a county director of job and family services to operate a certified type B family day-care home.

(D) "Border state child care provider" means a child care provider that is located in a state bordering Ohio and that is licensed, certified, or otherwise approved by that state to provide child care.

(E) "Career pathways model" means an alternative pathway to meeting the requirements for a child care staff member or administrator that uses one framework to integrate the pathways of formal education, training, experience, and specialized credentials, and certifications, and that allows the member or administrator to achieve a designation as an early childhood professional level one, two, three, four, five, or six.

(F) "Caretaker parent" means the father or mother of a child whose presence in the home is needed as the caretaker of the child, a person who has legal custody of a child and whose presence in the home is needed as the caretaker of the child, a guardian of a child whose presence in the home is needed as the caretaker of the child, and any other person who stands in loco parentis with respect to the child and whose presence in the home is needed as the caretaker of the child.

~~(F)~~(G) "Certified type B family day-care home" and "certified type B home" mean a type B family day-care home that is certified by the director of the county department of job and family services pursuant to section 5104.11 of the Revised Code to receive public funds for providing child care pursuant to this chapter and any rules adopted under it.

~~(G)~~(H) "Chartered nonpublic school" means a school that meets standards for nonpublic schools prescribed by the state board of education for nonpublic schools pursuant to section 3301.07 of the Revised Code.

~~(H)~~(I) "Child" includes an infant, toddler, preschool child, or school child.

~~(I)~~(J) "Child care block grant act" means the "Child Care and Development Block Grant Act of 1990," established in section 5082 of the "Omnibus Budget Reconciliation Act of 1990," 104 Stat. 1388-236 (1990),

42 U.S.C. 9858, as amended.

~~(J)~~(K) "Child day camp" means a program in which only school children attend or participate, that operates for no more than seven hours per day, that operates only during one or more public school district's regular vacation periods or for no more than fifteen weeks during the summer, and that operates outdoor activities for each child who attends or participates in the program for a minimum of fifty per cent of each day that children attend or participate in the program, except for any day when hazardous weather conditions prevent the program from operating outdoor activities for a minimum of fifty per cent of that day. For purposes of this division, the maximum seven hours of operation time does not include transportation time from a child's home to a child day camp and from a child day camp to a child's home.

~~(K)~~(L) "Child care" means administering to the needs of infants, toddlers, preschool children, and school children outside of school hours by persons other than their parents or guardians, custodians, or relatives by blood, marriage, or adoption for any part of the twenty-four-hour day in a place or residence other than a child's own home.

~~(L)~~(M) "Child day-care center" and "center" mean any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted. "Child day-care center" and "center" do not include any of the following:

(1) A place located in and operated by a hospital, as defined in section 3727.01 of the Revised Code, in which the needs of children are administered to, if all the children whose needs are being administered to are monitored under the on-site supervision of a physician licensed under Chapter 4731. of the Revised Code or a registered nurse licensed under Chapter 4723. of the Revised Code, and the services are provided only for children who, in the opinion of the child's parent, guardian, or custodian, are exhibiting symptoms of a communicable disease or other illness or are injured;

(2) A child day camp;

(3) A place that provides child care, but not publicly funded child care, if all of the following apply:

(a) An organized religious body provides the child care;

(b) A parent, custodian, or guardian of at least one child receiving child care is on the premises and readily accessible at all times;

(c) The child care is not provided for more than thirty days a year;

(d) The child care is provided only for preschool and school children.

~~(M)~~(N) "Child care resource and referral service organization" means a community-based nonprofit organization that provides child care resource and referral services but not child care.

~~(N)~~(O) "Child care resource and referral services" means all of the following services:

(1) Maintenance of a uniform data base of all child care providers in the community that are in compliance with this chapter, including current occupancy and vacancy data;

(2) Provision of individualized consumer education to families seeking child care;

(3) Provision of timely referrals of available child care providers to families seeking child care;

(4) Recruitment of child care providers;

(5) Assistance in the development, conduct, and dissemination of training for child care providers and provision of technical assistance to current and potential child care providers, employers, and the community;

(6) Collection and analysis of data on the supply of and demand for child care in the community;

(7) Technical assistance concerning locally, state, and federally funded child care and early childhood education programs;

(8) Stimulation of employer involvement in making child care more affordable, more available, safer, and of higher quality for their employees and for the community;

(9) Provision of written educational materials to caretaker parents and informational resources to child care providers;

(10) Coordination of services among child care resource and referral service organizations to assist in developing and maintaining a statewide system of child care resource and referral services if required by the department of job and family services;

(11) Cooperation with the county department of job and family services in encouraging the establishment of parent cooperative child care centers and parent cooperative type A family day-care homes.

~~(O)~~(P) "Child-care staff member" means an employee of a child day-care center or type A family day-care home who is primarily responsible for the care and supervision of children. The administrator may be a part-time child-care staff member when not involved in other duties.

~~(P)~~(Q) "Drop-in child day-care center," "drop-in center," "drop-in type A family day-care home," and "drop-in type A home" mean a center or type A home that provides child care or publicly funded child care for children on a temporary, irregular basis.

~~(Q)~~(R) "Employee" means a person who either:

(1) Receives compensation for duties performed in a child day-care center or type A family day-care home;

(2) Is assigned specific working hours or duties in a child day-care center or type A family day-care home.

~~(R)~~(S) "Employer" means a person, firm, institution, organization, or agency that operates a child day-care center or type A family day-care home subject to licensure under this chapter.

~~(S)~~(T) "Federal poverty line" means the official poverty guideline as revised annually in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended, for a family size equal to the size of the family of the person whose income is being determined.

~~(T)~~(U) "Head start program" means a comprehensive child development program that receives funds distributed under the "Head Start Act," 95 Stat. 499 (1981), 42 U.S.C.A. 9831, as amended, and is licensed as a child day-care center.

~~(U)~~(V) "Income" means gross income, as defined in section 5107.10 of the Revised Code, less any amounts required by federal statutes or regulations to be disregarded.

~~(V)~~(W) "Indicator checklist" means an inspection tool, used in conjunction with an instrument-based program monitoring information system, that contains selected licensing requirements that are statistically reliable indicators or predictors of a child day-care center or type A family day-care home's compliance with licensing requirements.

~~(W)~~(X) "Infant" means a child who is less than eighteen months of age.

~~(X)~~(Y) "In-home aide" means a person who does not reside with the child but provides care in the child's home and is certified by a county director of job and family services pursuant to section 5104.12 of the Revised Code to provide publicly funded child care to a child in a child's own home pursuant to this chapter and any rules adopted under it.

~~(Y)~~(Z) "Instrument-based program monitoring information system" means a method to assess compliance with licensing requirements for child day-care centers and type A family day-care homes in which each licensing requirement is assigned a weight indicative of the relative importance of the requirement to the health, growth, and safety of the children that is used to

develop an indicator checklist.

~~(Z)~~(AA) "License capacity" means the maximum number in each age category of children who may be cared for in a child day-care center or type A family day-care home at one time as determined by the director of job and family services considering building occupancy limits established by the department of commerce, ~~number of available child-care staff members~~, amount of available indoor floor space and outdoor play space, and amount of available play equipment, materials, and supplies. For the purposes of a provisional license issued under this chapter, the director shall also consider the number of available child-care staff members when determining "license capacity" for the provisional license.

~~(AA)~~(BB) "Licensed preschool program" or "licensed school child program" means a preschool program or school child program, as defined in section 3301.52 of the Revised Code, that is licensed by the department of education pursuant to sections 3301.52 to 3301.59 of the Revised Code.

~~(BB)~~(CC) "Licensee" means the owner of a child day-care center or type A family day-care home that is licensed pursuant to this chapter and who is responsible for ensuring its compliance with this chapter and rules adopted pursuant to this chapter.

~~(CC)~~(DD) "Operate a child day camp" means to operate, establish, manage, conduct, or maintain a child day camp.

~~(DD)~~(EE) "Owner" includes a person, as defined in section 1.59 of the Revised Code, or government entity.

~~(EE)~~(FF) "Parent cooperative child day-care center," "parent cooperative center," "parent cooperative type A family day-care home," and "parent cooperative type A home" mean a corporation or association organized for providing educational services to the children of members of the corporation or association, without gain to the corporation or association as an entity, in which the services of the corporation or association are provided only to children of the members of the corporation or association, ownership and control of the corporation or association rests solely with the members of the corporation or association, and at least one parent-member of the corporation or association is on the premises of the center or type A home during its hours of operation.

~~(FF)~~(GG) "Part-time child day-care center," "part-time center," "part-time type A family day-care home," and "part-time type A home" mean a center or type A home that provides child care or publicly funded child care for no more than four hours a day for any child.

~~(GG)~~(HH) "Place of worship" means a building where activities of an organized religious group are conducted and includes the grounds and any

other buildings on the grounds used for such activities.

~~(HH)~~(II) "Preschool child" means a child who is three years old or older but is not a school child.

~~(H)~~(JJ) "Protective child care" means publicly funded child care for the direct care and protection of a child to whom either of the following applies:

(1) A case plan prepared and maintained for the child pursuant to section 2151.412 of the Revised Code indicates a need for protective care and the child resides with a parent, stepparent, guardian, or another person who stands in loco parentis as defined in rules adopted under section 5104.38 of the Revised Code;

(2) The child and the child's caretaker either temporarily reside in a facility providing emergency shelter for homeless families or are determined by the county department of job and family services to be homeless, and are otherwise ineligible for publicly funded child care.

~~(H)~~(KK) "Publicly funded child care" means administering to the needs of infants, toddlers, preschool children, and school children under age thirteen during any part of the twenty-four-hour day by persons other than their caretaker parents for remuneration wholly or in part with federal or state funds, including funds available under the child care block grant act, Title IV-A, and Title XX, distributed by the department of job and family services.

~~(KK)~~(LL) "Religious activities" means any of the following: worship or other religious services; religious instruction; Sunday school classes or other religious classes conducted during or prior to worship or other religious services; youth or adult fellowship activities; choir or other musical group practices or programs; meals; festivals; or meetings conducted by an organized religious group.

~~(LL)~~(MM) "School child" means a child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above but is less than fifteen years old.

~~(MM)~~(NN) "School child day-care center," "school child center," "school child type A family day-care home," and "school child type A family home" mean a center or type A home that provides child care for school children only and that does either or both of the following:

(1) Operates only during that part of the day that immediately precedes or follows the public school day of the school district in which the center or type A home is located;

(2) Operates only when the public schools in the school district in which the center or type A home is located are not open for instruction with pupils in attendance.

~~(NN)~~(OO) "Serious risk noncompliance" means a licensure or certification rule violation that leads to a great risk of harm to, or death of, a child, and is observable, not inferable.

(PP) "State median income" means the state median income calculated by the department of development pursuant to division (A)(1)(g) of section 5709.61 of the Revised Code.

~~(OO)~~(QQ) "Title IV-A" means Title IV-A of the "Social Security Act," 110 Stat. 2113 (1996), 42 U.S.C. 601, as amended.

~~(PP)~~(RR) "Title XX" means Title XX of the "Social Security Act," 88 Stat. 2337 (1974), 42 U.S.C. 1397, as amended.

~~(QQ)~~(SS) "Toddler" means a child who is at least eighteen months of age but less than three years of age.

~~(RR)~~(TT) "Type A family day-care home" and "type A home" mean a permanent residence of the administrator in which child care or publicly funded child care is provided for seven to twelve children at one time or a permanent residence of the administrator in which child care is provided for four to twelve children at one time if four or more children at one time are under two years of age. In counting children for the purposes of this division, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the type A home shall be counted. "Type A family day-care home" and "type A home" do not include any child day camp.

~~(SS)~~(UU) "Type B family day-care home" and "type B home" mean a permanent residence of the provider in which child care is provided for one to six children at one time and in which no more than three children are under two years of age at one time. In counting children for the purposes of this division, any children under six years of age who are related to the provider and who are on the premises of the type B home shall be counted. "Type B family day-care home" and "type B home" do not include any child day camp.

Sec. 5104.011. (A) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of child day-care centers, including, but not limited to, parent cooperative centers, part-time centers, drop-in centers, and school child centers, which rules shall reflect the various forms of child care and the needs of children receiving child care or publicly funded child care and shall include specific rules for school child care centers that are developed in consultation with the department of education. The rules shall not require an existing school facility that is in compliance with applicable building codes to undergo an additional building code inspection or to have structural modifications. The

rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the center proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the center are safe and sanitary including, but not limited to, the physical environment, the physical plant, and the equipment of the center;

(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the center;

(4) Standards for a program of activities, and for play equipment, materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible. As used in this division, "program" does not include instruction in religious or moral doctrines, beliefs, or values that is conducted at child day-care centers owned and operated by churches and does include methods of disciplining children at child day-care centers.

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, ~~including, but not limited to,~~ that may include any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the center and methods for ensuring that the rights of children, parents, and employees are protected and that responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the center while under the care of a center employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, ~~renewing,~~ denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial ~~and renewal~~ license application fees;

(12) Procedures for receiving, recording, and responding to complaints about centers;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on and after July 1, 1987, of a current department of job and family services toll-free telephone number on each center provisional license or license which any person may use to report a suspected violation by the center of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention. Training requirements for child day-care centers adopted under this division shall be consistent with divisions (B)(6) and (C)(1) of this section.

~~(16) Procedures to be used by licensees for checking the references of potential employees of centers and procedures to be used by the director for checking the references of applicants for licenses to operate centers;~~

~~(17)~~ Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child is receiving child care or publicly funded child care in the center;

~~(18)~~(17) A procedure for reporting of injuries of children that occur at the center;

~~(19)~~(18) Any other procedures and standards necessary to carry out this chapter.

(B)(1) The child day-care center shall have, for each child for whom the center is licensed, at least thirty-five square feet of usable indoor floor space wall-to-wall regularly available for the child care operation exclusive of any parts of the structure in which the care of children is prohibited by law or by rules adopted by the board of building standards. The minimum of thirty-five square feet of usable indoor floor space shall not include hallways, kitchens, storage areas, or any other areas that are not available for the care of children, as determined by the director, in meeting the space requirement of this division, and bathrooms shall be counted in determining square footage only if they are used exclusively by children enrolled in the center, except that the exclusion of hallways, kitchens, storage areas, bathrooms not used exclusively by children enrolled in the center, and any other areas not available for the care of children from the minimum of thirty-five square feet of usable indoor floor space shall not apply to:

(a) Centers licensed prior to or on September 1, 1986, that continue under licensure after that date;

(b) Centers licensed prior to or on September 1, 1986, that are issued a new license after that date solely due to a change of ownership of the center.

(2) The child day-care center shall have on the site a safe outdoor play

space which is enclosed by a fence or otherwise protected from traffic or other hazards. The play space shall contain not less than sixty square feet per child using such space at any one time, and shall provide an opportunity for supervised outdoor play each day in suitable weather. The director may exempt a center from the requirement of this division, if an outdoor play space is not available and if all of the following are met:

(a) The center provides an indoor recreation area that has not less than sixty square feet per child using the space at any one time, that has a minimum of one thousand four hundred forty square feet of space, and that is separate from the indoor space required under division (B)(1) of this section.

(b) The director has determined that there is regularly available and scheduled for use a conveniently accessible and safe park, playground, or similar outdoor play area for play or recreation.

(c) The children are closely supervised during play and while traveling to and from the area.

The director also shall exempt from the requirement of this division a child day-care center that was licensed prior to September 1, 1986, if the center received approval from the director prior to September 1, 1986, to use a park, playground, or similar area, not connected with the center, for play or recreation in lieu of the outdoor space requirements of this section and if the children are closely supervised both during play and while traveling to and from the area and except if the director determines upon investigation and inspection pursuant to section 5104.04 of the Revised Code and rules adopted pursuant to that section that the park, playground, or similar area, as well as access to and from the area, is unsafe for the children.

(3) The child day-care center shall have at least two responsible adults available on the premises at all times when seven or more children are in the center. The center shall organize the children in the center in small groups, shall provide child-care staff to give continuity of care and supervision to the children on a day-by-day basis, and shall ensure that no child is left alone or unsupervised. Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size, by age category of children, are as follows:

Age Category of Children	Maximum Number of Children Per Child-Care Staff Member	Maximum Group Size
(a) Infants:		

(i) Less than twelve months old	5:1, or 12:2 if two child-care staff members are in the room	12
(ii) At least twelve months old, but less than eighteen months old	6:1	12
(b) Toddlers:		
(i) At least eighteen months old, but less than thirty months old	7:1	14
(ii) At least thirty months old, but less than three years old	8:1	16
(c) Preschool children:		
(i) Three years old	12:1	24
(ii) Four years old and five years old who are not school children	14:1	28
(d) School children:		
(i) A child who is enrolled in or is eligible to be enrolled in a grade of kindergarten or above, but is less than eleven years old	18:1	36
(ii) Eleven through fourteen years old	20:1	40

Except as otherwise provided in division (E) of this section, the maximum number of children per child-care staff member and maximum group size requirements of the younger age group shall apply when age groups are combined.

(4)(a) The child day-care center administrator shall show the director both of the following:

(i) Evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state;

(ii) Evidence of having completed at least two years of training in an accredited college, university, or technical college, including courses in child development or early childhood education, ~~or~~ at least two years of experience in supervising and giving daily care to children attending an organized group program, or the equivalent based on a designation as an "early childhood professional level three" under the career pathways model of the quality-rating program established under section 5104.30 of the Revised Code.

(b) In addition to the requirements of division (B)(4)(a) of this section and except as provided in division (B)(4)(c) of this section, any administrator employed or designated on or after September 1, 1986, as such prior to the effective date of this section, as amended, shall show evidence of, and any administrator employed or designated prior to September 1, 1986, shall show evidence at least one of the following within six years after such the date of, at least one of the following employment or designation:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education.

(c) For the purposes of division (B)(4)(b) of this section, any administrator employed or designated as such prior to the effective date of this section, as amended, may also show evidence of an administrator's

credential as approved by the department of job and family services in lieu of, or in addition to, the evidence required under division (B)(4)(b) of this section. The evidence of an administrator's credential must be shown to the director not later than one year after the date of employment or designation.

(d) In addition to the requirements of division (B)(4)(a) of this section, any administrator employed or designated as such on or after the effective date of this section, as amended, shall show evidence of at least one of the following not later than one year after the date of employment or designation:

(i) Two years of experience working as a child-care staff member in a center and at least four courses in child development or early childhood education from an accredited college, university, or technical college, except that a person who has two years of experience working as a child-care staff member in a particular center and who has been promoted to or designated as administrator of that center shall have one year from the time the person was promoted to or designated as administrator to complete the required four courses;

(ii) Two years of training, including at least four courses in child development or early childhood education from an accredited college, university, or technical college;

(iii) A child development associate credential issued by the national child development associate credentialing commission;

(iv) An associate or higher degree in child development or early childhood education from an accredited college, technical college, or university, or a license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(v) An administrator's credential as approved by the department of job and family services.

(5) All child-care staff members of a child day-care center shall be at least eighteen years of age, and shall furnish the director evidence of at least high school graduation or certification of high school equivalency by the state board of education or the appropriate agency of another state or evidence of completion of a training program approved by the department of job and family services or state board of education, except as follows:

(a) A child-care staff member may be less than eighteen years of age if the staff member is either of the following:

(i) A graduate of a two-year vocational child-care training program approved by the state board of education;

(ii) A student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to

high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter.

(b) A child-care staff member shall be exempt from the educational requirements of this division if the staff member:

(i) Prior to January 1, 1972, was employed or designated by a child day-care center and has been continuously employed since either by the same child day-care center employer or at the same child day-care center; ~~or~~

(ii) Is a student enrolled in the second year of a vocational child-care training program approved by the state board of education which leads to high school graduation, provided that the student performs the student's duties in the child day-care center under the continuous supervision of an experienced child-care staff member, receives periodic supervision from the vocational child-care training program teacher-coordinator in the student's high school, and meets all other requirements of this chapter and rules adopted pursuant to this chapter;

(iii) Is receiving or has completed the final year of instruction at home as authorized under section 3321.04 of the Revised Code or has graduated from a nonchartered, nonpublic school in Ohio.

(6) Every child care staff member of a child day-care center annually shall complete fifteen hours of inservice training in child development or early childhood education, child abuse recognition and prevention, first aid, and in prevention, recognition, and management of communicable diseases, until a total of forty-five hours of training has been completed, unless the staff member furnishes one of the following to the director:

(a) Evidence of an associate or higher degree in child development or early childhood education from an accredited college, university, or technical college;

(b) A license designated for teaching in an associate teaching position in a preschool setting issued by the state board of education;

(c) Evidence of a child development associate credential;

(d) Evidence of a preprimary credential from the American Montessori society or the association Montessori internationale. For the purposes of division (B)(6) of this section, "hour" means sixty minutes.

~~(7) The administrator of each child day care center shall prepare at least once annually and for each group of children at the center a roster of names and telephone numbers of parents, custodians, or guardians of each group of~~

~~children attending the center and upon request shall furnish the roster for each group to the parents, custodians, or guardians of the children in that group. The administrator may prepare a roster of names and telephone numbers of all parents, custodians, or guardians of children attending the center and upon request shall furnish the roster to the parents, custodians, or guardians of the children who attend the center. The administrator shall not include in any roster the name or telephone number of any parent, custodian, or guardian who requests the administrator not to include the parent's, custodian's, or guardian's name or number and shall not furnish any roster to any person other than a parent, custodian, or guardian of a child who attends the center.~~

(C)(1) Each child day-care center shall have on the center premises and readily available at all times at least one child-care staff member who has completed a course in first aid ~~and, one staff member who has completed a~~ course in prevention, recognition, and management of communicable diseases which is approved by the state department of health, and a staff member who has completed a course in child abuse recognition and prevention training which is approved by the department of job and family services.

(2) The administrator of each child day-care center shall maintain enrollment, health, and attendance records for all children attending the center and health and employment records for all center employees. The records shall be confidential, ~~except as otherwise provided in division (B)(7) of this section and~~ except that they shall be disclosed by the administrator to the director upon request for the purpose of administering and enforcing this chapter and rules adopted pursuant to this chapter. Neither the center nor the licensee, administrator, or employees of the center shall be civilly or criminally liable in damages or otherwise for records disclosed to the director by the administrator pursuant to this division. It shall be a defense to any civil or criminal charge based upon records disclosed by the administrator to the director that the records were disclosed pursuant to this division.

(3)(a) Any parent who is the residential parent and legal custodian of a child enrolled in a child day-care center and any custodian or guardian of such a child shall be permitted unlimited access to the center during its hours of operation for the purposes of contacting their children, evaluating the care provided by the center, evaluating the premises of the center, or for other purposes approved by the director. A parent of a child enrolled in a child day-care center who is not the child's residential parent shall be permitted unlimited access to the center during its hours of operation for

those purposes under the same terms and conditions under which the residential parent of that child is permitted access to the center for those purposes. However, the access of the parent who is not the residential parent is subject to any agreement between the parents and, to the extent described in division (C)(3)(b) of this section, is subject to any terms and conditions limiting the right of access of the parent who is not the residential parent, as described in division (I) of section 3109.051 of the Revised Code, that are contained in a parenting time order or decree issued under that section, section 3109.12 of the Revised Code, or any other provision of the Revised Code.

(b) If a parent who is the residential parent of a child has presented the administrator or the administrator's designee with a copy of a parenting time order that limits the terms and conditions under which the parent who is not the residential parent is to have access to the center, as described in division (I) of section 3109.051 of the Revised Code, the parent who is not the residential parent shall be provided access to the center only to the extent authorized in the order. If the residential parent has presented such an order, the parent who is not the residential parent shall be permitted access to the center only in accordance with the most recent order that has been presented to the administrator or the administrator's designee by the residential parent or the parent who is not the residential parent.

(c) Upon entering the premises pursuant to division (C)(3)(a) or (b) of this section, the parent who is the residential parent and legal custodian, the parent who is not the residential parent, or the custodian or guardian shall notify the administrator or the administrator's designee of the parent's, custodian's, or guardian's presence.

(D) The director of job and family services, in addition to the rules adopted under division (A) of this section, shall adopt rules establishing minimum requirements for child day-care centers. The rules shall include, but not be limited to, the requirements set forth in divisions (B) and (C) of this section. Except as provided in section 5104.07 of the Revised Code, the rules shall not change the square footage requirements of division (B)(1) or (2) of this section; the maximum number of children per child-care staff member and maximum group size requirements of division (B)(3) of this section; the educational and experience requirements of division (B)(4) of this section; the age, educational, and experience requirements of division (B)(5) of this section; the number and type of inservice training hours required under division (B)(6) of this section; ~~or the requirement for at least annual preparation of a roster for each group of children of names and telephone numbers of parents, custodians, or guardians of each group of~~

~~children attending the center that must be furnished upon request to any parent, custodian, or guardian of any child in that group required under division (B)(7) of this section;~~ however, the rules shall provide procedures for determining compliance with those requirements.

(E)(1) When age groups are combined, the maximum number of children per child-care staff member shall be determined by the age of the youngest child in the group, except that when no more than one child thirty months of age or older receives services in a group in which all the other children are in the next older age group, the maximum number of children per child-care staff member and maximum group size requirements of the older age group established under division (B)(3) of this section shall apply.

(2) The maximum number of toddlers or preschool children per child-care staff member in a room where children are napping shall be twice the maximum number of children per child-care staff member established under division (B)(3) of this section if all the following criteria are met:

(a) At least one child-care staff member is present in the room.

(b) Sufficient child-care staff members are on the child day-care center premises to meet the maximum number of children per child-care staff member requirements established under division (B)(3) of this section.

(c) Naptime preparations are complete and all napping children are resting or sleeping on cots.

(d) The maximum number established under division (E)(2) of this section is in effect for no more than ~~one and one-half~~ two hours during a twenty-four-hour day.

(F) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the operation of type A family day-care homes, including, but not limited to, parent cooperative type A homes, part-time type A homes, drop-in type A homes, and school child type A homes, which shall reflect the various forms of child care and the needs of children receiving child care. The rules shall include the following:

(1) Submission of a site plan and descriptive plan of operation to demonstrate how the type A home proposes to meet the requirements of this chapter and rules adopted pursuant to this chapter for the initial license application;

(2) Standards for ensuring that the physical surroundings of the type A home are safe and sanitary, including, but not limited to, the physical environment, the physical plant, and the equipment of the type A home;

(3) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the type A home;

(4) Standards for a program of activities, and for play equipment,

materials, and supplies, to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(5) Admissions policies and procedures, health care policies and procedures, including, but not limited to, procedures for the isolation of children with communicable diseases, first aid and emergency procedures, procedures for discipline and supervision of children, standards for the provision of nutritious meals and snacks, and procedures for screening children and employees, including, but not limited to, any necessary physical examinations and immunizations;

(6) Methods for encouraging parental participation in the type A home and methods for ensuring that the rights of children, parents, and employees are protected and that the responsibilities of parents and employees are met;

(7) Procedures for ensuring the safety and adequate supervision of children traveling off the premises of the type A home while under the care of a type A home employee;

(8) Procedures for record keeping, organization, and administration;

(9) Procedures for issuing, ~~renewing~~, denying, and revoking a license that are not otherwise provided for in Chapter 119. of the Revised Code;

(10) Inspection procedures;

(11) Procedures and standards for setting initial ~~and renewal~~ license application fees;

(12) Procedures for receiving, recording, and responding to complaints about type A homes;

(13) Procedures for enforcing section 5104.04 of the Revised Code;

(14) A standard requiring the inclusion, on or after July 1, 1987, of a current department of job and family services toll-free telephone number on each type A home provisional license or license which any person may use to report a suspected violation by the type A home of this chapter or rules adopted pursuant to this chapter;

(15) Requirements for the training of administrators and child-care staff members in first aid, in prevention, recognition, and management of communicable diseases, and in child abuse recognition and prevention;

~~(16) Procedures to be used by licensees for checking the references of potential employees of type A homes and procedures to be used by the director for checking the references of applicants for licenses to operate type A homes;~~

~~(17) Standards providing for the special needs of children who are handicapped or who require treatment for health conditions while the child~~

is receiving child care or publicly funded child care in the type A home;

~~(18)~~(17) Standards for the maximum number of children per child-care staff member;

~~(19)~~(18) Requirements for the amount of usable indoor floor space for each child;

~~(20)~~(19) Requirements for safe outdoor play space;

~~(21)~~(20) Qualifications and training requirements for administrators and for child-care staff members;

~~(22)~~(21) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type A home during its hours of operation;

~~(23)~~(22) Standards for the preparation and distribution of a roster of parents, custodians, and guardians;

~~(24)~~(23) Any other procedures and standards necessary to carry out this chapter.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of type B family day-care homes.

(1) The rules shall include all of the following:

(a) Procedures, standards, and other necessary provisions for granting limited certification to type B family day-care homes that are operated by the following adult providers:

(i) Persons who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the provider or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the provider;

(ii) Persons who provide child care for eligible children all of whom are the children of the same caretaker parent;

(b) Procedures for the director to ensure, that type B homes that receive a limited certification provide child care to children in a safe and sanitary manner;

(c) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code.

With regard to providers who apply for limited certification, a provider shall be granted a provisional limited certification on signing a declaration under oath attesting that the provider meets the standards for limited certification. Such provisional limited certifications shall remain in effect for no more than sixty calendar days and shall entitle the provider to offer publicly funded child care during the provisional period. Except as

otherwise provided in division (G)(1) of this section, section 5104.013 or 5104.09 of the Revised Code, or division (A)(2) of section 5104.11 of the Revised Code, prior to the expiration of the provisional limited certificate, a county department of job and family services shall inspect the home and shall grant limited certification to the provider if the provider meets the requirements of this division. Limited certificates remain valid for two years unless earlier revoked. Except as otherwise provided in division (G)(1) of this section, providers operating under limited certification shall be inspected annually.

If a provider is a person described in division (G)(1)(a)(i) of this section or a person described in division (G)(1)(a)(ii) of this section who is a friend of the caretaker parent, the provider and the caretaker parent may verify in writing to the county department of job and family services that minimum health and safety requirements are being met in the home. Except as otherwise provided in section 5104.013 or 5104.09 or in division (A)(2) of section 5104.11 of the Revised Code, if such verification is provided, the county shall waive any inspection required by this chapter and grant limited certification to the provider.

(2) The rules shall provide for safeguarding the health, safety, and welfare of children receiving child care or publicly funded child care in a certified type B home and shall include the following:

(a) Standards for ensuring that the type B home and the physical surroundings of the type B home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(b) Standards for the supervision, care, and discipline of children receiving child care or publicly funded child care in the home;

(c) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(d) Admission policies and procedures, health care, first aid and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and authorized providers, including, but not limited to, any necessary physical examinations and immunizations;

(e) Methods of encouraging parental participation and ensuring that the rights of children, parents, and authorized providers are protected and the responsibilities of parents and authorized providers are met;

(f) Standards for the safe transport of children when under the care of

authorized providers;

(g) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(h) Procedures for the inspection of type B homes that require, at a minimum, that each type B home be inspected prior to certification to ensure that the home is safe and sanitary;

(i) Procedures for record keeping and evaluation;

(j) Procedures for receiving, recording, and responding to complaints;

(k) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving child care or publicly funded child care in the type B home;

(l) Requirements for the amount of usable indoor floor space for each child;

(m) Requirements for safe outdoor play space;

(n) Qualification and training requirements for authorized providers;

(o) Procedures for granting a parent who is the residential parent and legal custodian, or a custodian or guardian access to the type B home during its hours of operation;

(p) Requirements for the type B home to notify parents with children in the type B home that the type B home is also certified as a foster home under section 5103.03 of the Revised Code;

(q) Any other procedures and standards necessary to carry out this chapter.

(H) The director shall adopt rules pursuant to Chapter 119. of the Revised Code governing the certification of in-home aides. The rules shall include procedures, standards, and other necessary provisions for granting limited certification to in-home aides who provide child care for eligible children who are great-grandchildren, grandchildren, nieces, nephews, or siblings of the in-home aide or for eligible children whose caretaker parent is a grandchild, child, niece, nephew, or sibling of the in-home aide. The rules shall require, and shall include procedures for the director to ensure, that in-home aides that receive a limited certification provide child care to children in a safe and sanitary manner. The rules shall provide for safeguarding the health, safety, and welfare of children receiving publicly funded child care in their own home and shall include the following:

(1) Standards for ensuring that the child's home and the physical surroundings of the child's home are safe and sanitary, including, but not limited to, physical environment, physical plant, and equipment;

(2) Standards for the supervision, care, and discipline of children receiving publicly funded child care in their own home;

(3) Standards for a program of activities, and for play equipment, materials, and supplies to enhance the development of each child; however, any educational curricula, philosophies, and methodologies that are developmentally appropriate and that enhance the social, emotional, intellectual, and physical development of each child shall be permissible;

(4) Health care, first aid, and emergency procedures, procedures for the care of sick children, procedures for discipline and supervision of children, nutritional standards, and procedures for screening children and in-home aides, including, but not limited to, any necessary physical examinations and immunizations;

(5) Methods of encouraging parental participation and ensuring that the rights of children, parents, and in-home aides are protected and the responsibilities of parents and in-home aides are met;

(6) Standards for the safe transport of children when under the care of in-home aides;

(7) Procedures for issuing, renewing, denying, refusing to renew, or revoking certificates;

(8) Procedures for inspection of homes of children receiving publicly funded child care in their own homes;

(9) Procedures for record keeping and evaluation;

(10) Procedures for receiving, recording, and responding to complaints;

(11) Qualifications and training requirements for in-home aides;

(12) Standards providing for the special needs of children who are handicapped or who receive treatment for health conditions while the child is receiving publicly funded child care in the child's own home;

(13) Any other procedures and standards necessary to carry out this chapter.

(I) To the extent that any rules adopted for the purposes of this section require a health care professional to perform a physical examination, the rules shall include as a health care professional a physician assistant, a clinical nurse specialist, a certified nurse practitioner, or a certified nurse-midwife.

(J)(1) The director of job and family services shall do all of the following:

(a) Provide or make available in either paper or electronic form to each licensee notice of proposed rules governing the licensure of child day-care centers and type A homes;

(b) Give public notice of hearings regarding the rules to each licensee at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code;

(c) At least thirty days before the effective date of a rule, provide, in either paper or electronic form, a copy of the adopted rule to each licensee.

(2) The director shall do all of the following:

(a) Send to each county director of job and family services a notice of proposed rules governing the certification of type B family homes and in-home aides that includes an internet web site address where the proposed rules can be viewed;

(b) Give public notice of hearings regarding the proposed rules not less than thirty days in advance;

(c) Provide to each county director of job and family services an electronic copy of each adopted rule at least forty-five days prior to the rule's effective date.

(3) The county director of job and family services shall provide or make available in either paper or electronic form to each authorized provider and in-home aide copies of proposed rules and shall give public notice of hearings regarding the rules to each authorized provider and in-home aide at least thirty days prior to the date of the public hearing, in accordance with section 119.03 of the Revised Code. At least thirty days before the effective date of a rule, the county director of job and family services shall provide, in either paper or electronic form, copies of the adopted rule to each authorized provider and in-home aide.

(4) Additional copies of proposed and adopted rules shall be made available by the director of job and family services to the public on request at no charge.

(5) The director of job and family services ~~shall recommend standards~~ may adopt rules pursuant to Chapter 119. of the Revised Code for imposing sanctions on persons and entities that are licensed or certified under this chapter ~~and that violate any provision of this chapter. Sanctions may be imposed only for an action or omission that constitutes a serious risk noncompliance.~~ The standards sanctions imposed shall be based on the scope and severity of the violations. The director shall provide copies of the recommendations to the governor, the speaker and minority leader of the house of representatives, and the president and minority leader of the senate and, on request, shall make copies available to the public

The director shall make a dispute resolution process available for the implementation of sanctions. The process may include an opportunity for appeal pursuant to Chapter 119. of the Revised Code.

(6) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code that establish standards for the training of individuals whom any county department of job and family services

employs, with whom any county department of job and family services contracts, or with whom the director of job and family services contracts, to inspect or investigate type B family day-care homes pursuant to section 5104.11 of the Revised Code. The department shall provide training in accordance with those standards for individuals in the categories described in this division.

(K) The director of job and family services shall review all rules adopted pursuant to this chapter at least once every seven years.

(L) Notwithstanding any provision of the Revised Code, the director of job and family services shall not regulate in any way under this chapter or rules adopted pursuant to this chapter, instruction in religious or moral doctrines, beliefs, or values.

Sec. 5104.012. (A)(1) At the times specified in this division, the administrator of a child day-care center or a type A family day-care home 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 center or type A home for employment as a person responsible for the care, custody, or control of a child.

The administrator shall request a criminal records check pursuant to this division at the time of the applicant's initial application for employment and every four years thereafter ~~at the time of a license renewal~~. When the administrator requests pursuant to this division a criminal records check for an applicant at the time of the applicant's initial application for employment, the administrator shall request that the superintendent obtain information from the federal bureau of investigation as a part of the criminal records check for the applicant, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671, for the person subject to the criminal records check. In all other cases in which the administrator requests a criminal records check for an applicant pursuant to this division, the administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671.

(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. On and after ~~the effective date of this amendment~~ August 14, 2008, the administrator of a child day-care center or a type A family day-care home shall review the results of the criminal records check before the applicant has sole responsibility for the care, custody, or control of any child.

(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 center or type A home shall not employ that applicant for any position for which a criminal records check is required by division (A)(1) of this section.

(B)(1) Except as provided in rules adopted under division (E) of this section, no child day-care center or type A family day-care home shall employ or contract with another entity for the services of a person as a person responsible for the care, custody, or control of a child if the person previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(2) A child day-care center or type A family day-care home may employ an applicant conditionally until the criminal records check required by this section is completed and the center or home 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 center or home shall release the applicant from employment.

(C)(1) Each child day-care center and type A family day-care home 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 administrator or provider of the center or home.

(2) A child day-care center and type A family day-care home 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 center or home pays under division (C)(1) of this section. If a fee is charged under this division, the center or home shall notify the applicant at the time of the applicant's initial application for employment of the amount of the fee and that, unless the fee is paid, the center or type A home 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 center or type A home requesting the criminal records check or its representative; the department of job and family services or a county department of job and family services; and any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment to the applicant.

(E) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying circumstances under which a center or home may hire a person who has been convicted of an offense listed in division (B)(1) of this section but who meets standards in regard to rehabilitation set by the department.

(F) Any person required by division (A)(1) of this section to request a criminal records check shall inform each person, at the time of the person's initial application for employment, that the person is required to provide a set of impressions of the person's fingerprints and that a criminal records check is required to be conducted and satisfactorily completed in accordance with section 109.572 of the Revised Code if the person comes under final consideration for appointment or employment as a precondition to employment for that position.

(G) As used in this section:

(1) "Applicant" means a person who is under final consideration for appointment to or employment in a position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child; an in-home aide certified pursuant to section 5104.12 of the Revised Code; or any person who would serve in any position with a child day-care center or a type A family day-care home as a person responsible for the care, custody, or control of a child pursuant to a contract with another entity.

(2) "Criminal records check" has the same meaning as in section

109.572 of the Revised Code.

Sec. 5104.013. (A)(1) At the times specified in division (A)(3) of this section, the director of job and family services, as part of the process of licensure of child day-care centers and type A family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to the following persons:

(a) Any owner, licensee, or administrator of a child day-care center;

(b) Any owner, licensee, or administrator of a type A family day-care home and any person eighteen years of age or older who resides in a type A family day-care home.

(2) At the times specified in division (A)(3) of this section, the director of a county department of job and family services, as part of the process of certification of type B family day-care homes, shall request the superintendent of the bureau of criminal identification and investigation to conduct a criminal records check with respect to any authorized provider of a certified type B family day-care home and any person eighteen years of age or older who resides in a certified type B family day-care home.

(3) The director of job and family services shall request a criminal records check pursuant to division (A)(1) of this section at the time of the initial application for licensure and every four years thereafter ~~at the time of a license renewal~~. The director of a county department of job and family services shall request a criminal records check pursuant to division (A)(2) of this section at the time of the initial application for certification and every four years thereafter at the time of a certification renewal. When the director of job and family services or the director of a county department of job and family services requests pursuant to division (A)(1) or (2) of this section a criminal records check for a person at the time of the person's initial application for licensure or certification, the director shall request that the superintendent of the bureau of criminal identification and investigation obtain information from the federal bureau of investigation as a part of the criminal records check for the person, including fingerprint-based checks of national crime information databases as described in 42 U.S.C. 671 for the person subject to the criminal records check. In all other cases in which the director of job and family services or the director of a county department of job and family services requests a criminal records check for an applicant pursuant to division (A)(1) or (2) of this section, the director may request that the superintendent include information from the federal bureau of investigation in the criminal records check, including fingerprint-based checks of national crime information databases as described in 42 U.S.C.

671.

(4) The director of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(1) and (3) of this section prior to approval of a license. The director of a county department of job and family services shall review the results of a criminal records check subsequent to a request made pursuant to divisions (A)(2) and (3) of this section prior to approval of certification.

(B) The director of job and family services or the director of a county department of job and family services shall provide to each person for whom a criminal records check is required under this section a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard impression sheet to obtain fingerprint impressions prescribed pursuant to division (C)(2) of that section, obtain the completed form and impression sheet from that person, and forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(C) A person who receives pursuant to division (B) of this section a copy of the form and standard impression sheet described in that division and who is requested to complete the form and provide a set of fingerprint impressions shall complete the form or provide all the information necessary to complete the form and shall provide the impression sheet with the impressions of the person's fingerprints. If the person, upon request, fails to provide the information necessary to complete the form or fails to provide impressions of the person's fingerprints, the director may consider the failure as a reason to deny licensure or certification.

(D) Except as provided in rules adopted under division (G) of this section, the director of job and family services shall not grant a license to a child day-care center or type A family day-care home and a county director of job and family services shall not certify a type B family day-care home if a person for whom a criminal records check was required in connection with the center or home previously has been convicted of or pleaded guilty to any of the violations described in division (A)(9) of section 109.572 of the Revised Code.

(E) Each child day-care center, type A family day-care home, and type B family day-care home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted in accordance with that section upon a request made pursuant to division (A) of this section.

(F) The report of any criminal records check conducted by the bureau of

criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under division (A) of this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the person who is the subject of the criminal records check or the person's representative, the director of job and family services, the director of a county department of job and family services, the center, type A home, or type B home involved, and any court, hearing officer, or other necessary individual involved in a case dealing with a denial of licensure or certification related to the criminal records check.

(G) The director of job and family services shall adopt rules pursuant to Chapter 119. of the Revised Code to implement this section, including rules specifying exceptions to the prohibition in division (D) of this section for persons who have been convicted of an offense listed in that division but who meet standards in regard to rehabilitation set by the department.

(H) As used in this section, "criminal records check" has the same meaning as in section 109.572 of the Revised Code.

Sec. 5104.03. (A) Any person, firm, organization, institution, or agency desiring to establish a child day-care center or type A family day-care home shall apply for a license to the director of job and family services on such form as the director prescribes. The director shall provide at no charge to each applicant for licensure a copy of the child care license requirements in ~~Chapter 5104. of the Revised Code~~ this chapter and a copy of the rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. The director shall mail application forms for renewal of license at least one hundred twenty days prior to the date of expiration of the license, and the application for renewal shall be filed with the director at least sixty days before the date of expiration. Fees copies may be provided in paper or electronic form.

Fees shall be set by the director pursuant to section 5104.011 of the Revised Code and shall be paid at the time of application for ~~or renewal~~ of a license to operate a center or type A home. Fees collected under this section shall be paid into the state treasury to the credit of the general revenue fund.

(B) Upon filing of the application for a license, the director shall investigate and inspect the center or type A home to determine the license capacity for each age category of children of the center or type A home and to determine whether the center or type A home complies with ~~Chapter 5104. of the Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. When, after investigation and inspection, the director is satisfied that ~~Chapter 5104. of the Revised~~

~~Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ it are complied with, subject to division (G) of this section, a provisional license shall be issued as soon as practicable in such form and manner as prescribed by the director. The provisional license shall be valid for ~~six~~ twelve months from the date of issuance unless revoked.

(C) The director shall investigate and inspect the center or type A home at least once during operation under the provisional license. If after the investigation and inspection the director determines that the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter and rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter are met, subject to division (G) of this section, the director shall issue a license to ~~be effective for two years from the date of issuance of the provisional license~~ the center or home.

~~(D) Upon the filing of an application for renewal of a license by the center or type A home, the director shall investigate and inspect the center or type A home. If the director determines that the requirements of Chapter 5104. and rules adopted pursuant to Chapter 5104. of the Revised Code are met, subject to division (G) of this section, the director shall renew the license to be effective for two years from the expiration date of the previous license.~~

~~(E)~~ The license or provisional license shall state the name of the licensee, the name of the administrator, the address of the center or type A home, and the license capacity for each age category of children. ~~After July 1, 1987, the~~ The license or provisional license ~~or license~~ shall include thereon, in accordance with section 5104.011 of the Revised Code, the toll-free telephone number to be used by persons suspecting that the center or type A home has violated a provision of ~~Chapter 5104.,~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter. A license or provisional license is valid only for the licensee, administrator, address, and license capacity for each age category of children designated on the license. The license capacity specified on the license or provisional license is the maximum number of children in each age category that may be cared for in the center or type A home at one time.

The center or type A home licensee shall notify the director when the administrator of the center or home changes. The director shall amend the current license or provisional license to reflect a change in an administrator, if the administrator meets the requirements of Chapter 5104. of the Revised Code and rules adopted pursuant to Chapter 5104. of the Revised Code, or a change in license capacity for any age category of children as determined by the director of job and family services.

~~(F)~~(E) If the director revokes a the license ~~or refuses to renew a license~~ to of a center or a type A home, the director shall not issue a another license to the owner of the center or type A home ~~within two~~ until five years have elapsed from the date of the ~~revocation of a license or refusal to renew a license is revoked.~~ if

If the director denies an application for a license, the director shall not accept another application from the applicant until five years have elapsed from the date the application is denied.

~~(F)~~ If during the application for licensure ~~or renewal of licensure~~ process the director determines that the license of the owner has been revoked ~~or renewal of licensure has been denied~~, the investigation of the center or type A home shall cease, ~~and shall~~. This action does not constitute denial of the application and may not be appealed under division (G) of this section. ~~All~~

(G) ~~All~~ actions of the director with respect to licensing centers or type A homes, ~~renewing a license, refusal to license or renew a license,~~ and revocation of a license shall be in accordance with Chapter 119. of the Revised Code. Any applicant who is denied a license or any owner whose license ~~is not renewed or is revoked~~ may appeal in accordance with section 119.12 of the Revised Code.

~~(G)~~(H) In no case shall the director issue a license or provisional license ~~or license, or renew a license,~~ under this section for a type A home or center if the director, based on documentation provided by the appropriate county department of job and family services, determines that the applicant previously had been certified as a type B family day-care home, that the county department revoked that certification, that the revocation was based on the applicant's refusal or inability to comply with the criteria for certification, and that the refusal or inability resulted in a risk to the health or safety of children.

Sec. 5104.04. (A) The department of job and family services shall establish procedures to be followed in investigating, inspecting, and licensing child day-care centers and type A family day-care homes.

(B)(1)(a) The department shall, at least once during every twelve-month period of operation of a center or type A home, inspect the center or type A home. The department shall inspect a part-time center or part-time type A home at least once during every twelve-month period of operation. The department shall provide a written inspection report to the licensee within a reasonable time after each inspection. The licensee shall display all written reports of inspections conducted during the current licensing period in a conspicuous place in the center or type A home.

Inspections may be unannounced. No person, firm, organization, institution, or agency shall interfere with the inspection of a center or type A home by any state or local official engaged in performing duties required of the state or local official by ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, including inspecting the center or type A home, reviewing records, or interviewing licensees, employees, children, or parents.

(b) Upon receipt of any complaint that a center or type A home is out of compliance with the requirements of ~~Chapter 5104. of the Revised Code~~ this chapter or rules adopted pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, the department shall investigate the center or home, and both of the following apply:

(i) If the complaint alleges that a child suffered physical harm while receiving child care at the center or home or that the noncompliance alleged in the complaint involved, resulted in, or poses a substantial risk of physical harm to a child receiving child care at the center or home, the department shall inspect the center or home.

(ii) If division (B)(1)(b)(i) of this section does not apply regarding the complaint, the department may inspect the center or home.

(c) Division (B)(1)(b) of this section does not limit, restrict, or negate any duty of the department to inspect a center or type A home that otherwise is imposed under this section, or any authority of the department to inspect a center or type A home that otherwise is granted under this section when the department believes the inspection is necessary and it is permitted under the grant.

(2) If the department implements an instrument-based program monitoring information system, it may use an indicator checklist to comply with division (B)(1) of this section.

(3) The department shall contract with a third party by the first day of October in each even-numbered year to collect information concerning the amounts charged by the center or home for providing child care services for use in establishing reimbursement ceilings and payment pursuant to section 5104.30 of the Revised Code. The third party shall compile the information and report the results of the survey to the department not later than the first day of December in each even-numbered year.

~~(C) In the event a licensed center or type A home is determined to be out of compliance with the requirements of Chapter 5104. of the Revised Code or rules adopted pursuant to Chapter 5104. of the Revised Code, the department shall notify the licensee of the center or type A home in writing regarding the nature of the violation, what must be done to correct the~~

~~violation, and by what date the correction must be made. If the correction is not made by the date established by the department, the department may commence action under Chapter 119. of the Revised Code to revoke the license. The department's commencement of an action to revoke the license is sufficient notice that the correction has not been made, and no other notice regarding the correction is required.~~

~~(D)~~ The department may deny an application or revoke a license, ~~or refuse to renew a license~~ of a center or type A home, if the applicant knowingly makes a false statement on the application, the center or home does not comply with the requirements of ~~Chapter 5104. this chapter~~ or rules adopted pursuant to ~~Chapter 5104. of the Revised Code this chapter~~, or the applicant or owner has pleaded guilty to or been convicted of an offense described in section 5104.09 of the Revised Code.

~~(E)~~~~(D)~~ If the department finds, after notice and hearing pursuant to Chapter 119. of the Revised Code, that any applicant, person, firm, organization, institution, or agency applying for licensure or licensed under section 5104.03 of the Revised Code is in violation of any provision of ~~Chapter 5104. of the Revised Code this chapter~~ or rules adopted pursuant to ~~Chapter 5104. of the Revised Code this chapter~~, the department may issue an order of denial to the applicant or an order of revocation to the center or type A home revoking the license previously issued by the department. Upon the issuance of ~~any such an order of revocation~~, the person whose application is denied or whose license is revoked may appeal in accordance with section 119.12 of the Revised Code.

~~(F)~~~~(E)~~ The surrender of a center or type A home license to the department or the withdrawal of an application for licensure by the owner or administrator of the center or type A home shall not prohibit the department from instituting any of the actions set forth in this section.

~~(G)~~~~(F)~~ Whenever the department receives a complaint, is advised, or otherwise has any reason to believe that a center or type A home is providing child care without a license issued ~~or renewed~~ pursuant to section 5104.03 and is not exempt from licensing pursuant to section 5104.02 of the Revised Code, the department shall investigate the center or type A home and may inspect the areas children have access to or areas necessary for the care of children in the center or type A home during suspected hours of operation to determine whether the center or type A home is subject to the requirements of ~~Chapter 5104. this chapter~~ or rules adopted pursuant to ~~Chapter 5104. of the Revised Code this chapter~~.

~~(H)~~~~(G)~~ The department, upon determining that the center or type A home is operating without a license, shall notify the attorney general, the

prosecuting attorney of the county in which the center or type A home is located, or the city attorney, village solicitor, or other chief legal officer of the municipal corporation in which the center or type A home is located, that the center or type A home is operating without a license. Upon receipt of the notification, the attorney general, prosecuting attorney, city attorney, village solicitor, or other chief legal officer of a municipal corporation shall file a complaint in the court of common pleas of the county in which the center or type A home is located requesting that the court grant an order enjoining the owner from operating the center or type A home in violation of section 5104.02 of the Revised Code. The court shall grant such injunctive relief upon a showing that the respondent named in the complaint is operating a center or type A home and is doing so without a license.

~~(H)~~(H) The department shall prepare an annual report on inspections conducted under this section. The report shall include the number of inspections conducted, the number and types of violations found, and the steps taken to address the violations. The department shall file the report with the governor, the president and minority leader of the senate, and the speaker and minority leader of the house of representatives on or before the first day of January of each year, beginning in 1999.

Sec. 5104.05. (A) The director of job and family services shall issue a license or provisional license ~~or license or renew a license~~ for the operation of a child day-care center, if the director finds, after investigation of the applicant and inspection of the center, that other requirements of ~~Chapter 5104. of the Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, and the following requirements are met:

(1) The buildings in which the center is housed, subsequent to any major modification, have been approved by the department of commerce or a certified municipal, township, or county building department for the purpose of operating a child day-care center. Any structure used for the operation of a center shall be constructed, equipped, repaired, altered, and maintained in accordance with applicable provisions of Chapters 3781. and 3791. of the Revised Code and with regulations adopted by the board of building standards under Chapter 3781. of the Revised Code and this division for the safety and sanitation of structures erected for this purpose.

(2) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the center is located has inspected the center annually within the preceding license period and has found the center to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire

prevention and fire safety in a child day-care center.

(3) The center has received a food service operation license under Chapter 3717. of the Revised Code if meals are to be served to children other than children of the licensee or administrator, whether or not a consideration is received for the meals.

(B) The director of job and family services shall issue a license or provisional license ~~or license or renew a license~~ for the operation of a type A family day-care home, if the director finds, after investigation of the applicant and inspection of the type A home, that other requirements of ~~Chapter 5104. of the Revised Code~~ this chapter, rules promulgated pursuant to ~~Chapter 5104. of the Revised Code~~ this chapter, and the following requirements are met:

(1) The state fire marshal or the fire chief or fire prevention officer of the municipal corporation or township in which the type A family day-care home is located has inspected the type A home annually within the preceding license period and has found the type A home to be in compliance with rules promulgated by the fire marshal pursuant to section 3737.83 of the Revised Code regarding fire prevention and fire safety in a type A home.

(2) The type A home is in compliance with rules set by the director of job and family services in cooperation with the director of health pursuant to section 3701.80 of the Revised Code regarding meal preparation and meal service in the home. The director of job and family services, in accordance with procedures recommended by the director of health, shall inspect each type A home to determine compliance with those rules.

(3) The type A home is in compliance with rules promulgated by the director of job and family services in cooperation with the board of building standards regarding safety and sanitation pursuant to section 3781.10 of the Revised Code.

~~Sec. 5104.13. No later than July 1, 1998, and at reasonable intervals thereafter, the~~ The department of job and family services shall ~~publish~~ prepare a guide describing the state statutes and rules governing the certification of type B family day-care homes. The department ~~shall distribute~~ may publish the guide ~~to county departments of job and family services in sufficient number that a copy is available to each~~ electronically or otherwise and shall do so in a manner that the guide is accessible to the public, including type B home provider providers.

Sec. 5104.30. (A) The department of job and family services is hereby designated as the state agency responsible for administration and coordination of federal and state funding for publicly funded child care in this state. Publicly funded child care shall be provided to the following:

(1) Recipients of transitional child care as provided under section 5104.34 of the Revised Code;

(2) Participants in the Ohio works first program established under Chapter 5107. of the Revised Code;

(3) Individuals who would be participating in the Ohio works first program if not for a sanction under section 5107.16 of the Revised Code and who continue to participate in a work activity, developmental activity, or alternative work activity pursuant to an assignment under section 5107.42 of the Revised Code;

(4) A family receiving publicly funded child care on October 1, 1997, until the family's income reaches one hundred fifty per cent of the federal poverty line;

(5) Subject to available funds, other individuals determined eligible in accordance with rules adopted under section 5104.38 of the Revised Code.

The department shall apply to the United States department of health and human services for authority to operate a coordinated program for publicly funded child care, if the director of job and family services determines that the application is necessary. For purposes of this section, the department of job and family services may enter into agreements with other state agencies that are involved in regulation or funding of child care. The department shall consider the special needs of migrant workers when it administers and coordinates publicly funded child care and shall develop appropriate procedures for accommodating the needs of migrant workers for publicly funded child care.

(B) The department of job and family services shall distribute state and federal funds for publicly funded child care, including appropriations of state funds for publicly funded child care and appropriations of federal funds available under the child care block grant act, Title IV-A, and Title XX. The department may use any state funds appropriated for publicly funded child care as the state share required to match any federal funds appropriated for publicly funded child care.

(C) In the use of federal funds available under the child care block grant act, all of the following apply:

(1) The department may use the federal funds to hire staff to prepare any rules required under this chapter and to administer and coordinate federal and state funding for publicly funded child care.

(2) Not more than five per cent of the aggregate amount of the federal funds received for a fiscal year may be expended for administrative costs.

(3) The department shall allocate and use at least four per cent of the federal funds for the following:

(a) Activities designed to provide comprehensive consumer education to parents and the public;

(b) Activities that increase parental choice;

(c) Activities, including child care resource and referral services, designed to improve the quality, and increase the supply, of child care;

(d) Establishing a voluntary child day-care center quality-rating program in which participation in the program may allow a child day-care center to be eligible for grants, technical assistance, training, or other assistance and become eligible for unrestricted monetary awards for maintaining a quality rating.

(4) The department shall ensure that the federal funds will be used only to supplement, and will not be used to supplant, federal, state, and local funds available on the effective date of the child care block grant act for publicly funded child care and related programs. If authorized by rules adopted by the department pursuant to section 5104.42 of the Revised Code, county departments of job and family services may purchase child care from funds obtained through any other means.

(D) The department shall encourage the development of suitable child care throughout the state, especially in areas with high concentrations of recipients of public assistance and families with low incomes. The department shall encourage the development of suitable child care designed to accommodate the special needs of migrant workers. On request, the department, through its employees or contracts with state or community child care resource and referral service organizations, shall provide consultation to groups and individuals interested in developing child care. The department of job and family services may enter into interagency agreements with the department of education, the board of regents, the department of development, and other state agencies and entities whenever the cooperative efforts of the other state agencies and entities are necessary for the department of job and family services to fulfill its duties and responsibilities under this chapter.

The department shall develop and maintain a registry of persons providing child care. The director shall adopt rules pursuant to Chapter 119. of the Revised Code establishing procedures and requirements for the registry's administration.

(E)(1) The director shall adopt rules in accordance with Chapter 119. of the Revised Code establishing both of the following:

(a) Reimbursement ceilings for providers of publicly funded child care not later than the first day of July in each odd-numbered year;

(b) A procedure for reimbursing and paying providers of publicly

funded child care.

(2) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director shall do all of the following:

(a) Use the information obtained under division (B)(3) of section 5104.04 of the Revised Code;

(b) Establish an enhanced reimbursement ceiling for providers who provide child care for caretaker parents who work nontraditional hours;

(c) For a type B family day-care home provider that has received limited certification pursuant to rules adopted under division (G)(1) of section 5104.011 of the Revised Code, establish a reimbursement ceiling that is the following:

(i) If the provider is a person described in division (G)(1)(a)(i) of section 5104.011 of the Revised Code, seventy-five per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department of job and family services pursuant to section 5104.11 of the Revised Code;

(ii) If the provider is a person described in division (G)(1)(a)(ii) of section 5104.011 of the Revised Code, sixty per cent of the reimbursement ceiling that applies to a type B family day-care home certified by the same county department pursuant to section 5104.11 of the Revised Code.

(d) With regard to the voluntary child day-care center quality-rating program established pursuant to division (C)(3)(d) of this section, do both of the following:

(i) Establish enhanced reimbursement ceilings for child day-care centers that participate in the program and maintain quality ratings under the program;

(ii) Weigh any reduction in reimbursement ceilings more heavily against child day-care centers that do not participate in the program or do not maintain quality ratings under the program.

(3) In establishing reimbursement ceilings under division (E)(1)(a) of this section, the director may establish different reimbursement ceilings based on any of the following:

(a) Geographic location of the provider;

(b) Type of care provided;

(c) Age of the child served;

(d) Special needs of the child served;

(e) Whether the expanded hours of service are provided;

(f) Whether weekend service is provided;

(g) Whether the provider has exceeded the minimum requirements of state statutes and rules governing child care;

(h) Any other factors the director considers appropriate.

(F) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the voluntary child day-care center quality-rating program described in division (C)(3)(d) of this section.

Sec. 5104.32. (A) Except as provided in division (C) of this section, all purchases of publicly funded child care shall be made under a contract entered into by a licensed child day-care center, licensed type A family day-care home, certified type B family day-care home, certified in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider and the ~~county~~ department of job and family services. ~~A county department of job and family services may enter into a contract with a provider for publicly funded child care for a specified period of time or upon a continuous basis for an unspecified period of time.~~ All contracts for publicly funded child care shall be contingent upon the availability of state and federal funds. The department ~~of job and family services~~ shall prescribe a standard form to be used for all contracts for the purchase of publicly funded child care, regardless of the source of public funds used to purchase the child care. To the extent permitted by federal law and notwithstanding any other provision of the Revised Code that regulates state ~~or county~~ contracts or contracts involving the expenditure of state, ~~county~~, or federal funds, all contracts for publicly funded child care shall be entered into in accordance with the provisions of this chapter and are exempt from any other provision of the Revised Code that regulates state ~~or county~~ contracts or contracts involving the expenditure of state, ~~county~~, or federal funds.

(B) Each contract for publicly funded child care shall specify at least the following:

(1) That the provider of publicly funded child care agrees to be paid for rendering services at the ~~lowest~~ lower of the rate customarily charged by the provider for children enrolled for child care; or the reimbursement ceiling or rate of payment established pursuant to section 5104.30 of the Revised Code; ~~or a rate the county department negotiates with the provider;~~

(2) That, if a provider provides child care to an individual potentially eligible for publicly funded child care who is subsequently determined to be eligible, the ~~county~~ department agrees to pay for all child care provided between the date the county department of job and family services receives the individual's completed application and the date the individual's eligibility is determined;

(3) Whether the county department of job and family services, the provider, or a child care resource and referral service organization will make

eligibility determinations, whether the provider or a child care resource and referral service organization will be required to collect information to be used by the county department to make eligibility determinations, and the time period within which the provider or child care resource and referral service organization is required to complete required eligibility determinations or to transmit to the county department any information collected for the purpose of making eligibility determinations;

(4) That the provider, other than a border state child care provider, shall continue to be licensed, approved, or certified pursuant to this chapter and shall comply with all standards and other requirements in this chapter and in rules adopted pursuant to this chapter for maintaining the provider's license, approval, or certification;

(5) That, in the case of a border state child care provider, the provider shall continue to be licensed, certified, or otherwise approved by the state in which the provider is located and shall comply with all standards and other requirements established by that state for maintaining the provider's license, certificate, or other approval;

(6) Whether the provider will be paid by the ~~county department of job and family services~~, the state department of job and family services; or in some other manner as prescribed by rules adopted under section 5104.42 of the Revised Code;

(7) That the contract is subject to the availability of state and federal funds.

(C) Unless specifically prohibited by federal law or by rules adopted under section 5104.42 of the Revised Code, the county department of job and family services shall give individuals eligible for publicly funded child care the option of obtaining certificates ~~for payment~~ that the individual may use to purchase services from any provider qualified to provide publicly funded child care under section 5104.31 of the Revised Code. Providers of publicly funded child care may present these certificates for payment ~~for reimbursement~~ in accordance with rules that the director of job and family services shall adopt. Only providers may receive ~~reimbursement~~ payment for certificates ~~for payment~~. The value of the certificate ~~for payment~~ shall be based on the ~~lowest~~ lower of the rate customarily charged by the provider; ~~the reimbursement ceiling~~ or the rate of payment established pursuant to section 5104.30 of the Revised Code, ~~or a rate the county department negotiates with the provider~~. The county department may provide the certificates ~~for payment~~ to the individuals or may contract with child care providers or child care resource and referral service organizations that make determinations of eligibility for publicly funded child care pursuant to

contracts entered into under section 5104.34 of the Revised Code for the providers or resource and referral service organizations to provide the certificates ~~for payment~~ to individuals whom they determine are eligible for publicly funded child care.

For each six-month period a provider of publicly funded child care provides publicly funded child ~~day-care~~ care to the child of an individual given certificates ~~for payment~~, the individual shall provide the provider certificates for days the provider would have provided publicly funded child care to the child had the child been present. The maximum number of days providers shall be provided certificates shall not exceed ten days in a six-month period during which publicly funded child care is provided to the child regardless of the number of providers that provide publicly funded child care to the child during that period.

Sec. 5104.34. (A)(1) Each county department of job and family services shall implement procedures for making determinations of eligibility for publicly funded child care. Under those procedures, the eligibility determination for each applicant shall be made no later than thirty calendar days from the date the county department receives a completed application for publicly funded child care. Each applicant shall be notified promptly of the results of the eligibility determination. An applicant aggrieved by a decision or delay in making an eligibility determination may appeal the decision or delay to the department of job and family services in accordance with section 5101.35 of the Revised Code. The due process rights of applicants shall be protected.

To the extent permitted by federal law, the county department may make all determinations of eligibility for publicly funded child care, may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to make all or any part of the determinations, and may contract with child care providers or child care resource and referral service organizations for the providers or resource and referral service organizations to collect specified information for use by the county department in making determinations. If a county department contracts with a child care provider or a child care resource and referral service organization for eligibility determinations or for the collection of information, the contract shall require the provider or resource and referral service organization to make each eligibility determination no later than thirty calendar days from the date the provider or resource and referral organization receives a completed application that is the basis of the determination and to collect and transmit all necessary information to the county department within a period of time

that enables the county department to make each eligibility determination no later than thirty days after the filing of the application that is the basis of the determination.

The county department may station employees of the department in various locations throughout the county to collect information relevant to applications for publicly funded child care and to make eligibility determinations. The county department, child care provider, and child care resource and referral service organization shall make each determination of eligibility for publicly funded child care no later than thirty days after the filing of the application that is the basis of the determination, shall make each determination in accordance with any relevant rules adopted pursuant to section 5104.38 of the Revised Code, and shall notify promptly each applicant for publicly funded child care of the results of the determination of the applicant's eligibility.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for monitoring the eligibility determination process. In accordance with those rules, the state department shall monitor eligibility determinations made by county departments of job and family services and shall direct any entity that is not in compliance with this division or any rule adopted under this division to implement corrective action specified by the department.

(2) All eligibility determinations for publicly funded child care shall be made in accordance with rules adopted pursuant to division (A) of section 5104.38 of the Revised Code and, if a county department of job and family services specifies, pursuant to rules adopted under division (B) of that section, a maximum amount of income a family may have to be eligible for publicly funded child care, the income maximum specified by the county department. Publicly funded child care may be provided only to eligible infants, toddlers, preschool children, and school children under age thirteen. For an applicant to be eligible for publicly funded child care, the caretaker parent must be employed or participating in a program of education or training for an amount of time reasonably related to the time that the parent's children are receiving publicly funded child care. This restriction does not apply to families whose children are eligible for protective child care.

Subject to available funds, a county department of job and family services shall allow a family to receive publicly funded child care unless the family's income exceeds the maximum income eligibility limit. Initial and continued eligibility for publicly funded child care is subject to available funds unless the family is receiving child care pursuant to division (A)(1), (2), (3), or (4) of section 5104.30 of the Revised Code. If the county

department must limit eligibility due to lack of available funds, it shall give first priority for publicly funded child care to an assistance group whose income is not more than the maximum income eligibility limit that received transitional child care in the previous month but is no longer eligible because the twelve-month period has expired. Such an assistance group shall continue to receive priority for publicly funded child care until its income exceeds the maximum income eligibility limit.

(3) An assistance group that ceases to participate in the Ohio works first program established under Chapter 5107. of the Revised Code is eligible for transitional child care at any time during the immediately following twelve-month period that both of the following apply:

(a) The assistance group requires child care due to employment;

(b) The assistance group's income is not more than one hundred fifty per cent of the federal poverty line.

An assistance group ineligible to participate in the Ohio works first program pursuant to section 5101.83 or section 5107.16 of the Revised Code is not eligible for transitional child care.

(B) To the extent permitted by federal law, a county department of job and family services may require a caretaker parent determined to be eligible for publicly funded child care to pay a fee according to the schedule of fees established in rules adopted under section 5104.38 of the Revised Code. Each county department shall make protective child care services available to children without regard to the income or assets of the caretaker parent of the child.

(C) A caretaker parent receiving publicly funded child care shall report to the entity that determined eligibility any changes in status with respect to employment or participation in a program of education or training not later than ten calendar days after the change occurs.

(D) If a county department of job and family services determines that available resources are not sufficient to provide publicly funded child care to all eligible families who request it, the county department may establish a waiting list. A county department may establish separate waiting lists within the waiting list based on income. When resources become available to provide publicly funded child care to families on the waiting list, a county department that establishes a waiting list shall assess the needs of the next family scheduled to receive publicly funded child care. If the assessment demonstrates that the family continues to need and is eligible for publicly funded child care, the county department shall offer it to the family. If the county department determines that the family is no longer eligible or no longer needs publicly funded child care, the county department shall remove

the family from the waiting list.

(E) A caretaker parent shall not receive full-time publicly funded child care from more than one child care provider per child during any period.

(E) As used in this section, "maximum income eligibility limit" means the amount of income specified in rules adopted under division (A) of section 5104.38 of the Revised Code or, if a county department of job and family services specifies a higher amount pursuant to rules adopted under division (B) of that section, the amount the county department specifies.

Sec. 5104.341. (A) Except as provided in division (B) of this section, both of the following apply:

(1) An eligibility determination made under section 5104.34 of the Revised Code for publicly funded child care is valid for one year;

(2) The county department of job and family services shall adjust the appropriate level of a fee charged under division (B) of section 5104.34 of the Revised Code if a caretaker parent reports changes in income, family size, or both.

(B) Division (A) of this section does not apply ~~in either of the following circumstances:~~

~~(1) The publicly funded child care is provided under division (B)(4) of section 5104.35 of the Revised Code;~~

~~(2) The if the recipient of the publicly funded child care ceases to be eligible for publicly funded child care.~~

Sec. 5104.35. (A) ~~The~~ Each county department of job and family services shall do all of the following:

(1) Accept any gift, grant, or other funds from either public or private sources offered unconditionally or under conditions which are, in the judgment of the department, proper and consistent with this chapter and deposit the funds in the county public assistance fund established by section 5101.161 of the Revised Code;

(2) Recruit individuals and groups interested in certification as in-home aides or in developing and operating suitable licensed child day-care centers, type A family day-care homes, or certified type B family day-care homes, especially in areas with high concentrations of recipients of public assistance, and for that purpose provide consultation to interested individuals and groups on request;

(3) Inform clients of the availability of child care services;

~~(4) Pay to a child day care center, type A family day care home, certified type B family day care home, in-home aide, approved child day camp, licensed preschool program, licensed school child program, or border state child care provider for child care services, the amount provided for in~~

~~division (B) of section 5104.32 of the Revised Code. If part of the cost of care of a child is paid by the child's parent or any other person, the amount paid shall be subtracted from the amount the provider is paid.~~

~~(5) In accordance with rules adopted pursuant to section 5104.39 of the Revised Code, provide monthly reports to the director of job and family services and the director of budget and management regarding expenditures for the purchase of publicly funded child care.~~

~~(B) The A county department of job and family services may do any of the following:~~

~~(1) To, to the extent permitted by federal law, use public child care funds to extend the hours of operation of the county department to accommodate the needs of working caretaker parents and enable those parents to apply for publicly funded child care;~~

~~(2) In accordance with rules adopted by the director of job and family services, request a waiver of the reimbursement ceiling established pursuant to section 5104.30 of the Revised Code for the purpose of paying a higher rate for publicly funded child care based upon the special needs of a child;~~

~~(3) To the extent permitted by federal law, use state and federal funds to pay deposits and other advance payments that a provider of child care customarily charges all children who receive child care from that provider;~~

~~(4) To the extent permitted by federal law, pay for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrollment or attendance in an education or training program or activity, if the employment or education or training program or activity is expected to begin within the thirty-day period.~~

~~Sec. 5104.37. The department of job and family services and a county department of job and family services may withhold any money due, and recover through any appropriate method any money erroneously paid, under this chapter if evidence exists of less than full compliance with this chapter and any rules adopted under it.~~

~~Sec. 5104.38. In addition to any other rules adopted under this chapter, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code governing financial and administrative requirements for publicly funded child care and establishing all of the following:~~

~~(A) Procedures and criteria to be used in making determinations of eligibility for publicly funded child care that give priority to children of families with lower incomes and procedures and criteria for eligibility for publicly funded protective child care. The rules shall specify the maximum~~

amount of income a family may have for initial and continued eligibility. The maximum amount shall not exceed two hundred per cent of the federal poverty line. The rules may specify exceptions to the eligibility requirements in the case of a family that previously received publicly funded child care and is seeking to have the child care reinstated after the family's eligibility was terminated.

(B) Procedures under which a county department of job and family services may, if the department, under division (A) of this section, specifies a maximum amount of income a family may have for eligibility for publicly funded child care that is less than the maximum amount specified in that division, specify a maximum amount of income a family residing in the county the county department serves may have for initial and continued eligibility for publicly funded child care that is higher than the amount specified by the department but does not exceed the maximum amount specified in division (A) of this section;

(C) A schedule of fees requiring all eligible caretaker parents to pay a fee for publicly funded child care according to income and family size, which shall be uniform for all types of publicly funded child care, except as authorized by rule, and, to the extent permitted by federal law, shall permit the use of state and federal funds to pay the customary deposits and other advance payments that a provider charges all children who receive child care from that provider. The schedule of fees may not provide for a caretaker parent to pay a fee that exceeds ten per cent of the parent's family income.

(D) ~~A formula based upon a percentage of the county's total expenditures for publicly funded child care for determining the maximum amount of state and federal funds appropriated for publicly funded child care that may be allocated to a county department may to use for administrative purposes;~~

(E) Procedures to be followed by the department and county departments in recruiting individuals and groups to become providers of child care;

(F) Procedures to be followed in establishing state or local programs designed to assist individuals who are eligible for publicly funded child care in identifying the resources available to them and to refer the individuals to appropriate sources to obtain child care;

(G) Procedures to deal with fraud and abuse committed by either recipients or providers of publicly funded child care;

(H) Procedures for establishing a child care grant or loan program in accordance with the child care block grant act;

(I) Standards and procedures for applicants to apply for grants and loans, and for the department to make grants and loans;

(J) A definition of "person who stands in loco parentis" for the purposes of division ~~(H)(1)~~(JJ)(1) of section 5104.01 of the Revised Code;

(K) Procedures for a county department of job and family services to follow in making eligibility determinations and redeterminations for publicly funded child care available through telephone, computer, and other means at locations other than the county department;

(L) If the director establishes a different reimbursement ceiling under division (E)(3)(d) of section 5104.30 of the Revised Code, standards and procedures for determining the amount of the higher payment that is to be issued to a child care provider based on the special needs of the child being served;

(M) To the extent permitted by federal law, procedures for paying for up to thirty days of child care for a child whose caretaker parent is seeking employment, taking part in employment orientation activities, or taking part in activities in anticipation of enrolling in or attending an education or training program or activity, if the employment or the education or training program or activity is expected to begin within the thirty-day period;

(N) Any other rules necessary to carry out sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code.

Sec. 5104.39. (A) The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a procedure for monitoring the expenditures ~~of county departments of job and family services~~ for publicly funded child care to ensure that expenditures do not exceed the available federal and state funds for publicly funded child care. The department of job and family services, with the assistance of the office of budget and management and the child care advisory council created pursuant to section 5104.08 of the Revised Code, shall monitor the anticipated future expenditures ~~of county departments~~ for publicly funded child care and shall compare those anticipated future expenditures to available federal and state funds for publicly funded child care. Whenever the department determines that the anticipated future expenditures ~~of the county departments will exceed the available federal and state funds~~ for publicly funded child care ~~and the department reimburses the county departments in accordance with rules adopted under section 5104.42 of the Revised Code~~ will exceed the available federal and state funds, the department shall promptly notify the county departments of job and family services and, before the available state and federal funds are used, the director shall issue and implement an administrative order that shall specify

both of the following:

(1) Priorities for expending the remaining available federal and state funds for publicly funded child care;

(2) Instructions and procedures to be used by the county departments regarding eligibility determinations.

(B) The order may do any or all of the following:

(1) Suspend enrollment of all new participants in any program of publicly funded child care;

(2) Limit enrollment of new participants to those with incomes at or below a specified percentage of the federal poverty line;

(3) Disenroll existing participants with income above a specified percentage of the federal poverty line;

(4) Change the schedule of fees paid by eligible caretaker parents that has been established pursuant to section 5104.38 of the Revised Code;

(5) Change the rate of payment for providers of publicly funded child care that has been established pursuant to section 5104.30 of the Revised Code.

(C) Each county department shall comply with the order no later than thirty days after it is issued. ~~If the department fails to notify the county departments and to implement the reallocation priorities specified in the order before the available federal and state funds for publicly funded child care are used, the state department shall provide sufficient funds to the county departments for publicly funded child care to enable each county department to pay for all publicly funded child care that was provided by providers pursuant to contract prior to the date that the county department received notice under this section and the state department implemented in that county the priorities.~~

(D) If after issuing an order under this section to suspend or limit enrollment of new participants or disenroll existing participants the department determines that available state and federal funds for publicly funded child care exceed the anticipated future expenditures ~~of the county departments~~ for publicly funded child care, the director may issue and implement another administrative order increasing income eligibility levels to a specified percentage of the federal poverty line. The order shall include instructions and procedures to be used by the county departments. Each county department shall comply with the order not later than thirty days after it is issued.

(E) The department of job and family services shall do all of the following:

(1) Conduct a quarterly evaluation of the program of publicly funded

child care that is operated pursuant to sections 5104.30 to ~~5104.39~~ 5104.43 of the Revised Code;

(2) Prepare reports based upon the evaluations that specify for each county the number of participants and amount of expenditures;

(3) Provide copies of the reports to both houses of the general assembly and, on request, to interested parties.

Sec. 5104.42. ~~(A)~~ The director of job and family services shall adopt rules pursuant to section 111.15 of the Revised Code establishing a payment procedure for publicly funded child care. ~~The rules may provide that the department of job and family services will reimburse county departments of job and family services for payments made to providers of publicly funded child care, make direct payments to providers, or establish another system for the payment of publicly funded child care.~~

~~Alternately, the (B) The~~ director, by rule adopted in accordance with section 111.15 of the Revised Code, may establish a methodology for allocating ~~among the county departments~~ the state and federal funds appropriated for ~~all~~ publicly funded child care services. ~~If the department chooses to allocate funds for publicly funded child care, it may provide the funds to each county department, up to the limit of the county's allocation, by advancing the funds or reimbursing county care expenditures. The rules adopted under this section may prescribe procedures for making the advances or reimbursements. The rules may establish a method under which the department may determine which county expenditures for child care services are allowable for use of and federal funds.~~

~~The rules may establish procedures that a county department shall follow when the county department determines that its anticipated future expenditures for publicly funded child care services will exceed the amount of state and federal funds allocated by the state department. The procedures may include suspending or limiting enrollment of new participants.~~

Sec. 5104.43. Each county department of job and family services shall deposit all funds received from any source for child care services into the public assistance fund established under section 5101.161 of the Revised Code. ~~All expenditures by a county department for publicly funded child care shall be made from the public assistance fund.~~

Sec. 5104.99. (A) Whoever violates section 5104.02 of the Revised Code shall be punished as follows:

(1) For each offense, the offender shall be fined not less than one hundred dollars nor more than five hundred dollars multiplied by the number of children receiving child care at the child day-care center or type A family day-care home that either exceeds the number of children to which

a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, exceeds the license capacity of the type A home.

(2) In addition to the fine specified in division (A)(1) of this section, all of the following apply:

(a) Except as provided in divisions (A)(2)(b), (c), and (d) of this section, the court shall order the offender to reduce the number of children to which it provides child care to a number that does not exceed either the number of children to which a type B family day-care home may provide child care or, if the offender is a licensed type A family day-care home that is operating as a child day-care center without being licensed as a center, the license capacity of the type A home.

(b) If the offender previously has been convicted of or pleaded guilty to one violation of section 5104.02 of the Revised Code, the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code.

(c) If the offender previously has been convicted of or pleaded guilty to two violations of section 5104.02 of the Revised Code, the offender is guilty of a misdemeanor of the first degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a misdemeanor of the first degree under section 2929.28 of the Revised Code.

(d) If the offender previously has been convicted of or pleaded guilty to three or more violations of section 5104.02 of the Revised Code, the offender is guilty of a felony of the fifth degree, and the court shall order the offender to cease the provision of child care to any person until it obtains a child day-care center license or a type A family day-care home license, as appropriate, under section 5104.03 of the Revised Code. The court shall impose the fine specified in division (A)(1) of this section and may impose an additional fine provided that the total amount of the fines so imposed does not exceed the maximum fine authorized for a felony of the fifth degree under section 2929.18 of the Revised Code.

(B) Whoever violates division (B) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the first degree. If the offender is a

licensee of a center or type A home, the conviction shall constitute grounds for denial, or revocation, ~~or refusal to renew~~ of an application for licensure pursuant to section 5104.04 of the Revised Code. If the offender is a person eighteen years of age or older residing in a center or type A home or is an employee of a center or a type A home and if the licensee had knowledge of, and acquiesced in, the commission of the offense, the conviction shall constitute grounds for denial, or revocation, ~~or refusal to renew~~ of an application for licensure pursuant to section 5104.04 of the Revised Code.

(C) Whoever violates division (C) of section 5104.09 of the Revised Code is guilty of a misdemeanor of the third degree.

Sec. 5111.011. (A) The director of job and family services shall adopt rules establishing eligibility requirements for the medicaid program. The rules shall be adopted pursuant to section 111.15 of the Revised Code and shall be consistent with federal and state law. The rules shall include rules that do all of the following:

(1) Establish standards consistent with federal law for allocating income and resources as income and resources of the spouse, children, parents, or stepparents of a recipient of or applicant for medicaid;

(2) Define the term "resources" as used in division (A)(1) of this section;

(3) Specify the number of months that is to be used for the purpose of the term "look-back date" used in section 5111.0116 of the Revised Code;

(4) Establish processes to be used to determine both of the following:

(a) The date an institutionalized individual's ineligibility for services under section 5111.0116 of the Revised Code is to begin;

(b) The number of months an institutionalized individual's ineligibility for such services is to continue.

(5) ~~Establish exceptions to~~ For the purpose of division (C) of section 5111.0116 of the Revised Code, establish procedures for granting waivers of all or a portion of the period of ineligibility that an institutionalized individual would otherwise be subject to under that section 5111.0116 of the Revised Code and additional reasons for which such waivers may be granted;

(6) Define the term "other medicaid-funded long-term care services" as used in sections 5111.0117 and 5111.0118 of the Revised Code;

(7) For the purpose of division (C)(2)(c) of section 5111.0117 of the Revised Code, establish the process to determine whether the child of an aged, blind, or disabled individual is financially dependent on the individual for housing.

(B) Notwithstanding any provision of state law, including statutes,

administrative rules, common law, and court rules, regarding real or personal property or domestic relations, the standards established under rules adopted under division (A)(1) of this section shall be used to determine eligibility for medicaid.

Sec. 5111.012. ~~The~~ (A) Except as provided in division (B) of this section, the county department of job and family services of each county shall establish the eligibility for medical assistance of persons living in the county, and shall notify the department of job and family services in the manner prescribed by the department. The county shall be reimbursed for administrative expenditures in accordance with sections 5101.16, 5101.161, and 5701.01 of the Revised Code. Expenditures for medical assistance shall be made from funds appropriated to the department of job and family services for public assistance subsidies. The program shall conform to the requirements of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(B) If the department of job and family services elects to enter into agreements with county departments of job and family services pursuant to division (B) of section 5101.47 of the Revised Code, a county department of job and family services shall establish eligibility for medical assistance only if authorized to do so under such an agreement.

Sec. 5111.013. (A) The provision of medical assistance to pregnant women and young children who are eligible for medical assistance under division (A)(3) of section 5111.01 of the Revised Code, but who are not otherwise eligible for medical assistance under that section, shall be known as the healthy start program.

(B) The department of job and family services shall do all of the following with regard to the application procedures for the healthy start program:

(1) Establish a short application form for the program that requires the applicant to provide no more information than is necessary for making determinations of eligibility for the healthy start program, except that the form may require applicants to provide their social security numbers. The form shall include a statement, which must be signed by the applicant, indicating that she does not choose at the time of making application for the program to apply for assistance provided under any other program administered by the department and that she understands that she is permitted at any other time to apply at the county department of job and family services of the county in which she resides for any other assistance administered by the department.

(2) To the extent permitted by federal law, do one or both of the

following:

(a) Distribute the application form for the program to each public or private entity that serves as a women, infants, and children clinic or as a child and family health clinic and to each administrative body for such clinics and train employees of each such agency or entity to provide applicants assistance in completing the form;

(b) In cooperation with the department of health, develop arrangements under which employees of county departments of job and family services are stationed at public or private agencies or entities selected by the department of job and family services that serve as women, infants, and children clinics; child and family health clinics; or administrative bodies for such clinics for the purpose both of assisting applicants for the program in completing the application form and of making determinations at that location of eligibility for the program.

(3) Establish performance standards by which a county department of job and family services' level of enrollment of persons potentially eligible for the program can be measured, and establish acceptable levels of enrollment for each county department.

(4) Direct any county department of job and family services whose rate of enrollment of potentially eligible enrollees in the program is below acceptable levels established under division (B)(3) of this section to implement corrective action. Corrective action may include but is not limited to any one or more of the following to the extent permitted by federal law:

(a) Establishing formal referral and outreach methods with local health departments and local entities receiving funding through the bureau of maternal and child health;

(b) Designating a specialized intake unit within the county department for healthy start applicants;

(c) Establishing abbreviated timeliness requirements to shorten the time between receipt of an application and the scheduling of an initial application interview;

(d) Establishing a system for telephone scheduling of intake interviews for applicants;

(e) Establishing procedures to minimize the time an applicant must spend in completing the application and eligibility determination process, including permitting applicants to complete the process at times other than the regular business hours of the county department and at locations other than the offices of the county department.

(C) To the extent permitted by federal law, local funds, whether from

public or private sources, expended by a county department for administration of the healthy start program shall be considered to have been expended by the state for the purpose of determining the extent to which the state has complied with any federal requirement that the state provide funds to match federal funds for medical assistance, except that this division shall not affect the amount of funds the county is entitled to receive under section 5101.16, 5101.161, or 5111.012 of the Revised Code.

~~(D) The director of job and family services shall do one or both of the following:~~

~~(1) To the extent that federal funds are provided for such assistance, adopt a plan for granting presumptive eligibility for pregnant women applying for healthy start;~~

~~(2) To the extent permitted by federal medicaid regulations, adopt a plan for making same-day determinations of eligibility for pregnant women applying for healthy start.~~

~~(E)~~ A county department of job and family services that maintains offices at more than one location shall accept applications for the healthy start program at all of those locations.

~~(F)~~~~(E)~~ The director of job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement this section.

Sec. 5111.0112. (A) The director of job and family services shall institute a cost-sharing program under the medicaid program. In instituting the cost-sharing program, the director shall comply with federal law. ~~In the case of an individual participating in the children's buy in program established under sections 5101.5211 to 5101.5216 of the Revised Code, the cost sharing program shall be consistent with sections 5101.5213 and 5101.5214 of the Revised Code if the children's buy in program is a component of the medicaid program.~~ The cost-sharing program shall establish a copayment requirement for at least dental services, vision services, nonemergency emergency department services, and prescription drugs, other than generic drugs. The cost-sharing program shall establish requirements regarding premiums, enrollment fees, deductions, and similar charges. The director shall adopt rules under section 5111.02 of the Revised Code governing the cost-sharing program.

(B) The cost-sharing program shall, to the extent permitted by federal law, provide for all of the following with regard to any providers participating in the medicaid program:

(1) No provider shall refuse to provide a service to a medicaid recipient who is unable to pay a required copayment for the service.

(2) Division (B)(1) of this section shall not be considered to do either of the following with regard to a medicaid recipient who is unable to pay a required copayment:

(a) Relieve the medicaid recipient from the obligation to pay a copayment;

(b) Prohibit the provider from attempting to collect an unpaid copayment.

(3) Except as provided in division (C) of this section, no provider shall waive a medicaid recipient's obligation to pay the provider a copayment.

(4) No provider or drug manufacturer, including the manufacturer's representative, employee, independent contractor, or agent, shall pay any copayment on behalf of a medicaid recipient.

(5) If it is the routine business practice of the provider to refuse service to any individual who owes an outstanding debt to the provider, the provider may consider an unpaid copayment imposed by the cost-sharing program as an outstanding debt and may refuse service to a medicaid recipient who owes the provider an outstanding debt. If the provider intends to refuse service to a medicaid recipient who owes the provider an outstanding debt, the provider shall notify the individual of the provider's intent to refuse services.

(C) In the case of a provider that is a hospital, the cost-sharing program shall permit the hospital to take action to collect a copayment by providing, at the time services are rendered to a medicaid recipient, notice that a copayment may be owed. If the hospital provides the notice and chooses not to take any further action to pursue collection of the copayment, the prohibition against waiving copayments specified in division (B)(3) of this section does not apply.

(D) The department of job and family services may work with a state agency that is administering, pursuant to a contract entered into under section 5111.91 of the Revised Code, one or more components of the medicaid program or one or more aspects of a component as necessary for the state agency to apply the cost-sharing program to the components or aspects of the medicaid program that the state agency administers.

Sec. 5111.0116. (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative

agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the United States secretary of health and human services under 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in 42 U.S.C. 1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted under section 5111.011 of the Revised Code immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

(5) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(6) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.

(7) "Nursing facility services" means nursing facility services covered by the medicaid program that a nursing facility provides to a resident of the nursing facility who is a medicaid recipient eligible for medicaid-covered nursing facility services.

(8) "Undue hardship" means being deprived of either of the following:

(a) Medical care such that an individual's health or life is endangered;

(b) Food, clothing, shelter, or other necessities of life.

(B) Except as provided in division (C) of this section and rules adopted under section 5111.011 of the Revised Code, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted under section 5111.011

of the Revised Code and shall continue for a number of months determined in accordance with such rules.

(C) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual. An institutionalized individual shall be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal. Waivers shall be granted in accordance with rules adopted under section 5111.011 of the Revised Code.

(D) To secure compliance with this section, the director of job and family services may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

Sec. 5111.0122. As used in this section, "maintenance of effort requirement" means the requirement established by section 1902(gg) of the "Social Security Act," 124 Stat. 275 (2010), 42 U.S.C. 1396a(gg), as amended, regarding medicaid eligibility standards, methodologies, and procedures.

Except to the extent, if any, otherwise authorized by the United States secretary of health and human services, the department of job and family services shall comply with the maintenance of effort requirement while the requirement is in effect.

Sec. 5111.0123. (A) Subject to division (B) of this section, the director of job and family services shall adopt rules under sections 5111.011 and 5111.85 of the Revised Code to reduce the complexity of the eligibility determination processes for the medicaid program caused by the different income and resource standards for the numerous medicaid eligibility categories.

(B) In implementing division (A) of this section, both of the following

apply:

(1) Before implementing a revision to an eligibility determination process, the director shall obtain, to the extent necessary, the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant.

(2) The director shall comply with section 5111.0122 of the Revised Code.

Sec. 5111.0124. (A) As used in this section:

"Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(1)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Presumptive eligibility for pregnant women option" means the option available under 42 U.S.C. 1396r-1 to make ambulatory prenatal care available to pregnant women under the medicaid program during presumptive eligibility periods.

"Qualified provider" has the same meaning as in 42 U.S.C. 1396r-1(b)(2).

(B) The director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services to implement the presumptive eligibility for pregnant women option. The director shall include in the medicaid state plan amendment a request to authorize children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to serve as qualified providers, to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. The director may include in the medicaid state plan amendment a request to authorize other types of providers that are eligible to be qualified providers under 42 U.S.C. 1396r-1(b)(2) and request to serve as qualified providers to serve as qualified providers for purposes of the presumptive eligibility for pregnant women option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.0125. (A) As used in this section:

"Children's hospital" has the same meaning as in section 2151.86 of the

Revised Code.

"Federally-qualified health center" has the same meaning as in 42 U.S.C. 1396d(l)(2)(B).

"Federally qualified health center look-alike" has the same meaning as in section 3701.047 of the Revised Code.

"Presumptive eligibility for children option" means the option available under 42 U.S.C. 1396r-1a to make medical assistance with respect to health care items and services available to children under the medicaid program during presumptive eligibility periods.

"Qualified entity" has the same meaning as in 42 U.S.C. 1396r-1a(b)(3).

(B) The director of job and family services shall retain the presumptive eligibility for children option that was included in the state medicaid plan on the effective date of this section. The director shall submit a medicaid state plan amendment to the United States secretary of health and human services to authorize children's hospitals, federally qualified health centers, and federally qualified health center look-alikes, if they are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities, to serve as qualified entities for purposes of the presumptive eligibility for children option. The director may include in the medicaid state plan amendment a request to authorize other types of entities that are eligible to be qualified entities under 42 U.S.C. 1396r-1a(b)(3) and request to serve as qualified entities to serve as qualified entities for purposes of the presumptive eligibility for children option. The director shall begin to implement the medicaid state plan amendment on the later of April 1, 2012, or a date that is not later than ninety days after the effective date of the approval of the amendment.

The director shall adopt rules under section 5111.011 of the Revised Code as necessary to implement this section.

Sec. 5111.021. Under the medicaid program:

(A) Except as otherwise ~~permitted~~ required by federal statute or regulation and at the department's discretion, reimbursement by the department of job and family services to shall not reimburse a medical provider for any medical ~~service~~ assistance rendered under the program shall not exceed an amount that exceeds the following:

(1) If the provider is a hospital, nursing facility, or intermediate care facility for the mentally retarded, the limits established under Subpart C of 42 C.F.R. Part 447;

(2) If the provider is other than a provider described in division (A)(1) of this section, the authorized reimbursement ~~level~~ limits for the same service under the medicare program established under Title XVIII of the

"Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Reimbursement for freestanding medical laboratory charges shall not exceed the customary and usual fee for laboratory profiles.

(C) The department may deduct from payments for services rendered by a medicaid provider under the medicaid program any amounts the provider owes the state as the result of incorrect medicaid payments the department has made to the provider.

(D) The department may conduct final fiscal audits in accordance with the applicable requirements set forth in federal laws and regulations and determine any amounts the provider may owe the state. When conducting final fiscal audits, the department shall consider generally accepted auditing standards, which include the use of statistical sampling.

(E) The number of days of inpatient hospital care for which reimbursement is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department may make exceptions to this limitation. The limitation does not apply to children participating in the program for medically handicapped children established under section 3701.023 of the Revised Code.

(F) The division of any reimbursement between a collaborating physician or podiatrist and a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner for services performed by the nurse shall be determined and agreed on by the nurse and collaborating physician or podiatrist. In no case shall reimbursement exceed the payment that the physician or podiatrist would have received had the physician or podiatrist provided the entire service.

Sec. 5111.023. (A) As used in this section:

(1) "Community mental health agency or facility" means a community mental health agency or facility that has ~~a quality assurance program accredited by the joint commission on accreditation of healthcare organizations or is its community mental health services~~ certified by the department of mental health under section 5119.611 of the Revised Code or by the department of job and family services.

(2) "Mental health professional" means a person qualified to work with mentally ill persons under the standards established by the director of mental health pursuant to section 5119.611 of the Revised Code.

(B) The state medicaid plan ~~shall~~ may include provision of the following mental health services when provided by community mental

health agencies or facilities:

(1) Outpatient mental health services, including, but not limited to, preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions rendered to individuals in an individual or group setting by a mental health professional in accordance with a plan of treatment appropriately established, monitored, and reviewed;

(2) Partial-hospitalization mental health services rendered by persons directly supervised by a mental health professional;

(3) Unscheduled, emergency mental health services of a kind ordinarily provided to persons in crisis when rendered by persons supervised by a mental health professional;

(4) Subject to receipt of federal approval, assertive community treatment and intensive home-based mental health services.

~~(C) The comprehensive annual plan shall certify the availability of sufficient unencumbered community mental health state subsidy and local funds to match federal medicaid reimbursement funds earned by community mental health facilities.~~

~~(D) The department of job and family services shall enter into a separate contract with the department of mental health under section 5111.91 of the Revised Code with regard to the component of the medicaid program provided for by this section.~~

~~(E) Not later than July 21, 2006, the department of job and family services shall request federal approval to provide assertive community treatment and intensive home-based mental health services under medicaid pursuant to this section.~~

~~(F) On receipt of federal approval sought under division (E) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code for assertive community treatment and intensive home-based mental health services provided under medicaid pursuant to this section. The director shall consult with the department of mental health in adopting the rules.~~

Sec. 5111.025. (A) In rules adopted under section 5111.02 of the Revised Code, the director of job and family services shall modify the manner or establish a new manner in which the following are paid under medicaid:

(1) Community mental health agencies or facilities for providing community mental health services included in the state medicaid plan pursuant to section 5111.023 of the Revised Code;

(2) Providers of alcohol and drug addiction services for providing alcohol and drug addiction services included in the medicaid program

pursuant to rules adopted under section 5111.02 of the Revised Code.

(B) The director's authority to modify the manner, or to establish a new manner, for medicaid to pay for the services specified in division (A) of this section is not limited by any rules adopted under section 5111.02 or 5119.61 of the Revised Code that are in effect on June 26, 2003, and govern the way medicaid pays for those services. This is the case regardless of what state agency adopted the rules.

Sec. 5111.0212. As necessary to comply with section 1902(a)(13)(A) of the "Social Security Act," 111 Stat. 507 (1997), 42 U.S.C. 1396a(a)(13)(A), as amended, and any other federal law that requires public notice of proposed changes to reimbursement rates for medical assistance provided under the medicaid program, the director of job and family services shall give public notice in the register of Ohio of any change to a method or standard used to determine the medicaid reimbursement rate for medical assistance.

Sec. 5111.0213. (A) As used in this section:

(1) "Aide services" means all of the following:

(a) Home health aide services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(2);

(b) Home care attendant services available under a home and community-based services medicaid waiver component;

(c) Personal care aide services available under a home and community-based services medicaid waiver component.

(2) "Home and community-based services medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(3) "Independent provider" means an individual who personally provides aide services or nursing services and is not employed by, under contract with, or affiliated with another entity that provides those services.

(4) "Nursing services" means all of the following:

(a) Nursing services available under the home health services benefit pursuant to 42 C.F.R. 440.70(b)(1);

(b) Private duty nursing services as defined in 42 C.F.R. 440.80;

(c) Nursing services available under a home and community-based services medicaid waiver component.

(B) The department of job and family services shall do both of the following:

(1) Effective October 1, 2011, reduce the medicaid program's first-hour-unit price for aide services to ninety-seven per cent of the price paid on June 30, 2011, and for nursing services to ninety-five per cent of the price paid on June 30, 2011;

(2) Effective October 1, 2011, pay for a service that is an aide service or a nursing service provided by an independent provider eighty per cent of the price it pays for the same service provided by a provider that is not an independent provider;

(3) Not sooner than July 1, 2012, adjust the medicaid reimbursement rates for aide services and nursing services in a manner that reflects, at a minimum, labor market data, education and licensure status, home health agency and independent provider status, and length of service visit.

(C) The department shall strive to have the adjustment made under division (B)(3) of this section go into effect on July 1, 2012. The reductions made under divisions (B)(1) and (2) of this section shall remain in effect until the adjustment made under division (B)(3) of this section goes into effect.

(D) The director of job and family services shall adopt rules under sections 5111.02 and 5111.85 of the Revised Code as necessary to implement this section.

Sec. 5111.0214. The department of job and family services shall not knowingly make a medicaid payment for a provider-preventable condition for which federal financial participation is prohibited by regulations adopted under section 2702 of the "Patient Protection and Affordable Care Act," 124 Stat. 318 (2010), 42 U.S.C. 1396b-1. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.

Sec. 5111.0215. (A) The department of job and family services may establish a program under which it provides incentive payments, as authorized by the "Health Information Technology for Economic and Clinical Health Act," 123 Stat. 489 (2009), 42 U.S.C. 1396b(a)(3)(F) and 1396b(t), as amended, to encourage the adoption and use of electronic health record technology by medicaid providers who are identified under that federal law as eligible professionals.

(B) After the department has made a determination regarding the amount of a medicaid provider's electronic health record incentive payment or the denial of an incentive payment, the department shall notify the provider. The provider may request that the department reconsider its determination.

A request for reconsideration shall be submitted in writing to the department not later than fifteen days after the provider receives notification of the determination. The request shall be accompanied by written materials setting forth the basis for, and supporting, the reconsideration request.

On receipt of a timely request, the department shall reconsider the

determination. On the basis of the written materials accompanying the request, the department may uphold, reverse, or modify its original determination. The department shall mail to the provider by certified mail a written notice of the reconsideration decision.

In accordance with Chapter 2505. of the Revised Code, the medicaid provider may appeal the reconsideration decision by filing a notice of appeal with the court of common pleas of Franklin county. The notice shall identify the decision being appealed and the specific grounds for the appeal. The notice of appeal shall be filed not later than fifteen days after the department mails its notice of the reconsideration decision. A copy of the notice of appeal shall be filed with the department not later than three days after the notice is filed with the court.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5111.031. (A) As used in this section:

(1) "Independent provider" has the same meaning as in section 5111.034 of the Revised Code.

(2) "Intermediate care facility for the mentally retarded" and "nursing facility" have the same meanings as in section 5111.20 of the Revised Code.

(3) "Noninstitutional medicaid provider" means any person or entity with a medicaid provider agreement other than a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(4) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B) Notwithstanding any provision of this chapter to the contrary, the department of job and family services shall take action under this section against a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee.

(C) Except as provided in division (D) of this section and in rules adopted by the department under division (H) of this section, on receiving notice and a copy of an indictment that is issued on or after ~~the effective date of this section~~ September 29, 2007, and charges a noninstitutional medicaid provider or its owner, officer, authorized agent, associate, manager, or employee with committing an offense specified in division (E) of this section, the department shall suspend the provider agreement held by the noninstitutional medicaid provider. Subject to division (D) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

The suspension shall continue in effect until the proceedings in the

criminal case are completed through ~~conviction~~, dismissal of the indictment, or through conviction, entry of a guilty plea, or finding of not guilty. If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded. ~~Pursuant~~

Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under this division by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code.

When subject to a suspension under this division, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(D)(1) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (C) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(2) The termination of medicaid reimbursement applies only to payments for medicaid services rendered subsequent to the date on which the notice required under division (F) of this section is sent. Claims for reimbursement for medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E)(1) In the case of a noninstitutional medicaid provider that is not an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would be a felony or misdemeanor under the laws of this state and the act relates to or results from either of the following:

(a) Furnishing or billing for medical care, services, or supplies under the medicaid program;

(b) Participating in the performance of management or administrative services relating to furnishing medical care, services, or supplies under the medicaid program.

(2) In the case of a noninstitutional medicaid provider that is an independent provider, the suspension of a provider agreement under division (C) of this section applies when an indictment charges a person with committing an act that would constitute one of the offenses specified in division (D) of section 5111.034 of the Revised Code.

(F) Not later than five days after suspending a provider agreement under division (C) of this section, the department shall send notice of the suspension to the affected provider or owner. In providing the notice, the department shall do all of the following:

(1) Describe the indictment that was the cause of the suspension, without necessarily disclosing specific information concerning any ongoing civil or criminal investigation;

(2) State that the suspension will continue in effect until the proceedings in the criminal case are completed through ~~conviction~~, dismissal of the indictment, or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded;

(3) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for a reconsideration pursuant to division (G) of this section.

(G)(1) ~~A~~ Pursuant to the procedure specified in division (G)(2) of this section, a noninstitutional medicaid provider or owner subject to a suspension under this section may request a reconsideration. The request shall be made not later than thirty days after receipt of the notice provided under division (F) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of the indictment;

(b) Whether any offense charged in the indictment resulted from an offense specified in division (E) of this section;

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the indictment.

(3) The department shall review the information and documents

submitted in a request for reconsideration. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(H) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.035. (A) As used in this section:

(1) "Creditable allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of job and family services.

(2) "Provider" has the same meaning as in section 5111.032 of the Revised Code.

(3) "Owner" has the same meaning as in section 5111.031 of the Revised Code.

(B)(1) Except as provided in division (C) of this section and in rules adopted by the department of job and family services under division (J) of this section, on determining there is a creditable allegation of fraud for which an investigation is pending under the medicaid program against a provider, the department shall suspend the provider agreement held by the provider. Subject to division (C) of this section, the department shall also terminate medicaid reimbursement to the provider for services rendered.

(2)(a) The suspension shall continue in effect until either of the following is the case:

(i) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider;

(ii) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty.

(b) If the department commences a process to terminate the suspended provider agreement, the suspension shall also continue in effect until the termination process is concluded.

(3) Pursuant to section 5111.06 of the Revised Code, the department is not required to take action under division (B)(1) of this section by issuing an order pursuant to an adjudication in accordance with Chapter 119. of the Revised Code.

(4) When subject to a suspension under this section, a provider, owner, officer, authorized agent, associate, manager, or employee shall not own or provide services to any other medicaid provider or risk contractor or arrange for, render, or order services to any other medicaid provider or risk contractor or arrange for, render, or order services for medicaid recipients during the period of suspension. During the period of suspension, the provider, owner, officer, authorized agent, associate, manager, or employee shall not receive reimbursement in the form of direct payments from the department or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any participating provider or risk contractor.

(C) The department shall not suspend a provider agreement or terminate medicaid reimbursement under division (B) of this section if the provider or owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the creditable allegation of fraud.

(D) The termination of medicaid reimbursement under division (B) of this section applies only to payments for medicaid services rendered subsequent to the date on which the notice required by division (E) of this section is sent. Claims for reimbursement of medicaid services rendered by the provider prior to the issuance of the notice may be subject to prepayment review procedures whereby the department reviews claims to determine whether they are supported by sufficient documentation, are in compliance with state and federal statutes and rules, and are otherwise complete.

(E) After suspending a provider agreement under division (B) of this section, the department shall, as specified in 42 C.F.R. 455.23(b), send notice of the suspension to the affected provider or owner in accordance with the following timeframes:

(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice;

(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the suspension occurs subject to the conditions specified in division (F) of this section.

(F) A written request for a temporary delay described in division (E)(2) of this section may be renewed in writing by a law enforcement agency not more than two times except that under no circumstances shall the notice be issued more than ninety days after the suspension occurs.

(G) The notice required by division (E) of this section shall do all of the following:

(1) State that payments are being suspended in accordance with this section and 42 C.F.R. 455.23;

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation;

(3) State that the suspension continues to be in effect until either of the following is the case:

(a) The department or a prosecuting authority determines that there is insufficient evidence of fraud by the provider;

(b) The proceedings in any related criminal case are completed through dismissal of the indictment or through conviction, entry of a guilty plea, or finding of not guilty and, if the department commences a process to terminate the suspended provider agreement, until the termination process is concluded.

(4) Specify, if applicable, the type or types of medicaid claims or business units of the provider that are affected by the suspension;

(5) Inform the provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for reconsideration of the suspension in accordance with division (H) of this section.

(H)(1) Pursuant to the procedure specified in division (H)(2) of this section, a provider or owner subject to a suspension under this section may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (E) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the provider or owner shall submit written information and documents to the department. The information and documents may pertain to any of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case.

(b) If there has been an indictment in a related criminal case, whether any offense charged in the indictment resulted from an offense specified in division (E) of section 5111.031 of the Revised Code.

(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case.

(I) The department shall review the information and documents

submitted in a request made under division (H) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. The review and notification of its results shall be completed not later than forty-five days after receiving the information and documents submitted in a request for reconsideration.

(J) The department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

Sec. 5111.051. The director of job and family services may submit a medicaid state plan amendment or request for a federal waiver to the United States secretary of health and human services as necessary to implement, at the director's discretion, a system under which payments for medical assistance provided under the medicaid program are made to an organization on behalf of the providers of the medical assistance. The system may not provide for an organization to receive an amount that exceeds, in aggregate, the amount the department would have paid directly to the providers if not for this section.

Sec. 5111.052. (A) As used in this section, "electronic claims submission process" means any of the following:

(1) Electronic interchange of data;

(2) Direct entry of data through an internet-based mechanism implemented by the department of job and family services;

(3) Any other process for the electronic submission of claims that is specified in rules adopted under this section.

(B) Not later than January 1, 2013, and except as provided in division (C) of this section, each provider of services to medicaid recipients shall do both of the following:

(1) Use only an electronic claims submission process to submit to the department of job and family services claims for medicaid reimbursement for services provided to medicaid recipients;

(2) Arrange to receive medicaid reimbursement from the department by means of electronic funds transfer.

(C) Division (B) of this section does not apply to any of the following:

(1) A nursing facility, as defined in section 5111.20 of the Revised Code;

(2) An intermediate care facility for the mentally retarded, as defined in section 5111.20 of the Revised Code;

(3) A medicaid managed care organization under contract with the department pursuant to section 5111.17 of the Revised Code;

(4) Any other provider or type of provider designated in rules adopted under this section.

(D) The department shall not process a medicaid claim submitted on or after January 1, 2013, unless the claim is submitted through an electronic claims submission process in accordance with this section.

(E) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to implement this section.

Sec. 5111.053. (A) As used in this section, "group practice" has the same meaning as in section 4731.65 of the Revised Code.

(B) The department of job and family services shall establish a process by which a physician assistant may enter into a medicaid provider agreement.

(C)(1) Subject to division (C)(2) of this section, a claim for reimbursement for a service provided by a physician assistant to a medicaid recipient may be submitted by the physician assistant who provided the service or the physician, group practice, clinic, or other health care facility that employs the physician assistant.

(2) A claim for reimbursement may be submitted by the physician assistant who provided the service only if the physician assistant has a valid provider agreement. When submitting the claim, the physician assistant shall use only the medicaid provider number the department has assigned to the physician assistant.

(D) The director of job and family services may adopt rules under section 5111.02 of the Revised Code to implement this section.

Sec. 5111.054. (A) As used in this section:

(1) "Federal financial participation" means the federal government's share of expenditures made by an entity in implementing the medicaid program.

(2) "OCHSPS" means the private, not-for-profit corporation known as the Ohio children's hospital solutions for patient safety, which was formed for the purpose of improving pediatric patient care in this state, which performs functions that are included within the functions of a peer review committee as defined in section 2305.25 of the Revised Code, and which consists of all of the following members: Akron children's hospital, Cincinnati children's hospital medical center, Cleveland clinic children's hospital, Dayton children's medical center, mercy children's hospital, nationwide children's hospital, rainbow babies & children's hospital, and

Toledo children's hospital.

(B) If, as authorized by section 5101.10 of the Revised Code, the department of job and family services chooses to contract with a person to perform either or both of the following services, it may contract with any qualified person, including OCHSPS, to perform the service or services on the department's behalf:

(1) Review and analyze claims for medical assistance made under this chapter to children in accordance with all state and federal laws governing the confidentiality of patient-identifying information;

(2) Perform quality assurance and quality review functions, other than those described in division (B)(1) of this section, related to medical assistance made under this chapter to children.

The functions specified in division (B)(2) of this section may include those recommended by the best evidence for advancing child health in Ohio now (BEACON) council.

(C) If the department enters into a contract with OCHSPS for OCHSPS to perform either or both of the services described in division (B) of this section, OCHSPS shall, only for purposes of section 5101.11 of the Revised Code, be considered a public entity and the department shall seek federal financial participation for costs incurred by OCHSPS in performing the service or services.

Sec. 5111.06. (A)(1) As used in this section and in sections 5111.061 and ~~5111.062~~ 5111.063 of the Revised Code:

(a) "Provider" means any person, institution, or entity that furnishes medicaid services under a provider agreement with the department of job and family services pursuant to Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended.

(b) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

(c) "Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.

(2) This section does not apply to any action taken by the department of job and family services under sections 5111.16 to 5111.177 or sections 5111.35 to 5111.62 of the Revised Code.

(B) Except as provided in division (D) of this section and section 5111.914 of the Revised Code, the department shall do either of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Enter into or refuse to enter into a provider agreement with a provider, or suspend, terminate, renew, or refuse to renew an existing

provider agreement with a provider;

(2) Take any action based upon a final fiscal audit of a provider.

(C) Any party who is adversely affected by the issuance of an adjudication order under division (B) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(D) The department is not required to comply with division (B)(1) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of job and family services, and the provider has not obtained the license, permit, certificate, or certification.

(3) The provider agreement is denied, terminated, or not renewed due to the termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of job and family services, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state.

(4) The provider agreement is denied, terminated, or not renewed pursuant to division (C) or (F) of section 5111.03 of the Revised Code.

(5) The provider agreement is denied, terminated, or not renewed due to the provider's termination, suspension, or exclusion from the medicare program established under Title XVIII of the "Social Security Act," or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state.

(6) The provider agreement is denied, terminated, or not renewed due to the provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program.

(7) The provider agreement is denied, terminated, or suspended as a result of action by the United States department of health and human

services and that action is binding on the provider's participation in the medicaid program.

(8) ~~The~~ Pursuant to either section 5111.031 or 5111.035 of the Revised Code, the provider agreement is suspended pursuant to section 5111.031 of the Revised Code and payments to the provider are suspended pending indictment of the provider.

(9) The provider agreement is denied, terminated, or not renewed because the provider or its owner, officer, authorized agent, associate, manager, or employee has been convicted of one of the offenses that caused the provider agreement to be suspended pursuant to section 5111.031 of the Revised Code.

(10) The provider agreement is converted under section 5111.028 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(11) The provider agreement is terminated or an application for re-enrollment is denied because the provider has failed to apply for re-enrollment within the time or in the manner specified for re-enrollment pursuant to section 5111.028 of the Revised Code.

(12) The provider agreement is suspended or terminated, or an application for enrollment or re-enrollment is denied, for any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450.

(13) The provider agreement is terminated or not renewed because the provider has not billed or otherwise submitted a medicaid claim to the department for two years or longer.

~~(13)~~(14) The provider agreement is denied, terminated, or not renewed because the provider fails to provide to the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

In the case of a provider described in division (D)~~(12)~~(13) or ~~(13)~~(14) of this section, the department may take its proposed action against a provider agreement by sending a notice explaining the proposed action to the provider. The notice shall be sent to the provider's address on record with the department. The notice may be sent by regular mail.

(E) The department may withhold payments for services rendered by a medicaid provider under the medicaid program during the pendency of proceedings initiated under division (B)(1) of this section. If the proceedings are initiated under division (B)(2) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the

department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to nursing facilities and intermediate care facilities for the mentally retarded as defined in section 5111.20 of the Revised Code.

Sec. 5111.061. (A) ~~The~~ (1) Except as provided in division (A)(2) of this section, the department of job and family services may recover a medicaid payment or portion of a payment made to a provider to which the provider is not entitled if the department notifies the provider of the overpayment during the five-year period immediately following the end of the state fiscal year in which the overpayment was made.

(2) In the case of a hospital provider, if the department determines as a result of a medicare or medicaid cost report settlement that the provider received an amount under the medicaid program to which the provider is not entitled, the department may recover the overpayment if the department notifies the provider of the overpayment during the later of the following:

(a) The five-year period immediately following the end of the state fiscal year in which the overpayment was made;

(b) The one-year period immediately following the date the department receives from the United States centers for medicare and medicaid services a completed, audited, medicare cost report for the provider that applies to the state fiscal year in which the overpayment was made.

(B) Among the overpayments that may be recovered under this section are the following:

(1) Payment for a service, or a day of service, not rendered;

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

(3) Payment for a service, or day of service, that was paid by, or partially paid by, a ~~third-party~~ third party, as defined in section 5101.571 of the Revised Code, and the ~~third-party's~~ third party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;

(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.

(C) The department may recover an overpayment under this section prior to or after any of the following:

(1) Adjudication of a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(2) Adjudication of a finding under any other provision of this chapter

or the rules adopted under it;

(3) Expiration of the time to issue a final fiscal audit that section 5111.06 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(4) Expiration of the time to issue a finding under any other provision of this chapter or the rules adopted under it.

(D)(1) Subject to division (D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5111.06 of the Revised Code;

(b) Issuing a finding under any other provision of this chapter or the rules adopted under it.

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate.

(E) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code.

Sec. 5111.063. For the purpose of raising funds necessary to pay the expenses of implementing the provider screening requirements of subpart E of 42 C.F.R. Part 455, the department of job and family services shall charge an application fee to a provider seeking to enter into or renew a medicaid provider agreement, unless the provider is exempt from paying the application fee under 42 C.F.R. 455.460(a). The application fees shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section, including a rule establishing the amount of the application fee that is charged under this section. The amount of the application fee shall not be set at an amount that is more than necessary to pay for the expenses of implementing the provider screening requirements.

Sec. 5111.086. As used in this section, "federal upper reimbursement limit" means the limit established pursuant to section 1927(e) of the "Social Security Act," 104 Stat. 1388-151 (1990), 42 U.S.C. 1396r-8(e), as amended.

The medicaid payment for a drug that is subject to a federal upper reimbursement limit shall not exceed, in the aggregate, the federal upper reimbursement limit for the drug. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to

implement this section.

Sec. 5111.113. (A) As used in this section:

(1) "Adult care facility" has the same meaning as in section ~~3722.04~~ 5119.70 of the Revised Code.

(2) "Commissioner" means a person appointed by a probate court under division (B) of section 2113.03 of the Revised Code to act as a commissioner.

(3) "Home" has the same meaning as in section 3721.10 of the Revised Code.

(4) "Personal needs allowance account" means an account or petty cash fund that holds the money of a resident of an adult care facility or home and that the facility or home manages for the resident.

(B) Except as provided in divisions (C) and (D) of this section, the owner or operator of an adult care facility or home shall transfer to the department of job and family services the money in the personal needs allowance account of a resident of the facility or home who was a recipient of the medical assistance program no earlier than sixty days but not later than ninety days after the resident dies. The adult care facility or home shall transfer the money even though the owner or operator of the facility or home has not been issued letters testamentary or letters of administration concerning the resident's estate.

(C) If funeral or burial expenses for a resident of an adult care facility or home who has died have not been paid and the only resource the resident had that could be used to pay for the expenses is the money in the resident's personal needs allowance account, or all other resources of the resident are inadequate to pay the full cost of the expenses, the money in the resident's personal needs allowance account shall be used to pay for the expenses rather than being transferred to the department of job and family services pursuant to division (B) of this section.

(D) If, not later than sixty days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration is filed under section 2113.03 of the Revised Code, concerning the resident's estate, the owner or operator of the facility or home shall transfer the money in the resident's personal needs allowance account to the administrator, executor, commissioner, or person who filed the application for release from administration.

(E) The transfer or use of money in a resident's personal needs allowance account in accordance with division (B), (C), or (D) of this section discharges and releases the adult care facility or home, and the owner or operator of the facility or home, from any claim for the money

from any source.

(F) If, sixty-one or more days after a resident of an adult care facility or home dies, letters testamentary or letters of administration are issued, or an application for release from administration under section 2113.03 of the Revised Code is filed, concerning the resident's estate, the department of job and family services shall transfer the funds to the administrator, executor, commissioner, or person who filed the application, unless the department is entitled to recover the money under the medicaid estate recovery program instituted under section 5111.11 of the Revised Code.

Sec. 5111.13. (A) As used in this section, "cost-effective" and "group health plan" have the same meanings as in section 1906 of the "Social Security Act," 49 104 Stat. ~~620 (1935)~~ 1388-161 (1990), 42 U.S.C.A. 1396e, as amended, and any regulations adopted under that section.

(B) The department of job and family services, ~~pursuant to guidelines issued by~~ may submit a medicaid state plan amendment to the United States secretary of health and human services, ~~shall identify cases in which enrollment of an individual otherwise eligible for medical assistance under this chapter in a group health plan in which the individual is eligible to enroll and payment of the individual's premiums, deductibles, coinsurance, and other cost-sharing expenses is cost effective.~~

~~The department shall require, as a condition of eligibility for medical assistance, individuals identified under this division, or in the case of a child, the child's parent, to apply for enrollment in the group health plan, except that the failure of a parent to enroll self or the parent's child in a group health plan does not affect the child's eligibility under the medical assistance program.~~

~~The department shall pay enrollee premiums and deductibles, coinsurance, and other cost sharing obligations for services and items otherwise covered under the medical assistance program. The department shall treat coverage under the group health plan in the same manner as any other third party liability under the program. If not all members of a family are eligible for medical assistance and enrollment of the eligible members in a group health plan is not possible without also enrolling the members who are ineligible for medical assistance, the department shall pay the premiums for the ineligible members if the payments are cost effective. The department shall not pay deductibles, coinsurance, or other cost sharing obligations of enrolled members who are not eligible for medical assistance.~~

~~The department may make payments under this section to employers, insurers, or other entities. The department may make the payments without entering into a contract with employers, insurers, or other entities.~~

~~(C) To the extent permitted by federal law and regulations, the department of job and family services shall coordinate the medical assistance program with group health plans in such a manner that the medical assistance program serves as a supplement to the group health plans. In its coordination efforts, the department shall consider cost-effectiveness and quality of care. The department may enter into agreements with group health plans as necessary to implement this division for the purpose of implementing a program pursuant to section 1906 of the "Social Security Act," 104 Stat. 1388-161 (1990), 42 U.S.C. 1396e, as amended, for the enrollment of medicaid-eligible individuals in group health plans when the department determines that enrollment is cost-effective.~~

~~(D)~~(C) The director of job and family services shall may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section.

Sec. 5111.14. The director of job and family services may submit to the United States secretary of health and human services an amendment to the medicaid state plan in order to implement within the medicaid program a system under which medicaid recipients with chronic conditions are provided with coordinated care through health homes, as authorized by section 1945 of the "Social Security Act," 124 Stat. 319 (2010), 42 U.S.C. 1396w-4.

The director may adopt rules under section 5111.02 of the Revised Code to implement this section.

~~Sec. 5111.14~~ 5111.141. The department of job and family services may require county departments of job and family services to provide case management of nonemergency transportation services provided under the medical assistance program. County departments shall provide the case management if required by the department in accordance with rules adopted by the director of job and family services.

The department shall determine, for the purposes of claiming federal reimbursement under the medical assistance program, whether it will claim expenditures for nonemergency transportation services as administrative or program expenditures.

Sec. 5111.151. (A)(1) This section applies only to either of the following:

(a) Initial eligibility determinations for ~~all cases involving medicaid provided pursuant to this chapter, qualified medicare beneficiaries, specified low income medicare beneficiaries, qualifying individuals 1, qualifying individuals 2, and medical assistance for covered families and children~~ the medicaid program made by the department of job and family services

pursuant to section 5101.47 of the Revised Code or by a county department of job and family services pursuant to section 5111.012 of the Revised Code;

(b) An appeal from a determination described in division (A)(1)(a) of this section pursuant to section 5101.35 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.

(b) The prohibition in division (A)(2)(a) of this section does not apply to an appeal described in division (A)(1)(b) of this section.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust,

partnership, and association.

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.

(8) "Recipient" is an individual who receives medicaid or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(C)(1) If an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted by the department of job and family services governing trusts. The county department of job and family services may determine that the trust or portion of the trust ~~is one of the following:~~

~~(1) A countable (a) Is a resource available to the applicant or recipient;~~

~~(2) Countable (b) Contains income available to the applicant or recipient;~~

~~(3) A countable resource and countable income (c) Constitutes both items described in divisions (C)(1)(a) and (b) of this section;~~

~~(4) Not a countable resource or countable income (d) Is neither an item described in division (C)(1)(a) nor (C)(1)(b) of this section.~~

(2) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D)(1) A trust or legal instrument or device similar to a trust shall be

considered a medicaid qualifying trust if all of the following apply:

- (a) The trust was established on or prior to August 10, 1993.
- (b) The trust was not established by a will.
- (c) The trust was established by an applicant or recipient.
- (d) The applicant or recipient is or may become the beneficiary of all or part of the trust.
- (e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services ~~as an available to be a~~ resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted by the department of job and family services governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

(a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid, medical assistance for covered families and children, or as a qualified medicare beneficiary, specified low-income medicare beneficiary, qualifying individual-1, or qualifying individual-2;

(b) Whether or not the trustee actually exercises discretion.

(5) If any real or personal property is transferred to a medicaid qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) A trust that meets the requirements of division (E)(1) of this section and is a revocable trust shall be treated by the county department of job and family services as follows:

(a) The corpus of the trust shall be considered a resource available to the applicant or recipient.

(b) Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

(c) Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(3) A trust that meets the requirements of division (E)(1) of this section and is an irrevocable trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5111.0116 of the Revised Code and rules to implement that section adopted under section 5111.011 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the

foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted by the department of job and family services governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

(c) Any restrictions on when or whether distributions may be made from the trust;

(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall ~~be exempt from being counted as~~ not be a resource ~~by a county department of job and family services~~ available to the applicant or recipient:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted by the department of job and family services.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient

continues to be disabled as defined in rules adopted by the department of job and family services. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. ~~Assets~~ An Asset held prior to the transfer to the trust shall be considered as ~~countable assets or countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or countable assets both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined

with any ~~countable~~ income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations.

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted by the department of job and family services shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted by the department of job and family services.

(ii) The trust is established and managed by a nonprofit association.

(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid paid on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted by the department of job and family services governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. ~~Assets~~ An asset held prior to the transfer to the trust shall be considered as ~~countable assets, countable~~ a resource available to the applicant or recipient, income available to the applicant or recipient, or countable assets both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

- (i) The department of developmental disabilities;
- (ii) A county board of developmental disabilities;
- (iii) The department of mental health;
- (iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted by the department of job and family services. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the

applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be ~~an available~~ a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered ~~an available~~ a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

(c) A provision that attempts to prevent the trust or its corpus or principal from being ~~counted as an available~~ a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as ~~an available~~ a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making

fixed periodic payments, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as ~~an available~~ a resource available to the applicant or recipient, the trust shall not be counted as ~~an available resource~~ such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient.

(f) If a trust is specifically exempt from being counted as ~~an available~~ a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as ~~a resource~~ such.

(g) If an applicant or recipient presents a final judgment from a court demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted by the department of job and family services governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as ~~an available~~ a resource available to the applicant or recipient.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as ~~an available~~ a resource available to the applicant or recipient, shall be treated as provided in rules adopted by the department of job and family services governing income. Payments to any person other

than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. 5111.16. (A) As part of the medicaid program, the department of job and family services shall establish a care management system. The department shall submit, if necessary, applications to the United States department of health and human services for waivers of federal medicaid requirements that would otherwise be violated in the implementation of the system.

(B) The department shall implement the care management system in some or all counties and shall designate the medicaid recipients who are required or permitted to participate in the system. In the department's implementation of the system and designation of participants, all of the following apply:

(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, the department shall implement the care management system in all counties. ~~All~~ Except as provided in division (C) of this section, all individuals included in the category shall be designated for participation; ~~except for the individuals specified in divisions (B)(2)(a) to (e) of this section.~~ The department shall ensure that all participants are enrolled in health insuring corporations under contract with the department pursuant to section 5111.17 of the Revised Code.

~~In~~ (3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.

(C)(1) In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the following, except as provided under division (C)(2) of this section:

- (a) Individuals who are under twenty-one years of age;
- (b) Individuals who are institutionalized;
- (c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;
- (d) Individuals who are dually eligible under the medicaid program and the medicare program established under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended;
- (e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component, as defined in section 5111.85 of the Revised Code.

~~(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of job and family services, but the recipients of those services may otherwise be designated for participation in the system.~~

(C)(2) If any necessary waiver of federal medicaid requirements is granted, the department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:

- (a) Individuals who are under twenty-one years of age;
- (b) Individuals who reside in a nursing facility, as defined in section 5111.20 of the Revised Code;
- (c) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component, as defined in section 5111.85 of the Revised Code;
- (d) Individuals who are dually eligible under the medicaid program and the medicare program.

(D) Subject to division (B) of this section, the department may do both of the following under the care management system:

- (1) Require or permit participants in the system to obtain health care services from providers designated by the department;
- (2) Require or permit participants in the system to obtain health care services through managed care organizations under contract with the

department pursuant to section 5111.17 of the Revised Code.

~~(D)~~(E)(1) The department shall prepare an annual report on the care management system. The report shall address the department's ability to implement the system, including all of the following components:

(a) The required designation of participants included in the category identified by the department as covered families and children;

(b) The required designation of participants included in the aged, blind, or disabled category of medicaid recipients;

(c) The use of any programs for enhanced care management.

(2) The department shall submit each annual report to the general assembly. The first report shall be submitted not later than October 1, 2007.

~~(E)~~(F) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5111.161. (A) As used in this section:

(1) "Children's care network" means any of the following:

(a) A children's hospital;

(b) A group of children's hospitals;

(c) A group of pediatric physicians;

(2) "Children's hospital" has the same meaning as in section 2151.86 of the Revised Code.

(B) If the department of job and family services includes in the care management system, pursuant to section 5111.16 of the Revised Code, individuals under twenty-one years of age included in the category of individuals who receive medicaid on the basis of being aged, blind, or disabled, as specified in division (A)(2) of section 5111.01 of the Revised Code, the department shall develop a system to recognize entities as pediatric accountable care organizations. The purpose of the recognition system shall be to meet the complex medical and behavioral needs of disabled children through new approaches to care coordination. The department shall implement the recognition system not later than July 1, 2012.

An entity recognized by the department as a pediatric accountable care organization may develop innovative partnerships between relevant groups and may contract directly or subcontract with the state to provide services to the medicaid recipients under twenty-one years of age described in this division who are permitted or required to participate in the care management system.

(C)(1) To be recognized by the department as a pediatric accountable care organization, an entity shall meet the standards established in rules

adopted under this section. Unless required by sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj, the regulations adopted pursuant to those sections, and the laws of this state, the department shall not require that an entity be a health insuring corporation as a condition of receiving the department's recognition.

(2) Any of the following entities may receive the department's recognition, if the standards for recognition have been met:

(a) A children's care network;

(b) A children's care network that may include one or more other entities, including, but not limited to, health insuring corporations or other managed care organizations;

(c) Any other entity the department determines is qualified.

(D) The department shall consult with all of the following in adopting rules under division (E) of this section necessary for an entity to be recognized by the department as a pediatric accountable care organization:

(1) The superintendent of insurance;

(2) Children's hospitals;

(3) Managed care organizations under contract pursuant to section 5111.17 of the Revised Code;

(4) Any other relevant entities, as determined necessary by the department, with interests in pediatric accountable care organizations.

(E) The department shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. In adopting the rules, the department shall do all of the following:

(1) Establish application procedures to be followed by an entity seeking recognition as a pediatric accountable care organization;

(2) Ensure that the standards for recognition as a pediatric accountable care organization are the same as and do not conflict with those specified in sections 2706 and 3022 of the "Patient Protection and Affordable Care Act," 124 Stat. 325 (2010) and Title XVIII of the "Social Security Act," 124 Stat. 395 (2010), 42 U.S.C. 1395jjj or the regulations adopted pursuant to those sections;

(3) Establish requirements regarding the access to pediatric specialty care provided through or by a pediatric accountable care organization;

(4) Establish accountability and financial requirements for an entity recognized as a pediatric accountable care organization;

(5) Establish quality improvement initiatives consistent with any state medicaid quality plan established by the department;

(6) Establish transparency and consumer protection requirements for an

entity recognized as a pediatric accountable care organization:

(7) Establish a process for sharing data.

(F) This section does not limit the authority of the department of insurance to regulate the business of insurance in this state.

Sec. 5111.17. (A) The department of job and family services may enter into contracts with managed care organizations, including health insuring corporations, under which the organizations are authorized to provide, or arrange for the provision of, health care services to medical assistance recipients who are required or permitted to obtain health care services through managed care organizations as part of the care management system established under section 5111.16 of the Revised Code.

(B) The department or its actuary shall base the hospital inpatient capital payment portion of the payment made to managed care organizations on data for services provided to all recipients enrolled in managed care organizations with which the department contracts, as reported by hospitals on relevant cost reports submitted pursuant to rules adopted under this section.

(C) The director of job and family services may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

~~(C)~~(D) The department of job and family services shall allow a managed care plan organization to use providers to render care upon completion of the managed care plan's organization's credentialing process.

Sec. 5111.172. (A) When contracting under section 5111.17 of the Revised Code with a managed care organization that is a health insuring corporation, the department of job and family services ~~may~~ shall require the health insuring corporation to provide coverage of prescription drugs for medicaid recipients enrolled in the health insuring corporation. In providing the required coverage, the health insuring corporation may, subject to the department's approval and the limitations specified in division (B) of this section, use strategies for the management of drug utilization.

(B) The department shall not permit a health insuring corporation to impose a prior authorization requirement in the case of a drug to which all of the following apply:

(1) The drug is an antidepressant or antipsychotic.

(2) The drug is administered or dispensed in a standard tablet or capsule form, except that in the case of an antipsychotic, the drug also may be administered or dispensed in a long-acting injectable form.

(3) The drug is prescribed by either of the following:

(a) A physician whom the health insuring corporation, pursuant to

division (C) of section 5111.17 of the Revised Code, has credentialed to provide care as a psychiatrist;

(b) A psychiatrist practicing at a community mental health agency certified by the department of mental health under section 5119.611 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.

(C) As used in this division, "controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

~~¶ The department shall permit a health insuring corporation is required under this section to provide coverage of prescription drugs, the department shall permit the health insuring corporation to develop and implement a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription. The program may include processes for requiring medicaid recipients at high risk for fraud or abuse involving controlled substances to have their prescriptions for controlled substances filled by a pharmacy, medical provider, or health care facility designated by the program.~~

Sec. 5111.1711. (A)(1) The department of job and family services shall establish a managed care performance payment program. Under the program, the department may provide payments to managed care organizations under contract with the department pursuant to section 5111.17 of the Revised Code that meet performance standards established by the department.

(2) In establishing performance standards, the department may consult any of the following:

(a) Any quality measurements developed under the pediatric quality measures program established pursuant to 42 U.S.C. 1320b-9a;

(b) Any core set of adult health quality measures for medicaid eligible adults used for purposes of 42 U.S.C. 1320b-9b and any adult health quality used for purposes of the medicaid quality measurement program when the program is established under 42 U.S.C. 1320b-9b;

(c) The most recent healthcare effectiveness data and information set and quality measurement tool established by the national committee for quality assurance.

(3) The standards that must be met to receive the payments may be specified in the contract the department enters into with a managed care organization.

(4) If a managed care organization meets the performance standards

established by the department, the department shall make one or more performance payments to the organization. The amount of each performance payment, the number of payments, and the schedule for making the payments shall be established by the department. The payments shall be discontinued if the department determines that the organization no longer meets the performance standards. The department shall not make or discontinue payments based on any performance standard that has been in effect as part of the organization's contract for less than six months.

(B) For purposes of the program, the department shall establish an amount that is to be withheld each time a premium payment is made to a managed care organization. The amount shall be established as a percentage of each premium payment. The percentage shall be the same for all managed care organizations under contract with the department. The sum of all withholdings under this division shall not exceed one per cent of the total of all premium payments made to all managed care organizations under contract with the department.

Each managed care organization shall agree to the withholding as a condition of receiving or maintaining its medicaid provider agreement with the department.

When the amount is established and each time the amount is modified thereafter, the department shall certify the amount to the director of budget and management and begin withholding the amount from each premium the department pays to a managed care organization.

(C) There is hereby created in the state treasury the managed care performance payment fund. The fund shall consist of amounts transferred to it by the director of budget and management for the purpose of the program. All investment earnings of the fund shall be credited to the fund. Amounts in the fund shall be used solely to make performance payments to managed care organizations in accordance with this section.

(D) The department may adopt rules as necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5111.20. As used in sections 5111.20 to ~~5111.34~~ 5111.331 of the Revised Code:

(A) "Allowable costs" are those costs determined by the department of job and family services to be reasonable and do not include fines paid under sections 5111.35 to 5111.61 and section 5111.99 of the Revised Code.

(B) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social

services, pharmacy consultants, habilitation supervisors, qualified mental retardation professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, wheelchairs, resident transportation, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services under section 5111.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(C) "Capital costs" means costs of ownership and, in the case of an intermediate care facility for the mentally retarded, costs of nonextensive renovation.

(1) "Cost of ownership" means the actual expense incurred for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive renovations under section 5111.251 of the Revised Code;

(iii) Except as provided in division (B) of this section, equipment;

(iv) In the case of an intermediate care facility for the mentally retarded, extensive renovations;

(v) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (K) of this section, lease and rent of land, building, and equipment.

The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(2) "Costs of nonextensive renovation" means the actual expense incurred by an intermediate care facility for the mentally retarded for depreciation or amortization and interest on renovations that are not extensive renovations.

(D) "Capital lease" and "operating lease" shall be construed in accordance with generally accepted accounting principles.

(E) "Case-mix score" means the measure determined under section 5111.232 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a resident of a nursing facility or intermediate care facility for the mentally retarded.

(F)(1) "Date of licensure," for a facility originally licensed as a nursing home under Chapter 3721. of the Revised Code, means the date specific beds were originally licensed as nursing home beds under that chapter, regardless of whether they were subsequently licensed as residential facility beds under section 5123.19 of the Revised Code. For a facility originally licensed as a residential facility under section 5123.19 of the Revised Code, "date of licensure" means the date specific beds were originally licensed as residential facility beds under that section.

If nursing home beds licensed under Chapter 3721. of the Revised Code or residential facility beds licensed under section 5123.19 of the Revised Code were not required by law to be licensed when they were originally used to provide nursing home or residential facility services, "date of licensure" means the date the beds first were used to provide nursing home or residential facility services, regardless of the date the present provider obtained licensure.

If a facility adds nursing home beds or residential facility beds or extensively renovates all or part of the facility after its original date of licensure, it will have a different date of licensure for the additional beds or extensively renovated portion of the facility, unless the beds are added in a space that was constructed at the same time as the previously licensed beds but was not licensed under Chapter 3721. or section 5123.19 of the Revised Code at that time.

(2) The definition of "date of licensure" in this section applies in determinations of the medicaid reimbursement rate for a nursing facility or intermediate care facility for the mentally retarded but does not apply in determinations of the franchise permit fee for a nursing facility or intermediate care facility for the mentally retarded.

(G) "Desk-reviewed" means that costs as reported on a cost report submitted under section 5111.26 of the Revised Code have been subjected to a desk review under division (A) of section 5111.27 of the Revised Code

and preliminarily determined to be allowable costs.

(H) "Direct care costs" means all of the following:

(1)(a) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the facility;

(b) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division (H)(2) of this section, other persons holding degrees qualifying them to provide therapy;

(c) Costs of purchased nursing services;

(d) Costs of quality assurance;

(e) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted by the director of job and family services in accordance with Chapter 119. of the Revised Code, for personnel listed in divisions (H)(1)(a), (b), and (d) of this section;

(f) Costs of consulting and management fees related to direct care;

(g) Allocated direct care home office costs.

(2) In addition to the costs specified in division (H)(1) of this section, for nursing facilities only, direct care costs include costs of habilitation staff (other than habilitation supervisors), medical supplies, oxygen, over-the-counter pharmacy products, behavioral and mental health services, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies.

(3) In addition to the costs specified in division (H)(1) of this section, for intermediate care facilities for the mentally retarded only, direct care costs include both of the following:

(a) Costs for physical therapists and physical therapy assistants, occupational therapists and occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified mental retardation professionals, program directors, social services staff, activities staff, off-site day programming, psychologists and psychology assistants, and social workers and counselors;

(b) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in division (H)(3)(a) of this section.

(4) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5111.02 of the Revised Code.

(I) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(J) "Franchise permit fee" means the following:

(1) In the context of nursing facilities, the fee imposed by sections 3721.50 to 3721.58 of the Revised Code;

(2) In the context of intermediate care facilities for the mentally retarded, the fee imposed by sections 5112.30 to 5112.39 of the Revised Code.

(K) "Indirect care costs" means all reasonable costs incurred by an intermediate care facility for the mentally retarded other than direct care costs, other protected costs, or capital costs. "Indirect care costs" includes but is not limited to costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5111.02 of the Revised Code, for personnel listed in this division. Notwithstanding division (C)(1) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the facility's cost report for the cost reporting period ending December 31, 1992.

(L) "Inpatient days" means all days during which a resident, regardless of payment source, occupies a bed in a nursing facility or intermediate care facility for the mentally retarded that is included in the facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 or 5111.331 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.

(M) "Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX.

(N) "Maintenance and repair expenses" means, except as provided in

division (BB)(2) of this section, expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the cost of ordinary repairs such as painting and wallpapering.

(O) "Medicaid days" means all days during which a resident who is a ~~Medicaid~~ medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's certified capacity under Title XIX. Therapeutic or hospital leave days for which payment is made under section 5111.33 or 5111.331 of the Revised Code are considered ~~Medicaid~~ medicaid days proportionate to the percentage of the nursing facility's per resident per day rate paid for those days.

(P) "Nursing facility" means a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is not an intermediate care facility for the mentally retarded. "Nursing facility" includes a facility, or a distinct part of a facility, that is certified as a nursing facility by the director of health in accordance with Title XIX and is certified as a skilled nursing facility by the director in accordance with Title XVIII.

(Q) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility or intermediate care facility for the mentally retarded.

(R) "Other protected costs" means costs incurred by an intermediate care facility for the mentally retarded for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional costs defined as other protected costs in rules adopted under section 5111.02 of the Revised Code.

(S)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility or intermediate care facility for the mentally retarded:

- (a) The land on which the facility is located;
- (b) The structure in which the facility is located;
- (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the facility is located;
- (d) Any lease or sublease of the land or structure on or in which the facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to

the nursing facility or intermediate care facility for the mentally retarded and purchased at public issue or a regulated lender that has made a loan related to the facility unless the holder or lender operates the facility directly or through a subsidiary.

(T) "Patient" includes "resident."

(U) Except as provided in divisions (U)(1) and (2) of this section, "per diem" means a nursing facility's or intermediate care facility for the mentally retarded's actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(1) When calculating indirect care costs for the purpose of establishing rates under section 5111.241 of the Revised Code, "per diem" means an intermediate care facility for the mentally retarded's actual, allowable indirect care costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been eighty-five per cent.

(2) When calculating capital costs for the purpose of establishing rates under section 5111.251 of the Revised Code, "per diem" means a facility's actual, allowable capital costs in a cost reporting period divided by the greater of the facility's inpatient days for that period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

(V) "Provider" means an operator with a provider agreement.

(W) "Provider agreement" means a contract between the department of job and family services and the operator of a nursing facility or intermediate care facility for the mentally retarded for the provision of nursing facility services or intermediate care facility services for the mentally retarded under the medicaid program.

(X) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the facility.

(Y) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(Z) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated

with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities or intermediate care facilities for the mentally retarded from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by the facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(AA) "Relative of owner" means an individual who is related to an owner of a nursing facility or intermediate care facility for the mentally retarded by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(BB) "Renovation" and "extensive renovation" mean:

(1) Any betterment, improvement, or restoration of an intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the director of job and family services in effect on December 22, 1992.

(2) In the case of betterments, improvements, and restorations of intermediate care facilities for the mentally retarded started on or after July 1, 1993:

(a) "Renovation" means the betterment, improvement, or restoration of an intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the structural change that makes up the renovation project. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

(b) "Extensive renovation" means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

For the purposes of division (BB)(2) of this section, the cost of constructing a new bed shall be considered to be forty thousand dollars, adjusted for the estimated rate of inflation from January 1, 1993, to the end of the calendar year during which the renovation is completed, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

The department of job and family services may treat a renovation that costs more than eighty-five per cent of the cost of constructing new beds as an extensive renovation if the department determines that the renovation is more prudent than construction of new beds.

(CC) "Title XIX" means Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended.

(DD) "Title XVIII" means Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

Sec. 5111.21. (A) In order to be eligible for medicaid payments, the operator of a nursing facility or intermediate care facility for the mentally retarded shall do all of the following:

(1) Enter into a provider agreement with the department as provided in section 5111.22, 5111.671, or 5111.672 of the Revised Code;

(2) Apply for and maintain a valid license to operate if so required by law;

(3) Subject to division (B) of this section, comply with all applicable state and federal laws and rules.

(B) A state rule that requires the operator of an intermediate care facility for the mentally retarded to have received approval of a plan for the proposed facility pursuant to section 5123.042 of the Revised Code as a condition of the operator being eligible for medicaid payments for the facility does not apply if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of such a plan.

(C)(1) Except as provided in division (C)(2) of this section, the operator of a nursing facility that elects to obtain and maintain eligibility for payments under the medicaid program shall qualify all of the facility's medicaid-certified beds in the medicare program established by Title XVIII. The director of job and family services may adopt rules under section 5111.02 of the Revised Code to establish the time frame in which a nursing facility must comply with this requirement.

(2) The department of veterans services is not required to qualify all of the medicaid-certified beds in a nursing facility the agency maintains and operates under section 5907.01 of the Revised Code in the medicare program.

Sec. 5111.211. (A) Except as provided in ~~division~~ divisions (C) and (D) of this section, the department of developmental disabilities is responsible for the nonfederal share of claims submitted for services that are covered by the medicaid program and provided to an eligible medicaid recipient by an intermediate care facility for the mentally retarded if all of the following are the case:

(1) The services are provided on or after July 1, 2003;

(2) The facility receives initial certification by the director of health as an intermediate care facility for the mentally retarded on or after June 1, 2003;

(3) The facility, or a portion of the facility, is licensed by the director of developmental disabilities as a residential facility under section 5123.19 of the Revised Code;

(4) There is a valid provider agreement for the facility.

(B) Each month, the department of job and family services shall invoice the department of developmental disabilities by interagency transfer voucher for the claims for which the department of developmental disabilities is responsible pursuant to this section.

(C) Division (A) of this section does not apply to claims submitted for an intermediate care facility for the mentally retarded if, under former section 5123.193 of the Revised Code as enacted by Am. Sub. H.B. 1 of the 128th general assembly or section 5123.197 of the Revised Code, a residential facility license was obtained or modified for the facility without obtaining approval of a plan for the proposed residential facility pursuant to section 5123.042 of the Revised Code.

(D) Beginning on the date the department of developmental disabilities assumes, under section 5111.226 of the Revised Code, the powers and duties of the department of job and family services regarding the medicaid program's coverage of services provided by intermediate care facilities for the mentally retarded, this section shall apply only to the extent, if any, provided in the contract required by that section.

Sec. 5111.212. As used in this section, "effective date of an involuntary termination" and "involuntary termination" have the same meanings as in section 5111.65 of the Revised Code.

Medicaid payments may be made for nursing facility services and intermediate care facility for the mentally retarded services provided not later than thirty days after the effective date of an involuntary termination of the facility that provides the services if the services are provided to a medicaid recipient who is eligible for the services and resided in the facility before the effective date of the involuntary termination.

Sec. 5111.22. A provider agreement between the department of job and family services and the provider of a nursing facility or intermediate care facility for the mentally retarded shall contain the following provisions:

(A) The department agrees to make payments to the provider, as provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, for medicaid-covered services the facility provides to a resident of the facility who is a medicaid recipient. No payment shall be made for the day a medicaid recipient is discharged from the facility.

(B) The provider agrees to:

(1) Maintain eligibility as provided in section 5111.21 of the Revised Code;

(2) Keep records relating to a cost reporting period for the greater of seven years after the cost report is filed or, if the department issues an audit report in accordance with division (B) of section 5111.27 of the Revised

Code, six years after all appeal rights relating to the audit report are exhausted;

(3) File reports as required by the department;

(4) Open all records relating to the costs of its services for inspection and audit by the department;

(5) Open its premises for inspection by the department, the department of health, and any other state or local authority having authority to inspect;

(6) Supply to the department such information as it requires concerning the facility's services to residents who are or are eligible to be medicaid recipients;

(7) Comply with section 5111.31 of the Revised Code.

The provider agreement may contain other provisions that are consistent with law and considered necessary by the department.

A provider agreement shall be effective for no longer than twelve months, except that if federal statute or regulations authorize a longer term, it may be effective for a longer term so authorized. A provider agreement may be renewed only if the facility is certified by the department of health for participation in the medicaid program.

The department of job and family services, in accordance with rules adopted under section 5111.02 of the Revised Code, may elect not to enter into, not to renew, or to terminate a provider agreement when the department determines that such an agreement would not be in the best interests of medicaid recipients or of the state.

Sec. 5111.221. The department of job and family services shall make its best efforts each year to calculate rates under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code in time to use them to make the payments due to providers by the fifteenth day of August. If the department is unable to calculate the rates so that they can be paid by that date, the department shall pay each provider the rate calculated for the provider's nursing facilities and intermediate care facilities for the mentally retarded under those sections at the end of the previous fiscal year. If the department also is unable to calculate the rates to make the payments due by the fifteenth day of September and the fifteenth day of October, the department shall pay the previous fiscal year's rate to make those payments. The department may increase by five per cent the previous fiscal year's rate paid for any facility pursuant to this section at the request of the provider. The department shall use rates calculated for the current fiscal year to make the payments due by the fifteenth day of November.

If the rate paid to a provider for a facility pursuant to this section is lower than the rate calculated for the facility for the current fiscal year, the

department shall pay the provider the difference between the two rates for the number of days for which the provider was paid for the facility pursuant to this section. If the rate paid for a facility pursuant to this section is higher than the rate calculated for it for the current fiscal year, the provider shall refund to the department the difference between the two rates for the number of days for which the provider was paid for the facility pursuant to this section.

Sec. 5111.222. (A) Except as otherwise provided by sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of a nursing facility pursuant to a provider agreement shall equal the sum of all of the following:

(1) The rate for direct care costs determined for the nursing facility under section 5111.231 of the Revised Code;

(2) The rate for ancillary and support costs determined for the nursing facility's ancillary and support cost peer group under section 5111.24 of the Revised Code;

(3) The rate for tax costs determined for the nursing facility under section 5111.242 of the Revised Code;

~~(4) The rate for franchise permit fees determined for the nursing facility under section 5111.243 of the Revised Code;~~

~~(5)~~ (5) The quality incentive payment paid to the nursing facility under section 5111.244 of the Revised Code;

~~(6)~~(5) The ~~median~~ rate for capital costs determined for the ~~nursing facilities in the~~ nursing facility's capital costs peer group ~~as determined~~ under section 5111.25 of the Revised Code.

(B) The department shall adjust the rates otherwise determined under ~~divisions~~ division (A)(~~1~~), (~~2~~), (~~3~~), and (~~6~~) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of nursing facilities, including any law that ~~does either of the following:~~

~~(1) Establishes~~ establishes factors by which the rates are to be adjusted;

~~(2) Establishes a methodology for phasing in the rates determined for fiscal year 2006 under uncodified law the general assembly enacts to rates determined for subsequent fiscal years under sections 5111.20 to 5111.33 of the Revised Code.~~

Sec. 5111.224. (A) Except as otherwise provided by sections 5111.20 to 5111.331 of the Revised Code and by division (B) of this section, the payments that the department of job and family services shall agree to make to the provider of an intermediate care facility for the mentally retarded

pursuant to a provider agreement shall equal the sum of all of the following:

(1) The rate for direct care costs determined for the facility under section 5111.23 of the Revised Code;

(2) The rate for other protected costs determined for the facility under section 5111.235 of the Revised Code;

(3) The rate for indirect care costs determined for the facility under section 5111.241 of the Revised Code;

(4) The rate for capital costs determined for the facility under section 5111.251 of the Revised Code.

(B) The department shall adjust the total rate otherwise determined under division (A) of this section as directed by the general assembly through the enactment of law governing medicaid payments to providers of intermediate care facilities for the mentally retarded.

Sec. 5111.225. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Medicaid maximum allowable amount" means one hundred per cent of a nursing facility's per diem rate for a medicaid day.

(B) The department of job and family services shall pay the provider of a nursing facility the lesser of the following for nursing facility services the nursing facility provides on or after January 1, 2012, to a dual eligible individual who is eligible for nursing facility services under the medicaid program and post-hospital extended care services under Part A of Title XVIII:

(1) The coinsurance amount for the services as provided under Part A of Title XVIII;

(2) The medicaid maximum allowable amount for the services, less the amount paid under Part A of Title XVIII for the services.

Sec. 5111.226. Subject, if needed, to the approval of the United States secretary of health and human services, the department of job and family services shall enter into a contract with the department of developmental disabilities under section 5111.91 of the Revised Code that provides for the department of developmental disabilities to assume the powers and duties of the department of job and family services with regard to the medicaid program's coverage of services provided by intermediate care facilities for the mentally retarded. The contract shall include a schedule for the assumption of the powers and duties. Except as otherwise authorized by the United States secretary of health and human services, no provision of the contract may violate a federal law or regulation governing the medicaid

program. Once the contract goes into effect, all references to the department of job and family services, and all references to the director of job and family services, with regard to intermediate care facilities for the mentally retarded that are in law enacted by the general assembly shall be deemed to be references to the department of developmental disabilities and director of developmental disabilities, respectively, to the extent necessary to implement the terms of the contract.

Sec. 5111.23. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for direct care costs established prospectively for each facility. The department shall establish each facility's rate for direct care costs quarterly.

(B) Each facility's rate for direct care costs shall be based on the facility's cost per case-mix unit, subject to the maximum costs per case-mix unit established under division (B)(2) of this section, from the calendar year preceding the fiscal year in which the rate is paid. To determine the rate, the department shall do all of the following:

(1) Determine each facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid by dividing the facility's desk-reviewed, actual, allowable, per diem direct care costs for that year by its average case-mix score determined under section 5111.232 of the Revised Code for the same calendar year.

(2)(a) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division ~~(E)~~(F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division ~~(D)~~(E)(2) of this section.

(b) Set the maximum cost per case-mix unit for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division ~~(E)~~(F) of this section at a percentage above the cost per case-mix unit of the facility in the group that has the group's median medicaid inpatient day for the calendar year preceding the fiscal year in which the rate will be paid, as calculated under division (B)(1) of this section, that is no less than the percentage calculated under division ~~(D)~~(E)(3) of this section.

(c) In calculating the maximum cost per case-mix unit under divisions (B)(2)(a) ~~to~~ and (b) of this section for each peer group, the department shall

exclude from its calculations the cost per case-mix unit of any facility in the group that participated in the medicaid program under the same operator for less than twelve months during the calendar year preceding the fiscal year in which the rate will be paid.

(3) Estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, using the ~~employment cost index for total compensation, health services component, published by the United States bureau of labor statistics~~ specified in division (C) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated under division (B)(3) of this section for the following fiscal year.

(4) The department shall not recalculate a maximum cost per case-mix unit under division (B)(2) of this section or a percentage under division ~~(D)~~(E) of this section based on additional information that it receives after the maximum costs per case-mix unit or percentages are set. The department shall recalculate a maximum cost per case-mix units or percentage only if it made an error in computing the maximum cost per case-mix unit or percentage based on information available at the time of the original calculation.

(C) The department shall use the following index for the purpose of division (B)(3) of this section:

(1) The employment cost index for total compensation, health services component, published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1) of this section, the index that is subsequently published by the bureau and covers nursing facilities' staff costs.

(D) Each facility's rate for direct care costs shall be determined as follows for each calendar quarter within a fiscal year:

(1) Multiply the lesser of the following by the facility's average case-mix score determined under section 5111.232 of the Revised Code for the calendar quarter that preceded the immediately preceding calendar quarter:

(a) The facility's cost per case-mix unit for the calendar year preceding the fiscal year in which the rate will be paid, as determined under division (B)(1) of this section;

(b) The maximum cost per case-mix unit established for the fiscal year in which the rate will be paid for the facility's peer group under division (B)(2) of this section;

(2) Adjust the product determined under division ~~(C)~~(D)(1) of this section by the inflation rate estimated under division (B)(3) of this section.

~~(D)~~(E)(1) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with more than eight beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

(2) The department shall calculate the percentage above the median cost per case-mix unit determined under division (B)(1) of this section for the facility that has the median medicaid inpatient day for calendar year 1992 for all intermediate care facilities for the mentally retarded with eight or fewer beds that would result in payment of all desk-reviewed, actual, allowable direct care costs for eighty and one-half per cent of the medicaid inpatient days for such facilities for calendar year 1992.

~~(E)~~(F) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds and intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem direct care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem direct care cost differences due to other factors which may include case-mix.

~~(F)~~(G) The department, in accordance with division (D) of section 5111.232 of the Revised Code and rules adopted under division ~~(E)~~(F) of that section, may assign case-mix scores or costs per case-mix unit if a provider fails to submit assessment data necessary to calculate an intermediate care facility for the mentally retarded's case-mix score in accordance with that section.

Sec. 5111.231. (A) As used in this section, ~~"applicable~~;

(1) "Applicable calendar year" means the following:

~~(1)~~(a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

~~(2)~~(b) For the purpose of the department's ~~subsequent determinations~~

~~under division (D) of this section of each peer group's cost per case-mix unit rebasings~~, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for direct care costs determined semiannually by multiplying the cost per case-mix unit determined under division (D) of this section for the facility's peer group by the facility's semiannual case-mix score determined under section 5111.232 of the Revised Code.

(C) For the purpose of determining nursing facilities' rate for direct care costs, the department shall establish three peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(D)(1) ~~At least once every ten years, the~~ The department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. ~~A~~ The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made by this act to this section, the cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section 5111.232 of the Revised Code for the applicable calendar year-;

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section-;

(c) Calculate the amount that is ~~seven~~ two per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section-;

(d) ~~Multiply the amount calculated under division (D)(1)(c) of this section by~~ Using the index specified in division (D)(3) of this section, multiply the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year ~~using the following:~~

(i) ~~In the case of the initial calculation made under division (D)(1)(d) of this section, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;~~

(ii) ~~In the case of subsequent calculations made under division (D)(1)(d) of this section and except as provided in division (D)(1)(d)(iii) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;~~

(iii) ~~If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(d)(ii) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs~~ by the amount calculated under division (D)(1)(c) of this section;

(e) Until the first rebasing occurs, add one dollar and eighty-eight cents to the amount calculated under division (D)(1)(d) of this section.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (D)(1)(d) of this section:

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5111.232. (A)(1) The department of job and family services shall determine semiannual and annual average case-mix scores for nursing facilities by using all of the following:

(a) Data from a resident assessment instrument specified in rules adopted under section 5111.02 of the Revised Code pursuant to section 1919(e)(5) of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1396r(e)(5), as amended, for the following residents:

(i) When determining semiannual case-mix scores for fiscal year 2012, each resident who is a medicaid recipient;

(ii) When determining semiannual case-mix scores for fiscal year 2013 and thereafter, each resident who is a medicaid recipient and not placed in either of the two lowest resource utilization groups, excluding any resource utilization group that is a default group used for residents with incomplete assessment data;

(iii) When determining annual average case-mix scores, each resident regardless of payment source.

(b) Except as provided in rules authorized by divisions (A)(2)(a) and (b) of this section, the case-mix values established by the United States department of health and human services;

(c) Except as modified in rules authorized by division (A)(2)(c) of this section, the grouper methodology used on June 30, 1999, by the United

States department of health and human services for prospective payment of skilled nursing facilities under the medicare program established by Title XVIII.

(2) The director of job and family services may adopt rules under section 5111.02 of the Revised Code that do any of the following:

(a) Adjust the case-mix values specified in division (A)(1)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(b) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(c) Modify the grouper methodology specified in division (A)(1)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the department determines are necessary.

(B) The department shall determine case-mix scores for intermediate care facilities for the mentally retarded using data for each resident, regardless of payment source, from a resident assessment instrument and grouper methodology prescribed in rules adopted under section 5111.02 of the Revised Code and expressed in case-mix values established by the department in those rules.

(C) Each calendar quarter, each provider shall compile complete assessment data, from the resident assessment instrument specified in rules authorized by division (A) or (B) of this section, for each resident of each of the provider's facilities, regardless of payment source, who was in the facility or on hospital or therapeutic leave from the facility on the last day of the quarter. Providers of a nursing facility shall submit the data to the department of health and, if required by rules, the department of job and family services. Providers of an intermediate care facility for the mentally retarded shall submit the data to the department of job and family services. The data shall be submitted not later than fifteen days after the end of the calendar quarter for which the data is compiled.

Except as provided in division (D) of this section, the department, every six months and after the end of each calendar year, shall calculate a semiannual and annual average case-mix score for each nursing facility

using the facility's quarterly case-mix scores for that six-month period or calendar year. Also except as provided in division (D) of this section, the department, after the end of each calendar year, shall calculate an annual average case-mix score for each intermediate care facility for the mentally retarded using the facility's quarterly case-mix scores for that calendar year. The department shall make the calculations pursuant to procedures specified in rules adopted under section 5111.02 of the Revised Code.

(D)(1) If a provider does not timely submit information for a calendar quarter necessary to calculate a facility's case-mix score, or submits incomplete or inaccurate information for a calendar quarter, the department may assign the facility a quarterly average case-mix score that is five per cent less than the facility's quarterly average case-mix score for the preceding calendar quarter. If the facility was subject to an exception review under division (C) of section 5111.27 of the Revised Code for the preceding calendar quarter, the department may assign a quarterly average case-mix score that is five per cent less than the score determined by the exception review. If the facility was assigned a quarterly average case-mix score for the preceding quarter, the department may assign a quarterly average case-mix score that is five per cent less than that score assigned for the preceding quarter.

The department may use a quarterly average case-mix score assigned under division (D)(1) of this section, instead of a quarterly average case-mix score calculated based on the provider's submitted information, to calculate the facility's rate for direct care costs being established under section 5111.23 or 5111.231 of the Revised Code for one or more months, as specified in rules authorized by division (E) of this section, of the quarter for which the rate established under section 5111.23 or 5111.231 of the Revised Code will be paid.

Before taking action under division (D)(1) of this section, the department shall permit the provider a reasonable period of time, specified in rules authorized by division (E) of this section, to correct the information. In the case of an intermediate care facility for the mentally retarded, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the eighty-first day after the end of the calendar quarter to which the information pertains. In the case of a nursing facility, the department shall not assign a quarterly average case-mix score due to late submission of corrections to assessment information unless the provider fails to submit corrected information prior to the earlier of the forty-sixth day after the end of the calendar quarter to

which the information pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.

(2) If a provider is paid a rate for a facility calculated using a quarterly average case-mix score assigned under division (D)(1) of this section for more than six months in a calendar year, the department may assign the facility a cost per case-mix unit that is five per cent less than the facility's actual or assigned cost per case-mix unit for the preceding calendar year. The department may use the assigned cost per case-mix unit, instead of calculating the facility's actual cost per case-mix unit in accordance with section 5111.23 or 5111.231 of the Revised Code, to establish the facility's rate for direct care costs for the following fiscal year.

(3) The department shall take action under division (D)(1) or (2) of this section only in accordance with rules authorized by division (E) of this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5111.27 and 5111.28 of the Revised Code.

(E) The director shall adopt rules under section 5111.02 of the Revised Code that do all of the following:

(1) Specify whether providers of a nursing facility must submit the assessment data to the department of job and family services;

(2) Specify the medium or media through which the completed assessment data shall be submitted;

(3) Establish procedures under which the assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

(4) Establish procedures for providers to correct assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections by providers of nursing facilities in the manner required by regulations adopted by the United States department of health and human services under Titles XVIII and XIX.

(5) Specify when and how the department will assign case-mix scores or costs per case-mix unit under division (D) of this section if information necessary to calculate the facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules. Notwithstanding any other provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the rules also may provide for the following:

(a) Exclusion of case-mix scores assigned under division (D) of this section from calculation of an intermediate care facility for the mentally

retarded's annual average case-mix score and the maximum cost per case-mix unit for the facility's peer group;

(b) Exclusion of case-mix scores assigned under division (D) of this section from calculation of a nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the facility's peer group.

Sec. 5111.235. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for other protected costs established prospectively each fiscal year for each facility. The rate for each facility shall be the facility's desk-reviewed, actual, allowable, per diem other protected costs from the calendar year preceding the fiscal year in which the rate will be paid, all adjusted for the estimated inflation rate for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of that fiscal year. The department shall estimate inflation using the ~~consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics~~ specified in division (B) of this section. If the estimated inflation rate for the eighteen-month period is different from the actual inflation rate for that period, the difference shall be added to or subtracted from the inflation rate estimated for the following year.

(B) The department shall use the following index for the purpose of division (A) of this section:

(1) The consumer price index for all urban consumers for nonprescription drugs and medical supplies, as published by the United States bureau of labor statistics;

(2) If the United States bureau of labor statistics ceases to publish the index specified in division (B)(1) of this section, the index that is subsequently published by the bureau and covers nonprescription drugs and medical supplies.

Sec. 5111.24. (A) As used in this section, ~~"applicable;~~

(1) "Applicable calendar year" means the following:

~~(1)(a)~~ (a) For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

~~(2)(b)~~ (b) For the purpose of the department's ~~subsequent determinations under division (D) of this section of each peer group's rate for ancillary and support costs~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for ancillary and support costs using

information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for ancillary and support costs determined for the nursing facility's peer group under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for ancillary and support costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) ~~At least once every ten years, the~~ The department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The department is not required to conduct a

rebasings more than once every ten years. Except as necessary to implement the amendments made by this act to this section, the rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

(a) ~~Determine~~ Subject to division (D)(2) of this section, determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent. ~~For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.;~~

(b) Subject to division (D)(2)(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section.;

(c) ~~Calculate the amount that is three per cent above the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section.~~

(~~d~~) Multiply the amount calculated rate for ancillary and support costs determined under division (D)(1)(~~e~~)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) ~~In the case of the initial calculation made under division (D)(1)(d) of this section~~ Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) ~~In the case of subsequent calculations made under division (D)(1)(d) of this section~~ Effective with the first rebasing and except as provided in division (D)(1)(~~d~~)(c)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)~~(d)~~(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

~~(3)~~(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if ~~it~~ the department made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5111.241. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded a per resident per day rate for indirect care costs established prospectively each fiscal year for each facility. The rate for each intermediate care facility for the mentally retarded shall be the sum of the following, but shall not exceed the maximum rate established for the facility's peer group under division (B) of this section:

(1) The facility's desk-reviewed, actual, allowable, per diem indirect care costs from the calendar year preceding the fiscal year in which the rate will be paid, adjusted for the inflation rate estimated under division (C)(1) of this section;

(2) An efficiency incentive in the following amount:

(a) For fiscal years ending in even-numbered calendar years:

(i) In the case of intermediate care facilities for the mentally retarded with more than eight beds, seven and one-tenth per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(ii) In the case of intermediate care facilities for the mentally retarded with eight or fewer beds, seven per cent of the maximum rate established for the facility's peer group under division (B) of this section;

(b) For fiscal years ending in odd-numbered calendar years, the amount calculated for the preceding fiscal year under division (A)(2)(a) of this section.

(B)(1) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with more than eight beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than twelve and four-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds in the group, excluding facilities in the group whose indirect care costs for that period are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with more than eight beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years ending in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(2) The maximum rate for indirect care costs for each peer group of intermediate care facilities for the mentally retarded with eight or fewer beds specified in rules adopted under division (D) of this section shall be determined as follows:

(a) For fiscal years ending in even-numbered calendar years, the maximum rate for each peer group shall be the rate that is no less than ten and three-tenths per cent above the median desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds in the group, excluding facilities in the group whose indirect care costs are more than three standard deviations from the mean desk-reviewed, actual, allowable, per diem indirect care cost for all intermediate care facilities for the mentally retarded with eight or fewer beds, for the calendar year preceding the fiscal year in which the rate will be paid, adjusted by the inflation rate estimated under division (C)(1) of this section.

(b) For fiscal years that end in odd-numbered calendar years, the maximum rate for each peer group is the group's maximum rate for the previous fiscal year, adjusted for the inflation rate estimated under division (C)(2) of this section.

(3) The department shall not recalculate a maximum rate for indirect care costs under division (B)(1) or (2) of this section based on additional information that it receives after the maximum rate is set. The department shall recalculate the maximum rate for indirect care costs only if it made an error in computing the maximum rate based on the information available at the time of the original calculation.

(C)(1) When adjusting rates for inflation under divisions (A)(1), (B)(1)(a), and (B)(2)(a) of this section, the department shall estimate the rate of inflation for the eighteen-month period beginning on the first day of July of the calendar year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, ~~using the~~. To estimate the rate of inflation, the department shall use the following:

(a) The consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(1)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(2) When adjusting rates for inflation under divisions (B)(1)(b) and (B)(2)(b) of this section, the department shall estimate the rate of inflation for the twelve-month period beginning on the first day of January of the fiscal year preceding the fiscal year in which the rate will be paid and ending on the thirty-first day of December of the fiscal year in which the rate will be paid, ~~using the~~. To estimate the rate of inflation, the department shall use the following:

(a) The consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics;

(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(2)(a) of this section, a comparable index that the bureau publishes and the department determines is appropriate.

(3) If an inflation rate estimated under division (C)(1) or (2) of this section is different from the actual inflation rate for the relevant time period, as measured using the same index, the difference shall be added to or subtracted from the inflation rate estimated pursuant to this division for the

following fiscal year.

(D) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify peer groups of intermediate care facilities for the mentally retarded with more than eight beds, and peer groups of intermediate care facilities for the mentally retarded with eight or fewer beds, based on findings of significant per diem indirect care cost differences due to geography and facility bed-size. The rules also may specify peer groups based on findings of significant per diem indirect care cost differences due to other factors, including case-mix.

Sec. 5111.244. (A) As used in this section, "deficiency" and "standard survey" have the same meanings as in section 5111.35 of the Revised Code.

(B) ~~Each fiscal year, the~~ The department of job and family services shall pay the provider of each nursing facility a quality incentive payment. The amount of a quality incentive payment paid to a provider ~~for a fiscal year~~ shall be based on the number of points the provider's nursing facility is awarded ~~under division (C) of this section for that fiscal year~~ meeting accountability measures. The amount of a quality incentive payment paid to a provider of a nursing facility that is awarded no points may be zero. ~~The mean payment for fiscal year 2007, weighted by medicaid days, shall be three dollars per medicaid day. The department shall adjust the mean payment for subsequent fiscal years by the same adjustment factors the department uses to adjust, pursuant to division (B) of section 5111.222 of the Revised Code, nursing facilities' rates otherwise determined under divisions (A)(1), (2), (3), and (6) of that section.~~

(C)(1) ~~Except as provided by~~ For fiscal year 2012 only and subject to division (C)(2) of this section, the department shall ~~annually~~ award each nursing facility participating in the medicaid program ~~one point~~ points for ~~each of meeting~~ the following accountability measures ~~the facility meets~~:

(a) The facility had no health deficiencies on the facility's most recent standard survey.

(b) The facility had no health deficiencies with a scope and severity level greater than E, as determined under nursing facility certification standards established under Title XIX, on the facility's most recent standard survey.

(c) The facility's resident satisfaction is above the statewide average.

(d) The facility's family satisfaction is above the statewide average.

(e) The number of hours the facility employs nurses is above the statewide average.

(f) The facility's employee retention rate is above the average for the facility's peer group established in division (C) of section 5111.231 of the

Revised Code.

(g) The facility's occupancy rate is above the statewide average.

~~(h) The facility's medicaid utilization rate is above the statewide average.~~

~~(i) The facility's case-mix score is above the statewide average.~~

~~(j) The facility's medicaid utilization rate is above the statewide average.~~

~~(2) A nursing facility shall be awarded one point for each of the accountability measures specified in divisions (C)(1)(a) to (h) of this section that the nursing facility meets. A nursing facility shall be awarded three points for meeting the accountability measure specified in division (C)(1)(i) of this section. The department shall award points pursuant to division (C)(1)(c) or (d) of this section to a nursing facility only for a fiscal year immediately following a calendar year for which if a survey of resident or family satisfaction has been was conducted under section 173.47 of the Revised Code for the nursing facility in calendar year 2010.~~

~~(D)(1) For fiscal year 2013 and thereafter, the department shall award each nursing facility participating in the medicaid program points for meeting accountability measures in accordance with amendments to be made to this section not later than December 31, 2011, that provide for all of the following:~~

~~(a) Meaningful accountability measures of quality of care, quality of life, and nursing facility staffing;~~

~~(b) The maximum number of points that a nursing facility may earn for meeting accountability measures;~~

~~(c) A methodology for calculating the quality incentive payment that recognizes different business and care models in nursing facilities by providing flexibility in nursing facilities' ability to earn the entire quality incentive payment;~~

~~(d) A quality bonus to be paid at the end of a fiscal year in a manner that provides for all funds that the general assembly intends to be used for the quality incentive payment for that fiscal year are distributed to nursing facilities.~~

~~(2) For the purpose of division (D)(1)(d) of this section, the amount of funds that the general assembly intends to be used for the quality incentive payment for a fiscal year shall be the product of the following:~~

~~(a) The number of medicaid days in the fiscal year;~~

~~(b) The maximum quality incentive payment the general assembly has specified in law to be paid to nursing facilities for that fiscal year.~~

~~(E) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code as necessary to implement this section.~~

~~The rules shall include rules establishing the system for awarding points under division (C) of this section.~~

Sec. 5111.25. (A) As used in this section, "~~applicable~~:"

(1) "Applicable calendar year" means the following:

~~(1)(a)~~ For the purpose of the department of job and family services' initial determination under division (D) of this section of each peer group's ~~median~~ rate for capital costs, calendar year 2003;

~~(2)(b)~~ For the purpose of the department's ~~subsequent determinations under division (D) of this section of each peer group's median rate for capital costs~~ rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer groups' rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of job and family services shall pay a provider for each of the provider's eligible nursing facilities a per resident per day rate for capital costs. ~~A nursing facility's rate for capital costs shall be the median rate for capital costs for the nursing facilities in determined for the nursing facility's peer group as determined~~ under division (D) of this section.

(C) For the purpose of determining nursing facilities' rate for capital costs, the department shall establish six peer groups.

Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize,

Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(D)(1) ~~At least once every ten years, the~~ The department shall determine the ~~median~~ rate for capital costs for each peer group established under division (C) of this section. ~~The median department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made by this act to this section, the~~ rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department ~~redetermines it~~ conducts a rebasing. ~~To determine a~~ A peer group's ~~median~~ rate for capital costs shall be the rate for capital costs determined for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year. In identifying that nursing facility, the department shall do both of the following:

(a) Subject to division (D)(2) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent.;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(3) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives

after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program established under Title XVIII, except as otherwise provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code.

(3) Except as provided in division (F)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by ~~the lesser of~~ the following:

~~(a) One half of the change in construction costs during the time that the transferor held the asset, as calculated by the department of job and family services using the "Dodge building cost indexes, northeastern and north~~

~~central states," published by Marshall and Swift;~~

~~(b) One-half~~ one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (F)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (F)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department of job and family services determines that the transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable cost of ownership was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that

was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by ~~the lesser of the following amounts:~~

~~(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.~~

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July 1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable

capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of the lessor, ~~adjusted by the lesser of the following:~~

~~(a) One-half of the change in construction costs during the time the lessor held each asset until the beginning of the lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.~~

(5) Subject to division (B) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by ~~the lesser of the following:~~

~~(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.~~

(6) Subject to division (B) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (G)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be ~~adjusted by the lesser of the following,~~ for purposes of calculating the annual amount under division (G)(2), (3), (4), or (6) of this section:

~~(a) One-half of the change in construction costs from the beginning of the old lease to the beginning of the new lease, as calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift;~~

~~(b) One-half, adjusted by one-half of the change in the consumer price~~

index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (G)(3) of this section of a facility for which a substantial commitment of money was made after December 22, 1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department of job and family services determines that the lease is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. 5111.251. (A) The department of job and family services shall pay a provider for each of the provider's eligible intermediate care facilities for the mentally retarded for its reasonable capital costs, a per resident per day rate established prospectively each fiscal year for each intermediate care facility for the mentally retarded. Except as otherwise provided in sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the rate shall be based on the facility's capital costs for the calendar year preceding the fiscal year in which the rate will be paid. The rate shall equal the sum of the following:

(1) The facility's desk-reviewed, actual, allowable, per diem cost of ownership for the preceding cost reporting period, limited as provided in divisions (C) and (F) of this section;

(2) Any efficiency incentive determined under division (B) of this section;

(3) Any amounts for renovations determined under division (D) of this section;

(4) Any amounts for return on equity determined under division ~~(H)~~(H) of this section.

Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight line method over a period designated by the director of job and family services in rules adopted under section 5111.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department of job and family services. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in costs of ownership or renovation unless that part of the payment under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code is used to reimburse the government agency.

(B) The department of job and family services shall pay to a provider

for each of the provider's eligible intermediate care facilities for the mentally retarded an efficiency incentive equal to fifty per cent of the difference between any desk-reviewed, actual, allowable cost of ownership and the applicable limit on cost of ownership payments under division (C) of this section. For purposes of computing the efficiency incentive, depreciation for costs paid or reimbursed by any government agency shall be considered as a cost of ownership, and the applicable limit under division (C) of this section shall apply both to facilities with more than eight beds and facilities with eight or fewer beds. The efficiency incentive paid to a provider for a facility with eight or fewer beds shall not exceed three dollars per patient day, adjusted annually for the inflation rate for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which the efficiency incentive is determined and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(C) Cost of ownership payments for intermediate care facilities for the mentally retarded with more than eight beds shall not exceed the following limits:

(1) For facilities with dates of licensure prior to January 1, 1958, not exceeding two dollars and fifty cents per patient day;

(2) For facilities with dates of licensure after December 31, 1957, but prior to January 1, 1968, not exceeding:

(a) Three dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or more per bed;

(b) Two dollars and fifty cents per patient day if the cost of construction was less than three thousand five hundred dollars per bed.

(3) For facilities with dates of licensure after December 31, 1967, but prior to January 1, 1976, not exceeding:

(a) Four dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or more per bed;

(b) Three dollars and fifty cents per patient day if the cost of construction was less than five thousand one hundred fifty dollars per bed, but exceeds three thousand five hundred dollars per bed;

(c) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(4) For facilities with dates of licensure after December 31, 1975, but prior to January 1, 1979, not exceeding:

(a) Five dollars and fifty cents per patient day if the cost of construction

was six thousand eight hundred dollars or more per bed;

(b) Four dollars and fifty cents per patient day if the cost of construction was less than six thousand eight hundred dollars per bed but exceeds five thousand one hundred fifty dollars per bed;

(c) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less per bed, but exceeds three thousand five hundred dollars per bed;

(d) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(5) For facilities with dates of licensure after December 31, 1978, but prior to January 1, 1980, not exceeding:

(a) Six dollars per patient day if the cost of construction was seven thousand six hundred twenty-five dollars or more per bed;

(b) Five dollars and fifty cents per patient day if the cost of construction was less than seven thousand six hundred twenty-five dollars per bed but exceeds six thousand eight hundred dollars per bed;

(c) Four dollars and fifty cents per patient day if the cost of construction was six thousand eight hundred dollars or less per bed but exceeds five thousand one hundred fifty dollars per bed;

(d) Three dollars and fifty cents per patient day if the cost of construction was five thousand one hundred fifty dollars or less but exceeds three thousand five hundred dollars per bed;

(e) Two dollars and fifty cents per patient day if the cost of construction was three thousand five hundred dollars or less per bed.

(6) For facilities with dates of licensure after December 31, 1979, but prior to January 1, 1981, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars per patient day if the beds were originally licensed as nursing home beds by the department of health.

(7) For facilities with dates of licensure after December 31, 1980, but prior to January 1, 1982, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars and forty-five cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(8) For facilities with dates of licensure after December 31, 1981, but prior to January 1, 1983, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Six dollars and seventy-nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(9) For facilities with dates of licensure after December 31, 1982, but prior to January 1, 1984, not exceeding:

(a) Twelve dollars per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and nine cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(10) For facilities with dates of licensure after December 31, 1983, but prior to January 1, 1985, not exceeding:

(a) Twelve dollars and twenty-four cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and twenty-three cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(11) For facilities with dates of licensure after December 31, 1984, but prior to January 1, 1986, not exceeding:

(a) Twelve dollars and fifty-three cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and forty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(12) For facilities with dates of licensure after December 31, 1985, but prior to January 1, 1987, not exceeding:

(a) Twelve dollars and seventy cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and fifty cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(13) For facilities with dates of licensure after December 31, 1986, but prior to January 1, 1988, not exceeding:

(a) Twelve dollars and ninety-nine cents per patient day if the beds were originally licensed as residential facility beds by the department of developmental disabilities;

(b) Seven dollars and sixty-seven cents per patient day if the beds were originally licensed as nursing home beds by the department of health.

(14) For facilities with dates of licensure after December 31, 1987, but prior to January 1, 1989, not exceeding thirteen dollars and twenty-six cents per patient day;

(15) For facilities with dates of licensure after December 31, 1988, but

prior to January 1, 1990, not exceeding thirteen dollars and forty-six cents per patient day;

(16) For facilities with dates of licensure after December 31, 1989, but prior to January 1, 1991, not exceeding thirteen dollars and sixty cents per patient day;

(17) For facilities with dates of licensure after December 31, 1990, but prior to January 1, 1992, not exceeding thirteen dollars and forty-nine cents per patient day;

(18) For facilities with dates of licensure after December 31, 1991, but prior to January 1, 1993, not exceeding thirteen dollars and sixty-seven cents per patient day;

(19) For facilities with dates of licensure after December 31, 1992, not exceeding fourteen dollars and twenty-eight cents per patient day.

(D) Beginning January 1, 1981, regardless of the original date of licensure, the department of job and family services shall pay a rate for the per diem capitalized costs of renovations to intermediate care facilities for the mentally retarded made after January 1, 1981, not exceeding six dollars per patient day using 1980 as the base year and adjusting the amount annually until June 30, 1993, for fluctuations in construction costs calculated by the department using the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift. The payment provided for in this division is the only payment that shall be made for the capitalized costs of a nonextensive renovation of an intermediate care facility for the mentally retarded. Nonextensive renovation costs shall not be included in cost of ownership, and a nonextensive renovation shall not affect the date of licensure for purposes of division (C) of this section. This division applies to nonextensive renovations regardless of whether they are made by an owner or a lessee. If the tenancy of a lessee that has made renovations ends before the depreciation expense for the renovation costs has been fully reported, the former lessee shall not report the undepreciated balance as an expense.

For a nonextensive renovation to qualify for payment under this division, both of the following conditions must be met:

(1) At least five years have elapsed since the date of licensure or date of an extensive renovation of the portion of the facility that is proposed to be renovated, except that this condition does not apply if the renovation is necessary to meet the requirements of federal, state, or local statutes, ordinances, rules, or policies.

(2) The provider has obtained prior approval from the department of job and family services. The provider shall submit a plan that describes in detail

the changes in capital assets to be accomplished by means of the renovation and the timetable for completing the project. The time for completion of the project shall be no more than eighteen months after the renovation begins. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that specify criteria and procedures for prior approval of renovation projects. No provider shall separate a project with the intent to evade the characterization of the project as a renovation or as an extensive renovation. No provider shall increase the scope of a project after it is approved by the department of job and family services unless the increase in scope is approved by the department.

(E) The amounts specified in divisions (C) and (D) of this section shall be adjusted beginning July 1, 1993, for the estimated inflation for the twelve-month period beginning on the first day of July of the calendar year preceding the calendar year that precedes the fiscal year for which rate will be paid and ending on the thirtieth day of the following June, using the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics.

(F)(1) For facilities of eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities before July 1, 1993, and for facilities of eight or fewer beds that have dates of licensure or have been granted project authorization after that date if the providers of the facilities demonstrate that they made substantial commitments of funds on or before that date, cost of ownership shall not exceed eighteen dollars and thirty cents per resident per day. The eighteen-dollar and thirty-cent amount shall be increased by the change in the "Dodge building cost indexes, northeastern and north central states," published by Marshall and Swift, during the period beginning June 30, 1990, and ending July 1, 1993, and by the change in the consumer price index for shelter costs for all urban consumers for the north central region, as published by the United States bureau of labor statistics, annually thereafter.

(2) For facilities with eight or fewer beds that have dates of licensure or have been granted project authorization by the department of developmental disabilities on or after July 1, 1993, for which substantial commitments of funds were not made before that date, cost of ownership payments shall not exceed the applicable amount calculated under division (F)(1) of this section, if the department of job and family services gives prior approval for construction of the facility. If the department does not give prior approval, cost of ownership payments shall not exceed the amount specified in division (C) of this section.

(3) Notwithstanding divisions (D) and (F)(1) and (2) of this section, the total payment for cost of ownership, cost of ownership efficiency incentive, and capitalized costs of renovations for an intermediate care facility for the mentally retarded with eight or fewer beds shall not exceed the sum of the limitations specified in divisions (C) and (D) of this section.

(G) Notwithstanding any provision of this section or section 5111.241 of the Revised Code, the director of job and family services may adopt rules under section 5111.02 of the Revised Code that provide for a calculation of a combined maximum payment limit for indirect care costs and cost of ownership for intermediate care facilities for the mentally retarded with eight or fewer beds.

~~(H) After the date on which a transaction of sale is closed, the provider shall refund to the department the amount of excess depreciation paid to the provider for the facility by the department for each year the provider has operated the facility under a provider agreement and prorated according to the number of medicaid patient days for which the provider has received payment for the facility. For the purposes of this division, "depreciation paid to the provider for the facility" means the amount paid to the provider for the intermediate care facility for the mentally retarded for cost of ownership pursuant to this section less any amount paid for interest costs. For the purposes of this division, "excess depreciation" is the intermediate care facility for the mentally retarded's depreciated basis, which is the provider's cost less accumulated depreciation, subtracted from the purchase price but not exceeding the amount of depreciation paid to the provider for the facility.~~

~~(I)~~ The department of job and family services shall pay a provider for each of the provider's eligible proprietary intermediate care facilities for the mentally retarded a return on the facility's net equity computed at the rate of one and one-half times the average of interest rates on special issues of public debt obligations issued to the federal hospital insurance trust fund for the cost reporting period. No facility's return on net equity paid under this division shall exceed one dollar per patient day.

In calculating the rate for return on net equity, the department shall use the greater of the facility's inpatient days during the applicable cost reporting period or the number of inpatient days the facility would have had during that period if its occupancy rate had been ninety-five per cent.

~~(I)~~(I)(1) Except as provided in division ~~(I)~~(I)(2) of this section, if a provider leases or transfers an interest in a facility to another provider who is a related party, the related party's allowable cost of ownership shall include the lesser of the following:

(a) The annual lease expense or actual cost of ownership, whichever is applicable;

(b) The reasonable cost to the lessor or provider making the transfer.

(2) If a provider leases or transfers an interest in a facility to another provider who is a related party, regardless of the date of the lease or transfer, the related party's allowable cost of ownership shall include the annual lease expense or actual cost of ownership, whichever is applicable, subject to the limitations specified in divisions (B) to ~~(H)~~(H) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) In the case of a lease, if the lessor retains any ownership interest, it is, except as provided in division ~~(I)~~(I)(2)(d)(ii) of this section, in only the real property and any improvements on the real property;

(c) In the case of a transfer, the provider making the transfer retains, except as provided in division ~~(I)~~(I)(2)(d)(iv) of this section, no ownership interest in the facility;

(d) The department of job and family services determines that the lease or transfer is an arm's length transaction pursuant to rules adopted under section 5111.02 of the Revised Code. The rules shall provide that a lease or transfer is an arm's length transaction if all of the following, as applicable, apply:

(i) In the case of a lease, once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division ~~(I)~~(I)(2)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) In the case of a lease, the lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) In the case of a transfer, once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(iv) In the case of a transfer, the provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer

never occurred when the department calculates its reimbursement rates for capital costs.

(v) The lease or transfer satisfies any other criteria specified in the rules.

(e) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor or provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, allowable cost of ownership was determined most recently under this division.

Sec. 5111.254. (A) The department of job and family services shall establish initial rates for a nursing facility with a first date of licensure that is on or after July 1, 2006, including a facility that replaces one or more existing facilities, or for a nursing facility with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5111.231 of the Revised Code for the facility's peer group and the nursing facility's case-mix score. For the purpose of division (A)(1) of this section, the nursing facility's case-mix score shall be the following:

(a) Unless the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the median annual average case-mix score for the nursing facility's peer group;

(b) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the replacement nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5111.232 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and replacement nursing facilities.

(2) The rate for ancillary and support costs shall be the rate for the facility's peer group determined under division (D) of section 5111.24 of the Revised Code.

(3) The rate for capital costs shall be the ~~median~~ rate for the facility's peer group determined under division (D) of section 5111.25 of the Revised Code.

(4) The rate for tax costs as defined in section 5111.242 of the Revised Code shall be the median rate for tax costs for the facility's peer group in which the facility is placed under division (C) of section 5111.24 of the Revised Code.

(5) The quality incentive payment shall be the mean payment ~~specified in division (B) of~~ made to nursing facilities under section 5111.244 of the Revised Code.

(B) Subject to division (C) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code.

(C) If a rate for direct care costs is determined under this section for a nursing facility using the median annual average case-mix score for the nursing facility's peer group, the rate shall be redetermined to reflect the replacement nursing facility's actual semiannual case-mix score determined under section 5111.232 of the Revised Code after the nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If the nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the nursing facility's peer group in lieu of the nursing facility's semiannual case-mix score until the nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5111.255. (A) The department of job and family services shall establish initial rates for an intermediate care facility for the mentally retarded with a first date of licensure that is on or after January 1, 1993, including a facility that replaces one or more existing facilities, or for an intermediate care facility for the mentally retarded with a first date of licensure before that date that was initially certified for the medicaid program on or after that date, in the following manner:

(1) The rate for direct care costs shall be determined as follows:

(a) If there are no cost or resident assessment data as necessary to calculate a rate under section 5111.23 of the Revised Code, the rate shall be the median cost per case-mix unit calculated under division (B)(1) of that section for the relevant peer group for the calendar year preceding the fiscal year in which the rate will be paid, multiplied by the median annual average case-mix score for the peer group for that period and by the rate of inflation estimated under division (B)(3) of that section. This rate shall be recalculated to reflect the facility's actual quarterly average case-mix score, in accordance with that section, after it submits its first quarterly assessment data that qualifies for use in calculating a case-mix score in accordance with rules authorized by division (E) of section 5111.232 of the Revised Code. If

the facility's first two quarterly submissions do not contain assessment data that qualifies for use in calculating a case-mix score, the department shall continue to calculate the rate using the median annual case-mix score for the peer group in lieu of an assigned quarterly case-mix score. The department shall assign a case-mix score or, if necessary, a cost per case-mix unit under division (D) of section 5111.232 of the Revised Code for any subsequent submissions that do not contain assessment data that qualifies for use in calculating a case-mix score.

(b) If the facility is a replacement facility and the facility or facilities that are being replaced are in operation immediately before the replacement facility opens, the rate shall be the same as the rate for the replaced facility or facilities, proportionate to the number of beds in each replaced facility. If one or more of the replaced facilities is not in operation immediately before the replacement facility opens, its proportion shall be determined under division (A)(1)(a) of this section.

(2) The rate for other protected costs shall be one hundred fifteen per cent of the median rate for intermediate care facilities for the mentally retarded calculated for the fiscal year under section 5111.235 of the Revised Code.

(3) The rate for indirect care costs shall be the applicable maximum rate for the facility's peer group as specified in division (B) of section 5111.241 of the Revised Code.

(4) The rate for capital costs shall be determined under section 5111.251 of the Revised Code using the greater of actual inpatient days or an imputed occupancy rate of eighty per cent.

(B) The department shall adjust the rates established under division (A) of this section at both of the following times:

(1) Effective the first day of July, to reflect new rate calculations for all facilities under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code;

(2) Following the provider's submission of the facility's cost report under division (A)(1)(b) of section 5111.26 of the Revised Code.

The department shall pay the rate adjusted based on the cost report beginning the first day of the calendar quarter that begins more than ninety days after the department receives the cost report.

Sec. 5111.258. (A) Notwithstanding sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), the director of job and family services shall adopt rules under section 5111.02 of the Revised Code that establish a methodology for calculating the prospective rates that will be paid each fiscal year to a provider for each of the provider's eligible nursing facilities and intermediate care facilities for

the mentally retarded, and discrete units of the provider's nursing facilities or intermediate care facilities for the mentally retarded, that serve residents who have diagnoses or special care needs that require direct care resources that are not measured adequately by the applicable assessment instrument specified in rules authorized by section 5111.232 of the Revised Code, or who have diagnoses or special care needs specified in the rules as otherwise qualifying for consideration under this section. The facilities and units of facilities whose rates are established under this division may include, but shall not be limited to, any of the following:

(1) In the case of nursing facilities, facilities and units of facilities that serve medically fragile pediatric residents, residents who are dependent on ventilators, or residents who have severe traumatic brain injury, end-stage Alzheimer's disease, or end-stage acquired immunodeficiency syndrome;

(2) In the case of intermediate care facilities for the mentally retarded, facilities and units of facilities that serve residents who have complex medical conditions or severe behavioral problems.

The department shall use the methodology established under this division to pay for services rendered by such facilities and units after June 30, 1993.

The rules authorized by this division shall specify the criteria and procedures the department will apply when designating facilities and units that qualify for calculation of rates under this division. The criteria shall include consideration of whether all of the allowable costs of the facility or unit would be paid by rates established under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, and shall establish a minimum bed size for a facility or unit to qualify to have its rates established under this division. The criteria shall not be designed to require that residents be served only in facilities located in large cities. The methodology established by the rules shall consider the historical costs of providing care to the residents of the facilities or units.

The rules may require that a facility designated under this division or containing a unit designated under this division receive authorization from the department to admit or retain a resident to the facility or unit and shall specify the criteria and procedures the department will apply when granting that authorization.

Notwithstanding any other provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), the costs incurred by facilities or units whose rates are established under this division shall not be considered in establishing payment rates for other facilities or units.

(B) The director may adopt rules under section 5111.02 of the Revised Code under which the department, notwithstanding any other provision of sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code (except section 5111.259 of the Revised Code), may adjust the rates determined under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for a facility that serves a resident who has a diagnosis or special care need that, in the rules authorized by division (A) of this section, would qualify a facility or unit of a facility to have its rate determined under that division, but who is not in such a unit. The rules may require that a facility that qualifies for a rate adjustment under this division receive authorization from the department to admit or retain a resident who qualifies the facility for the rate adjustment and shall specify the criteria and procedures the department will apply when granting that authorization.

Sec. 5111.259. The director of job and family services may submit a request to the United States secretary of health and human services for approval to establish a centers of excellence component of the medicaid program. The purpose of the centers of excellence component is to increase the efficiency and quality of nursing facility services provided to medicaid recipients with complex nursing facility service needs. If federal approval for the centers of excellence component is granted, the director may adopt rules under section 5111.02 of the Revised Code governing the component, including rules that establish a method of determining the medicaid reimbursement rates for nursing facilities providing nursing facility services to medicaid recipients participating in the component. The rules may specify the extent to which, if any, of the provisions of section 5111.258 of the Revised Code are to apply to the centers of excellence component. If such rules are adopted, the nursing facilities that provide nursing facility services to medicaid recipients participating in the centers of excellence component shall be paid for those services in accordance with the method established in the rules notwithstanding anything to the contrary in sections 5111.20 to 5111.331 of the Revised Code.

Sec. 5111.261. (A) Except as provided in division (B) of this section and not later than three years after a provider files a cost report with the department of job and family services under section 5111.26 of the Revised Code, the provider may amend the cost report if the provider discovers a material error in the cost report or additional information to be included in the cost report. The department shall review the amended cost report for accuracy and notify the provider of its determination.

(B) A provider may not amend a cost report if the department has notified the provider that an audit of the cost report or a cost report of the

provider for a subsequent cost reporting period is to be conducted under section 5111.27 of the Revised Code. The provider may, however, provide the department information that affects the costs included in the cost report. Such information may not be provided after the adjudication of the final settlement of the cost report.

Sec. 5111.262. No person, other than the provider of a nursing facility, shall submit a claim for medicaid reimbursement for a service provided to a nursing facility resident if the service is included in a medicaid payment made to the provider of a nursing facility under sections 5111.20 to 5111.33 of the Revised Code or in the reimbursable expenses reported on a provider's cost report for a nursing facility. No provider of a nursing facility shall submit a separate claim for medicaid reimbursement for a service provided to a resident of the nursing facility if the service is included in a medicaid payment made to the provider under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code or in the reimbursable expenses on the provider's cost report for the nursing facility.

Sec. ~~5111.264~~ 5111.263. Except as otherwise provided in section 5111.264 of the Revised Code, the department of job and family services, in determining whether an intermediate care facility for the mentally retarded's direct care costs and indirect care costs are allowable, shall place no limit on specific categories of reasonable costs other than compensation of owners, compensation of relatives of owners, and compensation of administrators.

Compensation cost limits for owners and relatives of owners shall be based on compensation costs for individuals who hold comparable positions but who are not owners or relatives of owners, as reported on facility cost reports. As used in this section, "comparable position" means the position that is held by the owner or the owner's relative, if that position is listed separately on the cost report form, or if the position is not listed separately, the group of positions that is listed on the cost report form and that includes the position held by the owner or the owner's relative. In the case of an owner or owner's relative who serves the facility in a capacity such as corporate officer, proprietor, or partner for which no comparable position or group of positions is listed on the cost report form, the compensation cost limit shall be based on civil service equivalents and shall be specified in rules adopted under section 5111.02 of the Revised Code.

Compensation cost limits for administrators shall be based on compensation costs for administrators who are not owners or relatives of owners, as reported on facility cost reports. Compensation cost limits for administrators of four or more intermediate care facilities for the mentally retarded shall be the same as the limits for administrators of intermediate

care facilities for the mentally retarded with one hundred fifty or more beds.

Sec. 5111.27. (A) The department of job and family services shall conduct a desk review of each cost report it receives under section 5111.26 of the Revised Code. Based on the desk review, the department shall make a preliminary determination of whether the reported costs are allowable costs. The department shall notify each provider of whether any of the reported costs are preliminarily determined not to be allowable, the rate calculation under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code that results from that determination, and the reasons for the determination and resulting rate. The department shall allow the provider to verify the calculation and submit additional information.

(B) The department may conduct an audit, as defined by rule adopted under section 5111.02 of the Revised Code, of any cost report ~~and shall notify the provider of its findings.~~

~~Audits shall be conducted by auditors under contract with or employed by the department.~~ The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, ~~shall~~ may be determined based on prior performance of the provider ~~and may be based on,~~ a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors. An audit shall be conducted by auditors under contract with or employed by the department. The department shall notify a provider of the findings of an audit by issuing an audit report. An audit report regarding a nursing facility shall include notice of any fine imposed under section 5111.271 of the Revised Code. The department shall issue the audit report no later than three years after the cost report is filed, or upon the completion of a desk or field audit on the report or a report for a subsequent cost reporting period, whichever is earlier. ~~During the time within which the department may issue an audit report, the provider may amend the cost report upon discovery of a material error or material additional information. The department shall review the amended cost report for accuracy and notify the provider of its determination.~~

The department may establish a contract for the auditing of facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years. The department shall establish an audit manual and program which shall require that all field audits, conducted either pursuant to a contract or by department employees:

(1) Comply with the applicable rules prescribed pursuant to Titles XVIII and XIX;

(2) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(3) Include a written summary as to whether the costs included in the report examined during the audit are allowable and are presented ~~fairly~~ in accordance with ~~generally accepted accounting principles and department rules~~ state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(4) Are conducted by accounting firms or auditors who, during the period of the auditors' professional engagement or employment and during the period covered by the cost reports, do not have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;

(5) Are conducted by accounting firms or auditors who, as a condition of the contract or employment, shall not audit any facility that has been a client of the firm or auditor;

(6) Are conducted by auditors who are otherwise independent as determined by the standards of independence ~~established by~~ included in the American institute of certified public accountants government auditing standards produced by the United States government accountability office;

(7) Are completed within the time period specified by the department;

(8) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's facility is entitled.

For the purposes of division (B)(4) of this section, employment of a member of an auditor's family by a nursing facility or intermediate care facility for the mentally retarded that the auditor does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

(C) The department, pursuant to rules adopted under section 5111.02 of the Revised Code, may conduct an exception review of assessment data submitted under section 5111.232 of the Revised Code. The department may conduct an exception review based on the findings of a certification survey conducted by the department of health, a risk analysis, or prior performance of the provider.

Exception reviews shall be conducted at the facility by appropriate

health professionals under contract with or employed by the department of job and family services. The professionals may review resident assessment forms and supporting documentation, conduct interviews, and observe residents to identify any patterns or trends of inaccurate assessments and resulting inaccurate case-mix scores.

The rules shall establish an exception review program that requires that exception reviews do all of the following:

- (1) Comply with Titles XVIII and XIX;
- (2) Provide a written summary that states whether the resident assessment forms have been completed accurately;
- (3) Are conducted by health professionals who, during the period of their professional engagement or employment with the department, neither have nor are committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of a nursing facility or intermediate care facility for the mentally retarded in this state;
- (4) Are conducted by health professionals who, as a condition of their engagement or employment with the department, shall not review any provider that has been a client of the professional.

For the purposes of division (C)(3) of this section, employment of a member of a health professional's family by a nursing facility or intermediate care facility for the mentally retarded that the professional does not review does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the facility.

If an exception review is conducted before the effective date of the rate that is based on the case-mix data subject to the review and the review results in findings that exceed tolerance levels specified in the rules adopted under this division, the department, in accordance with those rules, may use the findings to recalculate individual resident case-mix scores, quarterly average facility case-mix scores, and annual average facility case-mix scores. The department may use the recalculated quarterly and annual facility average case-mix scores to calculate the facility's rate for direct care costs for the appropriate calendar quarter or quarters.

(D) The department shall prepare a written summary of any audit disallowance or exception review finding that is made after the effective date of the rate that is based on the cost or case-mix data. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance or finding, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5111.28 of the Revised Code.

(E) The department shall not reduce rates calculated under sections

5111.20 to ~~5111.33~~ 5111.331 of the Revised Code on the basis that the provider charges a lower rate to any resident who is not eligible for the medicaid program.

(F) The department shall adjust the rates calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code to account for reasonable additional costs that must be incurred by intermediate care facilities for the mentally retarded to comply with requirements of federal or state statutes, rules, or policies enacted or amended after January 1, 1992, or with orders issued by state or local fire authorities.

Sec. 5111.271. (A) Subject to division (D) of this section, the department of job and family services shall fine the provider of a nursing facility if the report of an audit conducted under division (B) of section 5111.27 of the Revised Code regarding a cost report for the nursing facility includes either of the following:

(1) Adverse findings that exceed three per cent of the total amount of medicaid-reimbursable costs reported in the cost report;

(2) Adverse findings that exceed twenty per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report.

(B) A fine issued under this section shall equal the greatest of the following:

(1) If the adverse findings exceed three per cent but do not exceed ten per cent of the total amount of medicaid-reimbursable costs reported in the cost report, the greater of three per cent of those reported costs or ten thousand dollars;

(2) If the adverse findings exceed ten per cent but do not exceed twenty per cent of the total amount of medicaid-reimbursable costs reported in the cost report, the greater of six per cent of those reported costs or twenty-five thousand dollars;

(3) If the adverse findings exceed twenty per cent of the total amount of medicaid-reimbursable costs reported in the cost report, the greater of ten per cent of those reported costs or fifty thousand dollars;

(4) If the adverse findings exceed twenty per cent but do not exceed twenty-five per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of three per cent of the total amount of medicaid-reimbursable costs reported in the cost report or ten thousand dollars;

(5) If the adverse findings exceed twenty-five per cent but do not exceed thirty per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of six per cent of the total amount of

medicaid-reimbursable costs reported in the cost report or twenty-five thousand dollars;

(6) If the adverse findings exceed thirty per cent of medicaid-reimbursable costs for a particular cost center reported in the cost report, the greater of ten per cent of the total amount of medicaid-reimbursable costs reported in the cost report or fifty thousand dollars.

(C) Fines paid under this section shall be deposited into the health care services administration fund created under section 5111.94 of the Revised Code.

(D) The department may not collect a fine under this section until all appeal rights relating to the audit report that is the basis for the fine are exhausted.

Sec. 5111.28. (A) If a provider properly amends its cost report under section ~~5111.27~~ 5111.261 of the Revised Code and the amended report shows that the provider received a lower rate under the original cost report than it was entitled to receive, the department of job and family services shall adjust the provider's rate prospectively to reflect the corrected information. The department shall pay the adjusted rate beginning two months after the first day of the month after the provider files the amended cost report. If the department finds, from an exception review of resident assessment information conducted after the effective date of the rate for direct care costs that is based on the assessment information, that inaccurate assessment information resulted in the provider receiving a lower rate than it was entitled to receive, the department prospectively shall adjust the provider's rate accordingly and shall make payments using the adjusted rate for the remainder of the calendar quarter for which the assessment information is used to determine the rate, beginning one month after the first day of the month after the exception review is completed.

(B) If the provider properly amends its cost report under section ~~5111.27~~ 5111.261 of the Revised Code, the department makes a finding based on an audit under ~~that~~ section 5111.27 of the Revised Code, or the department makes a finding based on an exception review of resident assessment information conducted under ~~that~~ section 5111.27 of the Revised Code after the effective date of the rate for direct care costs that is based on the assessment information, any of which results in a determination that the provider has received a higher rate than it was entitled to receive, the department shall recalculate the provider's rate using the revised information. The department shall apply the recalculated rate to the periods when the provider received the incorrect rate to determine the amount of the

overpayment. The provider shall refund the amount of the overpayment.

In addition to requiring a refund under this division, the department may charge the provider interest at the applicable rate specified in this division from the time the overpayment was made.

(1) If the overpayment resulted from costs reported for calendar year 1993, the interest shall be no greater than one and one-half times the average bank prime rate.

(2) If the overpayment resulted from costs reported for subsequent calendar years:

(a) The interest shall be no greater than two times the average bank prime rate if the overpayment was equal to or less than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.

(b) The interest shall be no greater than two and one-half times the current average bank prime rate if the overpayment was greater than one per cent of the total medicaid payments to the provider for the fiscal year for which the incorrect information was used to establish a rate.

(C) The department also may impose the following penalties:

(1) If a provider does not furnish invoices or other documentation that the department requests during an audit within sixty days after the request, no more than the greater of one thousand dollars per audit or twenty-five per cent of the cumulative amount by which the costs for which documentation was not furnished increased the total medicaid payments to the provider during the fiscal year for which the costs were used to establish a rate;

(2) If an exiting operator or owner fails to provide notice of a facility closure, voluntary termination, or voluntary withdrawal of participation in the medicaid program as required by section 5111.66 of the Revised Code, or an exiting operator or owner and entering operator fail to provide notice of a change of operator as required by section 5111.67 of the Revised Code, no more than the current average bank prime rate plus four per cent of the last two monthly payments.

(D) If the provider continues to participate in the medicaid program, the department shall deduct any amount that the provider is required to refund under this section, and the amount of any interest charged or penalty imposed under this section, from the next available payment from the department to the provider. The department and the provider may enter into an agreement under which the amount, together with interest, is deducted in installments from payments from the department to the provider.

(E) The department shall transmit refunds and penalties to the treasurer of state for deposit in the general revenue fund.

(F) For the purpose of this section, the department shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5111.29. (A) The director of job and family services shall adopt rules under section 5111.02 of the Revised Code that establish a process under which a provider, or a group or association of providers, may seek reconsideration of rates established under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, including a rate for direct care costs recalculated before the effective date of the rate as a result of an exception review of resident assessment information conducted under section 5111.27 of the Revised Code.

(1) Except as provided in divisions (A)(2) to (4) of this section, the only issue that a provider, group, or association may raise in the rate reconsideration shall be whether the rate was calculated in accordance with sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code and the rules adopted under section 5111.02 of the Revised Code. The rules shall permit a provider, group, or association to submit written arguments or other materials that support its position. The rules shall specify time frames within which the provider, group, or association and the department must act. If the department determines, as a result of the rate reconsideration, that the rate established for one or more facilities of a provider is less than the rate to which the facility is entitled, the department shall increase the rate. If the department has paid the incorrect rate for a period of time, the department shall pay the provider the difference between the amount the provider was paid for that period for the facility and the amount the provider should have been paid for the facility.

(2) The rules shall provide that during a fiscal year, the department, by means of the rate reconsideration process, may increase the rate determined for an intermediate care facility for the mentally retarded as calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code if the provider of the facility demonstrates that the facility's actual, allowable costs have increased because of extreme circumstances. A facility may qualify for a rate increase only if the facility's per diem, actual, allowable costs have increased to a level that exceeds its total rate. The rules shall specify the circumstances that would justify a rate increase under division (A)(2) of this section. The rules shall provide that the extreme circumstances include

natural disasters, renovations approved under division (D) of section 5111.251 of the Revised Code, an increase in workers' compensation experience rating of greater than five per cent for a facility that has an appropriate claims management program, increased security costs for an inner-city facility, and a change of ownership that results from bankruptcy, foreclosure, or findings of violations of certification requirements by the department of health. An increase under division (A)(2) of this section is subject to any rate limitations or maximum rates established by sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for specific cost centers. Any rate increase granted under division (A)(2) of this section shall take effect on the first day of the first month after the department receives the request.

(3) The rules shall provide that the department, through the rate reconsideration process, may increase an intermediate care facility for the mentally retarded's rate as calculated under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code if the department, in the department's sole discretion, determines that the rate as calculated under those sections works an extreme hardship on the facility.

(4) The rules shall provide that when beds certified for the medicaid program are added to an existing intermediate care facility for the mentally retarded or replaced at the same site, the department, through the rate reconsideration process, shall increase the intermediate care facility for the mentally retarded's rate for capital costs proportionately, as limited by any applicable limitation under section 5111.251 of the Revised Code, to account for the costs of the beds that are added or replaced. The department shall make this increase one month after the first day of the month after the department receives sufficient documentation of the costs. Any rate increase granted under division (A)(4) of this section after June 30, 1993, shall remain in effect until the effective date of a rate calculated under section 5111.251 of the Revised Code that includes costs incurred for a full calendar year for the bed addition or bed replacement. The facility shall report double accumulated depreciation in an amount equal to the depreciation included in the rate adjustment on its cost report for the first year of operation. During the term of any loan used to finance a project for which a rate adjustment is granted under division (A)(4) of this section, if the facility is operated by the same provider, the provider shall subtract from the interest costs it reports on its cost report an amount equal to the difference between the following:

- (a) The actual, allowable interest costs for the loan during the calendar year for which the costs are being reported;
- (b) The actual, allowable interest costs attributable to the loan that were

used to calculate the rates paid to the provider for the facility during the same calendar year.

(5) The department's decision at the conclusion of the reconsideration process shall not be subject to any administrative proceedings under Chapter 119. or any other provision of the Revised Code.

(B) All of the following are subject to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

(1) Any audit disallowance that the department makes as the result of an audit under section 5111.27 of the Revised Code;

(2) Any adverse finding that results from an exception review of resident assessment information conducted under section 5111.27 of the Revised Code after the effective date of the facility's rate that is based on the assessment information;

(3) Any medicaid payment deemed an overpayment under section 5111.683 of the Revised Code;

(4) Any penalty the department imposes under division (C) of section 5111.28 of the Revised Code or section 5111.683 of the Revised Code.

Sec. 5111.291. Notwithstanding sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code, the department of job and family services may compute the rate for intermediate care facilities for the mentally retarded operated by the department of developmental disabilities or the department of mental health according to the reasonable cost principles of Title XVIII.

Sec. 5111.33. Reimbursement to a provider of an intermediate care facility for the mentally retarded under sections 5111.20 to ~~5111.32~~ 5111.331 of the Revised Code shall include payments to the provider, at a rate equal to the percentage of the per resident per day rates that the department of job and family services has established for the provider's ~~nursing facility or intermediate care facility for the mentally retarded~~ under sections 5111.20 to ~~5111.33~~ 5111.331 of the Revised Code for the fiscal year for which the cost of services is reimbursed, to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal participation in the payments is available. The maximum period during which payments may be made to reserve a bed shall not exceed the maximum period specified under federal regulations, and shall not be more than thirty days during any calendar year for hospital stays, visits with relatives and friends, and participation in therapeutic programs.

Recipients ~~who have been identified by the department as requiring the~~

~~level of care of an intermediate care facility for the mentally retarded shall not be subject to a maximum period during which payments may be made to reserve a bed in an intermediate care facility for the mentally retarded if prior authorization of the department is obtained for hospital stays, visits with relatives and friends, and participation in therapeutic programs. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code establishing conditions under which prior authorization may be obtained.~~

Sec. 5111.331. (A) The department of job and family services may make payments to a provider of a nursing facility under sections 5111.20 to 5111.331 of the Revised Code to reserve a bed for a recipient during a temporary absence under conditions prescribed by the department, to include hospitalization for an acute condition, visits with relatives and friends, and participation in therapeutic programs outside the facility, when the resident's plan of care provides for such absence and federal participation in the payments is available.

(B) The maximum period for which payments may be made to reserve a bed in a nursing facility shall not exceed thirty days in a calendar year.

(C) The department shall establish the per diem rates to be paid to providers of nursing facilities for reserving beds under this section. In establishing the per diem rates, the department shall do the following:

(1) In the case of a payment to reserve a bed for a day during calendar year 2011, set the per diem rate at an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(2) In the case of a payment to reserve a bed for a day during calendar year 2012 and each calendar year thereafter, set the per diem rate at an amount equal to the following:

(a) In the case of a nursing facility that had an occupancy rate in the preceding calendar year exceeding ninety-five per cent, an amount not exceeding fifty per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day;

(b) In the case of a nursing facility that had an occupancy rate in the preceding calendar year not exceeding ninety-five per cent, an amount not exceeding eighteen per cent of the per diem rate the provider would be paid if the recipient were not absent from the nursing facility that day.

Sec. 5111.35. As used in this section "a resident's rights" means the rights of a nursing facility resident under sections 3721.10 to 3721.17 of the Revised Code and subsection (c) of section 1819 or 1919 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and

regulations issued under those subsections.

As used in sections 5111.35 to 5111.62 of the Revised Code:

(A) "Certification requirements" means the requirements for nursing facilities established under sections 1819 and 1919 of the "Social Security Act."

(B) "Compliance" means substantially meeting all applicable certification requirements.

(C) "Contracting agency" means a state agency that has entered into a contract with the department of job and family services under section 5111.38 of the Revised Code.

(D)(1) "Deficiency" means a finding cited by the department of health during a survey, on the basis of one or more actions, practices, situations, or incidents occurring at a nursing facility, that constitutes a severity level three finding, severity level four finding, scope level three finding, or scope level four finding. Whenever the finding is a repeat finding, "deficiency" also includes any finding that is a severity level two and scope level one finding, a severity level two and scope level two finding, or a severity level one and scope level two finding.

(2) "Cluster of deficiencies" means deficiencies that result from noncompliance with two or more certification requirements and are causing or resulting from the same action, practice, situation, or incident.

(E) "Emergency" means either of the following:

(1) A deficiency or cluster of deficiencies that creates a condition of immediate jeopardy;

(2) An unexpected situation or sudden occurrence of a serious or urgent nature that creates a substantial likelihood that one or more residents of a nursing facility may be seriously harmed if allowed to remain in the facility, including the following:

(a) A flood or other natural disaster, civil disaster, or similar event;

(b) A labor strike that suddenly causes the number of staff members in a nursing facility to be below that necessary for resident care.

(F) "Finding" means a finding of noncompliance with certification requirements determined by the department of health under section 5111.41 of the Revised Code.

(G) "Immediate jeopardy" means that one or more residents of a nursing facility are in imminent danger of serious physical or life-threatening harm.

(H) "Medicaid eligible resident" means a person who is a resident of a nursing facility, or is applying for admission to a nursing facility, and is eligible to receive financial assistance under the medical assistance program for the care the person receives in such a facility.

(I) "Noncompliance" means failure to substantially meet all applicable certification requirements.

(J) "Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(K) "Provider" means a person, institution, or entity that furnishes nursing facility services under a medical assistance program provider agreement.

(L) "Provider agreement" means a contract between the department of job and family services and a provider for the provision of nursing facility services under the medicaid program.

~~(M)~~ (M) "Repeat finding" or "repeat deficiency" means a finding or deficiency cited pursuant to a survey, to which both of the following apply:

(1) The finding or deficiency involves noncompliance with the same certification requirement, and the same kind of actions, practices, situations, or incidents caused by or resulting from the noncompliance, as were cited in the immediately preceding standard survey or another survey conducted subsequent to the immediately preceding standard survey of the facility. For purposes of this division, actions, practices, situations, or incidents may be of the same kind even though they involve different residents, staff, or parts of the facility.

(2) The finding or deficiency is cited subsequent to a determination by the department of health that the finding or deficiency cited on the immediately preceding standard survey, or another survey conducted subsequent to the immediately preceding standard survey, had been corrected.

~~(M)~~(N) (1) "Scope level one finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect one or a very limited number of facility residents and involve one or a very limited number of facility staff members.

(2) "Scope level two finding" means a finding of noncompliance by a nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, but the number or percentage of facility residents affected or staff members involved and the number or frequency of the actions, situations, practices, or incidents in short succession does not establish any reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(3) "Scope level three finding" means a finding of noncompliance by a

nursing facility in which the actions, situations, practices, or incidents causing or resulting from the noncompliance affect more than a limited number of facility residents or involve more than a limited number of facility staff members, and the number or percentage of facility residents affected or staff members involved or the number or frequency of the actions, situations, practices, or incidents in short succession establishes a reasonable degree of predictability of similar actions, situations, practices, or incidents occurring in the future.

(4) "Scope level four finding" means a finding of noncompliance by a nursing facility causing or resulting from actions, situations, practices, or incidents that involve a sufficient number or percentage of facility residents or staff members or occur with sufficient regularity over time that the noncompliance can be considered systemic or pervasive in the facility.

~~(N)~~(Q)(1) "Severity level one finding" means a finding of noncompliance by a nursing facility that has not caused and, if continued, is unlikely to cause physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(2) "Severity level two finding" means a finding of noncompliance by a nursing facility that, if continued over time, will cause, or is likely to cause, physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(3) "Severity level three finding" means a finding of noncompliance by a nursing facility that has caused physical harm to a facility resident, mental or emotional harm to a resident, or a violation of a resident's rights that results in physical, mental, or emotional harm to the resident.

(4) "Severity level four finding" means a finding of noncompliance by a nursing facility that has caused life-threatening harm to a facility resident or caused a resident's death.

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

~~(P)~~(Q) "Substandard care" means care furnished in a facility in which the department of health has cited a deficiency or deficiencies that constitute one of the following:

- (1) A severity level four finding, regardless of scope;
- (2) A severity level three and scope level four finding, in the quality of care provided to residents;
- (3) A severity level three and scope level three finding, in the quality of care provided to residents.

~~(Q)~~(R)(1) "Survey" means a survey of a nursing facility conducted under section 5111.39 of the Revised Code.

(2) "Standard survey" means a survey conducted by the department of health under division (A) of section 5111.39 of the Revised Code and includes an extended survey.

(3) "Follow-up survey" means a survey conducted by the department of health to determine whether a nursing facility has substantially corrected deficiencies cited in a previous survey.

Sec. 5111.511. (A) If the department of job and family services determines that a nursing facility is experiencing or is likely to experience a serious financial loss or failure that jeopardizes or is likely to jeopardize the health, safety, and welfare of its residents, the department, subject to the provider's consent, may appoint a temporary resident safety assurance manager in the nursing facility to take actions the department determines are appropriate to ensure the health, safety, and welfare of the residents.

(B) A temporary resident safety assurance manager appointed under this section is vested with the authority necessary to take actions the department of job and family services determines are appropriate to ensure the health, safety, and welfare of the residents.

(C) A temporary resident safety assurance manager appointed under this section may use any of the following funds to pay for costs the manager incurs on behalf of the nursing facility:

(1) Medicaid payments made in accordance with the provider agreement for the nursing facility;

(2) Funds from the residents protection fund that the department provides the manager under section 5111.62 of the Revised Code;

(3) Other funds the department determines are appropriate if such use of the funds is consistent with the appropriations that authorize the use of the funds and all other state and federal laws governing the use of the funds.

(D) The provider is liable to the department for the amount of any payments the department makes to the temporary resident safety assurance manager, other than payments specified in division (C)(1) of this section. The department may recover the amount the provider owes the department by doing any of the following:

(1) Offsetting medicaid payments made to the provider in accordance with the provider agreement;

(2) Placing a lien on any of the provider's real and personal property;

(3) Initiating other collection actions.

(E) No action the department takes under this section is subject to appeal under Chapter 119. of the Revised Code.

(F) In rules adopted under section 5111.36 of the Revised Code, the director of job and family services may establish all of the following:

(1) Qualifications persons must meet to be appointed temporary resident safety assurance managers under this section;

(2) Procedures for maintaining a list of qualified temporary resident safety assurance managers;

(3) Procedures consistent with federal law for paying for the services of temporary resident safety assurance managers;

(4) Accounting and reporting requirements for temporary resident safety assurance managers;

(5) Other procedures and requirements the director determines are necessary to implement this section.

Sec. 5111.52. (A) As used in this section:

~~(1) "Provider agreement" means a contract between the department of job and family services and a nursing facility for the provision of nursing facility services under the medical assistance program.~~

~~(2) "Terminating", "terminating" includes not renewing.~~

(B) A nursing facility's participation in the medical assistance program shall be terminated under sections 5111.35 to 5111.62 of the Revised Code as follows:

(1) If the department of job and family services is terminating the facility's participation, it shall issue an order terminating the facility's provider agreement.

(2) If the department of health, acting as a contracting agency, is terminating the facility's participation, it shall issue an order terminating certification of the facility's compliance with certification requirements. When the department of health terminates certification, the department of job and family services shall terminate the facility's provider agreement. The department of job and family services is not required to provide an adjudication hearing when it terminates a provider agreement following termination of certification by the department of health.

(3) If a state agency other than the department of health, acting as a contracting agency, is terminating the facility's participation, it shall notify the department of job and family services, and the department of job and family services shall issue an order terminating the facility's provider agreement. The contracting agency shall conduct any administrative proceedings concerning the order.

(C) If the following conditions are met, the department of job and family services may make medical assistance payments to a nursing facility for a period not exceeding thirty days after the effective date of termination

under sections 5111.35 to 5111.62 of the Revised Code of the facility's participation in the medical assistance program:

(1) The payments are for medicaid eligible residents admitted to the facility prior to the effective date of the termination;

(2) The provider is making reasonable efforts to transfer medicaid eligible residents to other care settings.

The period during which payments may be made under this division begins on the later of the effective date of the termination or, if the facility has appealed a termination order, the date of issuance of the adjudication order upholding termination.

Sec. 5111.54. (A) A temporary manager of a nursing facility appointed by the department of job and family services or a contracting agency under sections 5111.35 to 5111.62 of the Revised Code shall meet all of the following qualifications:

(1) Be licensed as a nursing home administrator under Chapter 4751. of the Revised Code;

(2) Have demonstrated competence as a nursing home administrator;

(3) Have had no disciplinary action taken against the temporary manager by any licensing board or professional society in this state.

(B) The salary of a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility and set by the department of job and family services or contracting agency, in the case of a temporary manager, or by the court, in the case of a special master, at a rate not to exceed the maximum allowable compensation for an administrator under the medical assistance program. The extent to which this compensation is allowable under the medical assistance program is subject to and limited by this chapter and rules of the department.

Subject to division (C) of this section, any costs incurred on behalf of a nursing facility by a temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall be paid by the facility. The allowability of these costs under the medical assistance program shall be subject to and governed by this chapter and the rules of the department. This division does not prohibit a facility from applying for or receiving any waiver of cost ceilings available under rules of the department.

(C) No temporary manager or special master appointed under sections 5111.35 to 5111.62 of the Revised Code shall enter into any employment contract on behalf of a facility, or purchase any capital goods using facility funds totaling more than ten thousand dollars, unless the temporary manager or special master has obtained prior approval for the contract or purchase

from either the provider or the court.

(D)(1) A temporary manager appointed for a nursing facility under section 5111.46 of the Revised Code is hereby vested, subject to division (C) of this section, with the legal authority necessary to correct any deficiency or cluster of deficiencies at a facility, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(2) A temporary manager appointed under section 5111.51 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to eliminate the emergency, bring the facility into compliance with certification requirements, and otherwise ensure the health and safety of the residents.

(3) A temporary manager appointed under section 5111.53 of the Revised Code is hereby vested, subject to division (C) of this section, with the authority necessary to ensure the transfer of medicaid eligible residents to other appropriate care settings and, if applicable, the orderly closure of the facility, and to otherwise ensure the health and safety of the residents.

(E) Prior to acting under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code to appoint a temporary manager or apply for a special master, the department of job and family services or contracting agency shall order the facility to substantially correct the deficiency or deficiencies within five days after receiving the statement and inform the facility, in the statement it provides pursuant to division (B) of section 5111.49 of the Revised Code, of the order and that it will not take that action unless the facility fails to substantially correct the deficiency or deficiencies within that five-day period. At the end of the five-day period, the department of health shall conduct a follow-up survey that focuses on the deficiency or deficiencies. If the department of health determines that the facility has substantially corrected the deficiency or deficiencies within that time, the department of job and family services or contracting agency shall not appoint a temporary manager or apply for a special master. If the department of health determines that the facility has failed to substantially correct the deficiency or deficiencies within that time, the department of job and family services or contracting agency may proceed with appointment of the temporary manager or application for a special master. Until the statement required under division (B) of section 5111.49 of the Revised Code is actually delivered, no action taken by the department or agency to appoint a temporary manager or apply for a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code shall have any legal effect. No action taken by a facility under this division to substantially

correct a deficiency or deficiencies shall be considered an admission by the facility of the existence of a deficiency or deficiencies.

(F) Appointment of a temporary manager under division (A)(1)(b) or (2)(b) of section 5111.46 or division (A)(1)(d) of section 5111.51 of the Revised Code shall expire at the end of the seventh day following the appointment. If the department of job and family services or contracting agency finds that the deficiency or deficiencies that prompted the appointment under division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code cannot be substantially corrected, or the condition of immediate jeopardy that prompted the appointment under division (A)(1)(d) of section 5111.51 of the Revised Code cannot be eliminated, prior to the expiration of the appointment, it may take one of the following actions:

(1) Appoint, subject to the continuing consent of the provider, a temporary manager for the facility;

(2) Apply to the common pleas court of the county in which the facility is located for an order appointing a special master who, under the authority and direct supervision of the court and subject to divisions (B) and (C) of this section, may take such additional actions as are necessary to correct the deficiency or deficiencies or eliminate the condition of immediate jeopardy and bring the facility into compliance with certification requirements.

(G) The court, on finding that the deficiency or deficiencies for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (2)(b) of section 5111.46 of the Revised Code has been substantially corrected, or the emergency for which a special master was appointed under division (F)(2) of this section or division (A)(1)(b) or (B)(2) of section 5111.51 of the Revised Code has been eliminated, that the facility has been brought into compliance with certification requirements, and that the provider has established the management capability to ensure continued compliance with the certification requirements, shall immediately terminate its jurisdiction over the facility and return control and management of the facility to the provider. If the deficiency or deficiencies cannot be substantially corrected, or the emergency cannot be eliminated practicably within a reasonable time following appointment of the special master, the court may order the special master to close the facility and transfer all residents to other nursing facilities or other appropriate care settings.

(H) This section does not apply to temporary resident safety assurance managers appointed under section 5111.511 of the Revised Code.

Sec. 5111.62. The proceeds of all fines, including interest, collected under sections 5111.35 to 5111.62 of the Revised Code shall be deposited in

the state treasury to the credit of the residents protection fund, which is hereby created. The proceeds of all fines, including interest, collected under section 173.42 of the Revised Code shall be deposited in the state treasury to the credit of the residents protection fund.

~~Moneys~~ Money in the fund shall be used for the protection of the health or property of residents of nursing facilities in which the department of health finds deficiencies, including payment for the costs of relocation of residents to other facilities, maintenance of operation of a facility pending correction of deficiencies or closure, and reimbursement of residents for the loss of money managed by the facility under section 3721.15 of the Revised Code. Money in the fund may also be used to make payments under section 5111.511 of the Revised Code.

The fund shall be maintained and administered by the department of job and family services under rules developed in consultation with the departments of health and aging and adopted by the director of job and family services under Chapter 119. of the Revised Code.

Sec. 5111.65. As used in sections 5111.65 to 5111.689 of the Revised Code:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Change of operator" means an entering operator becoming the operator of a nursing facility or intermediate care facility for the mentally retarded 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 facility to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the facility is also transferred;

(c) A lease of the facility 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 facility or intermediate care facility for the mentally retarded 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 facility or intermediate care facility for the mentally retarded 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 the entering operator becomes the operator of the nursing facility or intermediate care facility for the mentally retarded.

(D) "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility or intermediate care facility for the mentally retarded resides in the facility.

(E) "Effective date of an involuntary termination" means the following:

(1) In the context of a nursing facility, the date the department of job and family services terminates the operator's provider agreement for the nursing facility;

(2) In the context of an intermediate care facility for the mentally retarded, the date the department terminates the operator's provider agreement for the facility or the last day that such a provider agreement is in effect when the department cancels or refuses to renew it.

(F) "Effective date of a voluntary termination" means the day the intermediate care facility for the mentally retarded ceases to accept medicaid patients.

~~(F)~~(G) "Effective date of a voluntary withdrawal of participation" means

the day the nursing facility ceases to accept new medicaid patients other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

~~(G)~~~~(H)~~ "Entering operator" means the person or government entity that will become the operator of a nursing facility or intermediate care facility for the mentally retarded when a change of operator occurs or following an involuntary termination.

~~(H)~~~~(I)~~ "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility or intermediate care facility for the mentally retarded on the effective date of a facility closure;

(3) An operator of an intermediate care facility for the mentally retarded that is undergoing or has undergone a voluntary termination;

(4) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;

(5) An operator of a nursing facility or intermediate care facility for the mentally retarded that is undergoing or has undergone an involuntary termination.

~~(I)~~~~(J)~~(1) "Facility Subject to divisions (J)(2) and (3) of this section, "facility closure" means ~~discontinuance~~ either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility or intermediate care facility for the mentally retarded that results in the relocation of all of the facility's residents;

(b) Conversion of the building, or part of the building, that houses a nursing facility or intermediate care facility for the mentally retarded to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use. A

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the facility by constructing a new facility or transferring the facility's license to another facility;

(b) The facility's residents relocating to another of the operator's facilities;

(c) Any action the department of health takes regarding the facility's certification under Title XIX of the "Social Security Act," 79 Stat. 286

(1965), 42 U.S.C. 1396, as amended, that may result in the transfer of part of the facility's survey findings to another of the operator's facilities;

(d) Any action the department of health takes regarding the facility's license under Chapter 3721. of the Revised Code;

(e) Any action the department of developmental disabilities takes regarding the facility's license under section 5123.19 of the Revised Code.

~~(2)~~(3) A facility closure does not occur if all of the facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the facility not later than thirty days after the evacuation occurs.

~~(J)~~(K) "Fiscal year," "franchise permit fee," "intermediate care facility for the mentally retarded," "nursing facility," "operator," "owner," and "provider agreement" have the same meanings as in section 5111.20 of the Revised Code.

~~(K)~~(L) "Involuntary termination" means the following:

(1) In the context of a nursing facility, the department of job and family services' termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request;

(2) In the context of an intermediate care facility for the mentally retarded, the department's termination of, cancellation of, or refusal to renew the operator's provider agreement for the facility when such action is not taken at the operator's request.

(M) "Voluntary termination" means an operator's voluntary election to terminate the participation of an intermediate care facility for the mentally retarded in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

~~(L)~~(N) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5111.66. An exiting operator or owner of a nursing facility or intermediate care facility for the mentally retarded participating in the medicaid program shall provide the department of job and family services written notice of a facility closure, voluntary termination, or voluntary withdrawal of participation not less than ninety days before the effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation. The written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.

The written notice shall include all of the following:

(A) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(B) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the written notice;

(C) The exiting operator's medicaid provider agreement number for the facility that is the subject of the written notice;

(D) The effective date of the facility closure, voluntary termination, or voluntary withdrawal of participation;

(E) The signature of the exiting operator's or owner's representative.

Sec. 5111.67. (A) An exiting operator or owner and entering operator shall provide the department of job and family services written notice of a change of operator if the nursing facility or intermediate care facility for the mentally retarded participates in the medicaid program and the entering operator seeks to continue the facility's participation. The written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code. The written notice shall be provided to the department not later than forty-five days before the effective date of the change of operator if the change of operator does not entail the relocation of residents. The written notice shall be provided to the department not later than ninety days before the effective date of the change of operator if the change of operator entails the relocation of residents. ~~The~~

The written notice shall include all of the following:

(1) The name of the exiting operator and, if any, the exiting operator's authorized agent;

(2) The name of the nursing facility or intermediate care facility for the mentally retarded that is the subject of the change of operator;

(3) The exiting operator's ~~medicaid provider agreement~~ seven-digit medicaid legacy number and ten-digit national provider identifier number for the facility that is the subject of the change of operator;

(4) The name of the entering operator;

(5) The effective date of the change of operator;

(6) The manner in which the entering operator becomes the facility's operator, including through sale, lease, merger, or other action;

(7) If the manner in which the entering operator becomes the facility's operator involves more than one step, a description of each step;

(8) Written authorization from the exiting operator or owner and entering operator for the department to process a provider agreement for the entering operator;

(9) The names and addresses of the persons to whom the department should send initial correspondence regarding the change of operator;

(10) If the nursing facility also participates in the medicare program, notification of whether the entering operator intends to accept assignment of the exiting operator's medicare provider agreement;

(11) The signature of the exiting operator's or owner's representative.

~~(B) The entering operator shall include a completed application for a provider agreement with the written notice to the department. The entering operator shall attach to the application the following:~~

~~(1) If the written notice is provided to the department before the date the exiting operator or owner and entering operator complete the transaction for the change of operator, all the proposed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator;~~

~~(2) If the written notice is provided to the department on or after the date the exiting operator or owner and entering operator complete the transaction for the change of operator, copies of all the executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the facility's change of operator. An exiting operator or owner and entering operator immediately shall provide the department written notice of any changes to information included in a written notice of a change of operator that occur after that notice is provided to the department. The notice of the changes shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.~~

Sec. 5111.671. The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the effective date of the change of operator if all of the following requirements are met:

(A) The department receives a properly completed written notice required by section 5111.67 of the Revised Code on or before the date required by that section.

~~(B) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator not later than ten days after the effective date of the change of operator receives both of the following in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code and not later than ten days after the effective date of the change of operator:~~

(1) From the entering operator, a completed application for a provider agreement and all other forms and documents specified in rules adopted under section 5111.689 of the Revised Code;

(2) From the exiting operator or owner, all forms and documents specified in rules adopted under section 5111.689 of the Revised Code.

(C) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

Sec. 5111.672. (A) The department of job and family services may enter into a provider agreement with an entering operator that goes into effect at 12:01 a.m. on the date determined under division (B) of this section if all of the following are the case:

(1) The department receives a properly completed written notice required by section 5111.67 of the Revised Code.

~~(2) The entering operator furnishes to the department copies of all the fully executed leases, management agreements, merger agreements and supporting documents, and sales contracts and supporting documents relating to the change of operator~~ receives, from the entering operator and in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code, a completed application for a provider agreement and all other forms and documents specified in rules adopted under that section.

(3) The department receives, from the exiting operator or owner and in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code, all forms and documents specified in rules adopted under that section.

~~(3) The~~ (4) One or more of the following apply:

(a) The requirement of division (A)(1) of this section is met after the time required by section 5111.67 of the Revised Code,~~the;~~

(b) The requirement of division (A)(2) of this section is met more than ten days after the effective date of the change of operator,~~or both;~~

(c) The requirement of division (A)(3) of this section is met more than ten days after the effective date of the change of operator.

~~(4)(5)~~ (5) The entering operator is eligible for medicaid payments as provided in section 5111.21 of the Revised Code.

(B) The department shall determine the date a provider agreement entered into under this section is to go into effect as follows:

(1) The effective date shall give the department sufficient time to process the change of operator, assure no duplicate payments are made, and make the withholding required by section 5111.681 of the Revised Code; ~~and withhold the final payment to the exiting operator until one hundred~~

eighty days after either of the following:

~~(a) The date that the exiting operator submits to the department a properly completed cost report under section 5111.682 of the Revised Code;~~

~~(b) The date that the department waives the cost report requirement of section 5111.682 of the Revised Code.~~

(2) The effective date shall be not earlier than the ~~later~~ latest of the following:

(a) The effective date of the change of operator or the;

(b) The date that the exiting operator or owner and entering operator ~~comply~~ complies with section 5111.67 of the Revised Code and division (A)(2) of this section;

(c) The date that the exiting operator or owner complies with section 5111.67 of the Revised Code and division (A)(3) of this section.

(3) The effective date shall be not later than the following after the later of the dates specified in division (B)(2) of this section:

(a) Forty-five days if the change of operator does not entail the relocation of residents;

(b) Ninety days if the change of operator entails the relocation of residents.

Sec. 5111.68. (A) On receipt of a written notice under section 5111.66 of the Revised Code of a facility closure, voluntary termination, or voluntary withdrawal of participation ~~or, on receipt of~~ on receipt of a written notice under section 5111.67 of the Revised Code of a change of operator, or on the effective date of an involuntary termination, the department of job and family services shall estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program, including a franchise permit fee.

(B) In estimating the exiting operator's other actual and potential debts to the department and the United States centers for medicare and medicaid services under the medicaid program, the department shall use a debt estimation methodology the director of job and family services shall establish in rules adopted under section 5111.689 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable:

(1) Refunds due the department under section 5111.27 of the Revised Code;

(2) Interest owed to the department and United States centers for

medicare and medicaid services;

(3) Final civil monetary and other penalties for which all right of appeal has been exhausted;

(4) Money owed the department and United States centers for medicare and medicaid services from any outstanding final fiscal audit, including a final fiscal audit for the last fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

(5) Other amounts the department determines are applicable.

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after the department receives the notice under section 5111.66 of the Revised Code of the facility closure, voluntary termination, or voluntary withdrawal of participation ~~or~~; the department receives the notice under section 5111.67 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate.

Sec. 5111.681. (A) Except as provided in divisions (B) ~~and~~, (C), and (D) of this section, the department of job and family services may withhold from payment due an exiting operator under the medicaid program the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code that the exiting operator owes or may owe to the department and United States centers for medicare and medicaid services under the medicaid program.

(B) In the case of a change of operator and subject to division ~~(D)~~(E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or entering operator or an affiliated operator executes a successor liability agreement meeting the requirements of division ~~(E)~~(F) of this section:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (B)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the

exiting operator, entering operator, or affiliated operator assumes liability.

(C) In the case of a voluntary termination, voluntary withdrawal of participation, or facility closure and subject to division ~~(D)~~(E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or an affiliated operator executes a successor liability agreement meeting the requirements of division ~~(E)~~(F) of this section:

(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division (C)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the exiting operator or affiliated operator assumes liability.

(D) In the case of an involuntary termination and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator, the entering operator, or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section and the department approves the successor liability agreement:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5111.68 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B) ~~or~~, (C), or (D) of this

section, both of the following must apply:

(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator;

(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary termination, voluntary withdrawal of participation, or facility closure under section 5111.66 of the Revised Code or the notice of the change of operator under section 5111.67 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator, must equal at least ninety per cent of the sum of the following:

(a) The average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement for the nursing facility or intermediate care facility for the mentally retarded that is the subject of the involuntary termination, voluntary termination, voluntary withdrawal of participation, facility closure, or change of operator;

(b) Whichever of the following apply:

(i) If the exiting operator or affiliated operator has assumed liability under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;

(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.

~~(E)~~(F) A successor liability agreement executed under this section must comply with all of the following:

(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code;

(b) The portion of the amount specified in division ~~(E)~~(F)(1)(a) of this

section that represents the franchise permit fee the exiting operator owes.

(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.

(3) It must provide that the department, after determining under section 5111.685 of the Revised Code the actual amount of debt the exiting operator owes the department and United States centers for medicare and medicaid services under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:

(a) The total, actual amount of debt the exiting operator owes the department and the United States centers for medicare and medicaid services under the medicaid program as determined under section 5111.685 of the Revised Code;

(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement.

(4) It must provide that the deductions authorized by division ~~(E)~~(F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state.

(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division ~~(E)~~(F)(3) of this section are to be made, the operator who executes the successor liability agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division ~~(G)~~(H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund.

~~(F)~~(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5111.68 of the Revised Code.

~~(G)~~(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or agents of the attorney general or by special counsel appointed pursuant to section 109.08 of the Revised Code, collects under a successor liability agreement, other than the additional amount the operator who executes the agreement is required by division ~~(E)~~(F)(5) of this section to pay, shall be paid to the

department of job and family services for deposit into the appropriate fund. The additional amount that the operator is required to pay shall be paid into the state treasury to the credit of the attorney general claims fund created under section 109.081 of the Revised Code.

Sec. 5111.687. The department of job and family services, at its sole discretion, may release the amount withheld under division (A) of section 5111.681 of the Revised Code if the exiting operator submits to the department written notice of a postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are postponed for at least thirty days but less than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code. The department shall release the amount withheld if the exiting operator submits to the department written notice of a cancellation or postponement of a change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation and the transactions leading to the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation are canceled or postponed for more than ninety days after the date originally proposed for the change of operator, facility closure, voluntary termination, or voluntary withdrawal of participation as reported in the written notice required by section 5111.66 or 5111.67 of the Revised Code. A written notice shall be provided to the department in accordance with the method specified in rules adopted under section 5111.689 of the Revised Code.

After the department receives a written notice regarding a cancellation or postponement of a facility closure, voluntary termination, or voluntary withdrawal of participation, the exiting operator or owner shall provide new written notice to the department under section 5111.66 of the Revised Code regarding any transactions leading to a facility closure, voluntary termination, or voluntary withdrawal of participation at a future time. After the department receives a written notice regarding a cancellation or postponement of a change of operator, the exiting operator or owner and entering operator shall provide new written notice to the department under section 5111.67 of the Revised Code regarding any transactions leading to a change of operator at a future time.

Sec. 5111.689. The director of job and family services shall adopt rules under section 5111.02 of the Revised Code to implement sections 5111.65

to 5111.689 of the Revised Code, including rules applicable to an exiting operator that provides written notification under section 5111.66 of the Revised Code of a voluntary withdrawal of participation. Rules adopted under this section shall comply with section 1919(c)(2)(F) of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r(c)(2)(F), regarding restrictions on transfers or discharges of nursing facility residents in the case of a voluntary withdrawal of participation. The rules may prescribe a medicaid reimbursement methodology and other procedures that are applicable after the effective date of a voluntary withdrawal of participation that differ from the reimbursement methodology and other procedures that would otherwise apply. The rules shall specify all of the following:

(A) The method by which written notices to the department required by sections 5111.65 to 5111.689 of the Revised Code are to be provided;

(B) The forms and documents that are to be provided to the department under sections 5111.671 and 5111.672 of the Revised Code, which shall include, in the case of such forms and documents provided by entering operators, all the fully executed leases, management agreements, merger agreements and supporting documents, and fully executed sales contracts and any other supporting documents culminating in the change of operator;

(C) The method by which the forms and documents identified in division (B) of this section are to be provided to the department.

Sec. 5111.83. (A) Not later than January 1, 2012, the director of job and family services shall apply to the United States secretary of health and human services for approval of a medicaid administrative claiming program under which federal financial participation is received as reimbursement for administrative costs incurred by the department of health and the Arthur G. James and Richard J. Solove research institute of the Ohio state university in analyzing and evaluating both of the following pursuant to sections 3701.261 to 3701.236 of the Revised Code:

(1) Cancer reports under the Ohio cancer incidence surveillance system;

(2) The incidence, prevalence, costs, and medical consequences of cancer on medicaid recipients and other low-income populations.

(B) The director of job and family services shall consult with the director of health in seeking approval of the medicaid administrative claiming program. The directors shall cooperate in seeking the approval to the extent they find the approval necessary for the effective and efficient administration of the medicaid program.

Sec. 5111.85. (A) As used in this section and sections 5111.851 to 5111.856 of the Revised Code:

"Home and community-based services medicaid waiver component"

means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital, nursing facility, or intermediate care facility for the mentally retarded services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under section 1115 or 1915 of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5111.16 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services may adopt rules under Chapter 119. of the Revised Code governing medicaid waiver components that establish all of the following:

- (1) Eligibility requirements for the medicaid waiver components;
- (2) The type, amount, duration, and scope of services the medicaid waiver components provide;
- (3) The conditions under which the medicaid waiver components cover services;
- (4) The amount the medicaid waiver components pay for services or the method by which the amount is determined;
- (5) The manner in which the medicaid waiver components pay for services;
- (6) Safeguards for the health and welfare of medicaid recipients receiving services under a medicaid waiver component;
- (7) Procedures for ~~both of the following~~:
 - ~~(a) Identifying individuals who meet all of the following requirements:~~
 - ~~(i) Are prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and on a waiting list for the component;~~
 - ~~(ii) Are receiving inpatient hospital services or residing in an intermediate care facility for the mentally retarded or nursing facility (as appropriate for the component);~~
 - ~~(iii) Choose choose to be enrolled in the component.~~
 - ~~(b) Approving the enrollment of individuals identified under the procedures established under division (B)(7)(a) of this section into the home~~

~~and community-based services medicaid waiver component.;~~

(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating medicaid provider agreements. The procedures shall include due process protections.

(9) Other policies necessary for the efficient administration of the medicaid waiver components.

(C) The director of job and family services may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(D) ~~Any~~ The following apply to procedures established under division (B)(7) of this section:

(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section 173.401 of the Revised Code. ~~Any~~

(2) Any such procedures established for the Ohio home care program shall be consistent with section 5111.862 of the Revised Code.

(3) Any such procedures established for the unified long-term services and support medicaid waiver program shall be consistent with section 5111.865 of the Revised Code.

(4) Any such procedures established ~~under division (B)(7) of this section~~ for the medicaid-funded component of the assisted living program shall be consistent with section 5111.894 of the Revised Code.

Sec. 5111.861. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby created the Ohio home care program. The program shall provide home and community-based services. The department of job and family services shall administer the program.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the Ohio home care program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio home care program should be terminated, the program shall cease to exist on a date the

departments shall specify.

Sec. 5111.862. (A) As used in this section:

"Hospital long-term care unit" has the same meaning as in section 3721.50 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Ohio home care program" means the medicaid waiver component created under section 5111.861 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by the department of mental health under section 5119.22 of the Revised Code that serves children and either has more than sixteen beds or is part of a campus of multiple facilities that, combined, have a total of more than sixteen beds.

(B) Subject to division (C) of section 5111.861 of the Revised Code, the department of job and family services shall establish a home first component for the Ohio home care program. An individual is eligible for the Ohio home care program's home first component if the individual has been determined to be eligible for the Ohio home care program and at least one of the following applies:

(1) If the individual is under twenty-one years of age, the individual received inpatient hospital services for at least fourteen consecutive days, or had at least three inpatient hospital stays during the twelve months, immediately preceding the date the individual applies for the Ohio home care program.

(2) If the individual is at least twenty-one but less than sixty years of age, the individual received inpatient hospital services for at least fourteen consecutive days immediately preceding the date the individual applies for the Ohio home care program.

(3) The individual received private duty nursing services under the medicaid program for at least twelve consecutive months immediately preceding the date the individual applies for the Ohio home care program.

(4) The individual does not reside in a nursing facility or hospital long-term care unit at the time the individual applies for the Ohio home care program but is at risk of imminent admission to a nursing facility or hospital long-term care unit due to a documented loss of a primary caregiver.

(5) The individual resides in a nursing facility at the time the individual applies for the Ohio home care program.

(6) At the time the individual applies for the Ohio home care program, the individual participates in the money follows the person demonstration project authorized by section 6071 of the "Deficit Reduction Act of 2005."

Pub. L. No. 109-171, as amended, and either resides in a residential treatment facility or inpatient hospital setting.

(C) An individual determined to be eligible for the home first component of the Ohio home care program shall be enrolled in the Ohio home care program in accordance with rules adopted under section 5111.85 of the Revised Code.

Sec. 5111.863. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) Subject to division (C) of this section, there is hereby created the Ohio transitions II aging carve-out program. The program shall provide home and community-based services. The department of job and family services shall administer the program.

(C) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services shall work together to determine whether the Ohio transitions II aging carve-out program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the Ohio transitions II aging carve-out program should be terminated, the program shall cease to exist on a date the departments shall specify.

Sec. 5111.864. (A) As used in this section:

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

(B) The director of job and family services shall submit a request to the United States secretary of health and human services pursuant to section 1915n of the "Social Security Act," 95 Stat. 809 (1981), 42 U.S.C. 1396n, as amended, to obtain approval to create a unified long-term services and support medicaid waiver component to provide home and community-based services to eligible individuals of any age who require the level of care provided by nursing facilities. The director of job and family services shall work with the director of aging in seeking approval of the unified long-term services and support medicaid waiver component and, if the approval is obtained, in creating and implementing the component.

If the request to create the unified long-term services and support medicaid waiver component is approved, the director of job and family

services, working with the director of aging, shall adopt rules under section 5111.85 of the Revised Code to implement the component. The rules may authorize the director of aging to adopt rules in accordance with Chapter 119. of the Revised Code governing aspects of the unified long-term services and support medicaid waiver component.

Sec. 5111.865. (A) As used in this section, "unified long-term services and support medicaid waiver program" or "program" means the medicaid waiver component authorized by section 5111.864 of the Revised Code.

(B) If the United States secretary of health and human services approves the request submitted under section 5111.864 of the Revised Code to create the unified long-term services and support medicaid waiver program, the department of job and family services shall establish a home first component for the program. The home first component shall be similar to the home first component of the medicaid-funded component of the PASSPORT program established under section 173.401 of the Revised Code, the home first component of the Ohio home care program established under section 5111.862 of the Revised Code, and the home first component of the medicaid-funded component of the assisted living program established under section 5111.894 of the Revised Code.

Sec. 5111.871. The department of job and family services shall enter into a contract with the department of developmental disabilities under section 5111.91 of the Revised Code with regard to one or more of the ~~medicaid waiver components of the medicaid program~~ established by the department of job and family services under ~~one or more of the medicaid waivers sought under~~ section 5111.87 of the Revised Code. Subject, if needed, to the approval of the United States secretary of health and human services, the contract shall include the medicaid waiver component known as the transitions developmental disabilities waiver. The contract shall provide for the department of developmental disabilities to administer the components in accordance with the terms of the waivers. The contract shall include a schedule for the department of developmental disabilities to begin administering the transitions developmental disabilities waiver. The directors of job and family services and developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing the components.

If the department of developmental disabilities or the department of job and family services denies an individual's application for home and community-based services provided under any of these medicaid components, the department that denied the services shall give timely notice to the individual that the individual may request a hearing under section

5101.35 of the Revised Code.

The departments of developmental disabilities and job and family services may approve, reduce, deny, or terminate a service included in the individualized service plan developed for a medicaid recipient eligible for home and community-based services provided under any of these medicaid components. The departments shall consider the recommendations a county board of developmental disabilities makes under division (A)(1)(c) of section 5126.055 of the Revised Code. If either department approves, reduces, denies, or terminates a service, that department shall give timely notice to the medicaid recipient that the recipient may request a hearing under section 5101.35 of the Revised Code.

If supported living, as defined in section 5126.01 of the Revised Code, is to be provided as a service under any of these components, any person or government entity with a current, valid medicaid provider agreement and a current, valid certificate under section 5123.161 of the Revised Code may provide the service.

If a service is to be provided under any of these components by a residential facility, as defined in section 5123.19 of the Revised Code, any person or government entity with a current, valid medicaid provider agreement and a current, valid license under section 5123.19 of the Revised Code may provide the service.

Sec. 5111.872. ~~When (A)~~ Subject to division (B) of this section, when the department of developmental disabilities allocates enrollment numbers to a county board of developmental disabilities for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under any of the medicaid waiver components ~~of the medicaid program~~ that the department administers under section 5111.871 of the Revised Code, the department shall consider all of the following:

~~(A)(1)~~ (1) The number of individuals with mental retardation or other developmental disability who are on a waiting list the county board establishes under ~~division (C) of~~ section 5126.042 of the Revised Code for those services and are given priority on the waiting list ~~pursuant to division (D) or (E) of that section;~~

~~(B)(2)~~ (2) The implementation component required by division (A)(3) of section 5126.054 of the Revised Code of the county board's plan approved under section 5123.046 of the Revised Code;

~~(C)(3)~~ (3) Anything else the department considers necessary to enable county boards to provide those services to individuals in accordance with the priority requirements ~~of divisions (D) and (E) of~~ for waiting lists

established under section 5126.042 of the Revised Code for those services.

(B) Division (A) of this section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

~~Sec. 5111.873. (A) Not later than the effective date of the first of any medicaid waivers the United States secretary of health and human services grants pursuant to a request made under section 5111.87 of the Revised Code~~ Subject to division (D) of this section, the director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code establishing statewide fee schedules the amount of reimbursement or the methods by which amounts of reimbursement are to be determined for home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the components of the medicaid program that the department of developmental disabilities administers under section 5111.871 of the Revised Code. ~~The~~ With respect to these rules shall provide for, all of the following apply:

(1) The rules shall establish procedures for the department of developmental disabilities to follow in arranging for the initial and ongoing collection of cost information from a comprehensive, statistically valid sample of persons and government entities providing the services at the time the information is obtained;

(2) The rules shall establish procedures for the collection of consumer-specific information through an assessment instrument the department of developmental disabilities shall provide to the department of job and family services;

(3) With the information collected pursuant to divisions (A)(1) and (2) of this section, an analysis of that information, and other information the director determines relevant, methods and the rules shall establish reimbursement standards for calculating the fee schedules that do all of the following:

(a) Assure that the fees are reimbursement is consistent with efficiency, economy, and quality of care;

(b) Consider the intensity of consumer resource need;

(c) Recognize variations in different geographic areas regarding the resources necessary to assure the health and welfare of consumers;

(d) Recognize variations in environmental supports available to consumers.

(B) As part of the process of adopting rules under this section, the

director shall consult with the director of developmental disabilities, representatives of county boards of developmental disabilities, persons who provide the home and community-based services, and other persons and government entities the director identifies.

(C) The directors of job and family services and developmental disabilities shall review the rules adopted under this section at times they determine are necessary to ensure that the ~~methods and amount of reimbursement or the methods by which the amounts of reimbursement are to be determined~~ continue to meet the reimbursement standards established by the rules for calculating the fee schedules ~~continue to do everything that under~~ division (A)(3) of this section ~~requires~~.

(D) This section applies to home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

Sec. 5111.874. (A) As used in sections 5111.874 to 5111.8710 of the Revised Code:

"Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

"ICF/MR services" means intermediate care facility for the mentally retarded services covered by the medicaid program that an intermediate care facility for the mentally retarded provides to a resident of the facility who is a medicaid recipient eligible for medicaid-covered intermediate care facility for the mentally retarded services.

"Intermediate care facility for the mentally retarded" means an intermediate care facility for the mentally retarded that is certified as in compliance with applicable standards for the medicaid program by the director of health in accordance with Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended, and licensed as a residential facility under section 5123.19 of the Revised Code.

"Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(B) For the purpose of increasing the number of slots available for home and community-based services and subject to sections 5111.877 and 5111.878 of the Revised Code, the operator of an intermediate care facility for the mentally retarded may convert some or all of the beds in the facility from providing ICF/MR services to providing home and community-based services if all of the following requirements are met:

(1) The operator provides the directors of health, job and family

services, and developmental disabilities at least ninety days' notice of the operator's intent to ~~relinquish the facility's certification as an intermediate care facility for the mentally retarded and to begin providing home and community-based services~~ make the conversion.

(2) The operator complies with the requirements of sections 5111.65 to 5111.689 of the Revised Code regarding a voluntary termination as defined in section 5111.65 of the Revised Code if those requirements are applicable.

(3) ~~The~~ If the operator intends to convert all of the facility's beds, the operator notifies each of the facility's residents that the facility is to cease providing ICF/MR services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services by transferring to another facility that is an intermediate care facility for the mentally retarded willing and able to accept the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(4) If the operator intends to convert some but not all of the facility's beds, the operator notifies each of the facility's residents that the facility is to convert some of its beds from providing ICF/MR services to providing home and community-based services and inform each resident that the resident may do either of the following:

(a) Continue to receive ICF/MR services from any provider of ICF/MR services that is willing and able to provide the services to the resident if the resident continues to qualify for ICF/MR services;

(b) Begin to receive home and community-based services instead of ICF/MR services from any provider of home and community-based services that is willing and able to provide the services to the resident if the resident is eligible for the services and a slot for the services is available to the resident.

(5) The operator meets the requirements for providing home and community-based services, including the following:

(a) Such requirements applicable to a residential facility if the operator maintains the facility's license as a residential facility;

(b) Such requirements applicable to a facility that is not licensed as a residential facility if the operator surrenders the facility's residential facility license under section 5123.19 of the Revised Code.

~~(5)~~(6) The ~~director~~ directors of developmental disabilities ~~approves and job and family services approve~~ the conversion.

(C) A decision by the directors to approve or refuse to approve a proposed conversion of beds is final. In making a decision, the directors shall consider all of the following:

(1) The fiscal impact on the facility if some but not all of the beds are converted;

(2) The fiscal impact on the medical assistance program;

(3) The availability of home and community-based services.

(D) The notice provided to the directors under division (B)(1) of this section shall specify whether some or all of the facility's beds are to be converted. If some but not all of the beds are to be converted, the notice shall specify how many of the facility's beds are to be converted and how many of the beds are to continue to provide ICF/MR services. The notice to the director of developmental disabilities ~~under division (B)(1) of this section~~ shall specify whether the operator wishes to surrender the facility's license as a residential facility under section 5123.19 of the Revised Code.

~~(D)~~(E)(1) If the ~~director~~ directors of developmental disabilities ~~approves and job and family services approve~~ a conversion under division ~~(B)~~(C) of this section, the director of health shall ~~terminate~~ do the following:

(a) Terminate the certification of the intermediate care facility for the mentally retarded if the notice specifies that all of the facility's beds are to be converted;

(b) Reduce the facility's certified capacity by the number of beds being converted if the notice specifies that some but not all of the beds are to be converted. The

(2) The director of health shall notify the director of job and family services of the termination or reduction. On receipt of the director of health's notice, the director of job and family services shall ~~terminate~~ do the following:

(a) Terminate the operator's medicaid provider agreement that authorizes the operator to provide ICF/MR services at the facility if the facility's certification was terminated;

(b) Amend the operator's medicaid provider agreement to reflect the facility's reduced certified capacity if the facility's certified capacity is reduced. The

(3) In the case of action taken under division (E)(2)(a) of this section, the operator is not entitled to notice or a hearing under Chapter 119. of the Revised Code before the director of job and family services terminates the medicaid provider agreement.

Sec. 5111.877. The director of job and family services may seek approval from the United States secretary of health and human services for not more than a total of ~~one~~ two hundred slots for home and community-based services for the purposes of sections 5111.874, 5111.875, and 5111.876 of the Revised Code.

Sec. 5111.88. (A) As used in sections 5111.88 to 5111.8811 of the Revised Code:

(1) "Adult" means an individual at least eighteen years of age.

(2) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section 5111.8810 of the Revised Code to act on the consumer's behalf for purposes regarding home care attendant services.

(3) "Authorizing health care professional" means a health care professional who, pursuant to section 5111.887 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(4) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

(5) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(6) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.

(7) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

(8) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(9) "Health care professional" means a physician or registered nurse.

(10) "Home care attendant" means an individual holding a valid medicaid provider agreement in accordance with section 5111.881 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

(11) "Home care attendant services" means all of the following as provided by a home care attendant:

(a) Personal care aide services;

(b) Assistance with the self-administration of medication;

(c) Assistance with nursing tasks.

(12) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

(13) "Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means both of the following:

(a) ~~The medicaid waiver component known as Ohio home care that the department of job and family services administers~~ program created under section 5111.861 of the Revised Code;

(b) ~~The medicaid waiver component known as Ohio transitions II aging carve-out that the department of job and family services administers~~ program created under section 5111.863 of the Revised Code.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) The director of job and family services may submit requests to the United States secretary of health and human services to amend the federal

medicaid waivers authorizing the participating medicaid waiver components to have those components cover home care attendant services in accordance with sections 5111.88 to 5111.8810 and rules adopted under section 5111.8811 of the Revised Code. Notwithstanding sections 5111.881 to 5111.8811 of the Revised Code, those sections shall be implemented regarding a participating medicaid waiver component only if the secretary approves a waiver amendment for the component.

Sec. 5111.89. (A) As used in sections 5111.89 to 5111.894 of the Revised Code:

"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.

"Assisted living program" means the program created under this section.

"Assisted living services" means the following home and community-based services: personal care, homemaker, chore, attendant care, companion, medication oversight, and therapeutic social and recreational programming.

"Assisted living waiver" means the federal medicaid waiver granted by the United States secretary of health and human services that authorizes the medicaid-funded component of the assisted living program.

"County or district home" means a county or district home operated under Chapter 5155. of the Revised Code.

"Long-term care consultation program" means the program the department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Medicaid waiver component" has the same meaning as in section 5111.85 of the Revised Code.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential care facility" has the same meaning as in section 3721.01 of the Revised Code.

~~"State administrative agency" means the department of job and family services if the department of job and family services administers the assisted living program or the department of aging if the department of aging administers the assisted living program.~~

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5111.864 of

the Revised Code.

~~(B) There is hereby created the assisted living program. The program shall provide assisted living services to individuals who meet the program's applicable eligibility requirements established under section 5111.891 of the Revised Code. The Subject to division (C) of this section, the program may not serve more individuals than the number that is set by the United States secretary of health and human services when the medicaid waiver authorizing the program is approved shall have a medicaid-funded component and a state-funded component.~~

(C)(1) Unless the medicaid-funded component of the assisted living program is terminated under division (C)(2) of this section, all of the following apply:

(a) The department of aging shall administer the medicaid-funded component through a contract entered into with the department of job and family services under section 5111.91 of the Revised Code.

(b) The contract shall include an estimate of the medicaid-funded component's costs. The program

(c) The medicaid-funded component shall be operated as a separate medicaid waiver component until the United States secretary approves the consolidated federal medicaid waiver sought under section 5111.861 of the Revised Code. The program shall be part of the consolidated federal medicaid waiver sought under that section if the United States secretary approves the waiver.

~~If the director of budget and management approves the contract, the department of job and family services shall enter into a contract with the department of aging under section 5111.91 of the Revised Code that provides for the department of aging to administer the assisted living program. The contract shall include an estimate of the program's costs.~~

The (d) The medicaid-funded component may not serve more individuals than is set by the United States secretary of health and human services in the assisted living waiver.

(e) The director of job and family services may adopt rules under section 5111.85 of the Revised Code regarding the assisted living program medicaid-funded component. The

(f) The director of aging may adopt rules under Chapter 119. of the Revised Code regarding the program medicaid-funded component that the rules adopted by the director of job and family services under division (C)(1)(e) of this section authorize the director of aging to adopt.

(2) If the unified long-term services and support medicaid waiver component is created, the departments of aging and job and family services

shall work together to determine whether the medicaid-funded component of the assisted living program should continue to operate as a separate medicaid waiver component or be terminated. If the departments determine that the medicaid-funded component of the assisted living program should be terminated, the medicaid-funded component shall cease to exist on a date the departments shall specify.

(D) The department of aging shall administer the state-funded component of the assisted living program. The state-funded component shall not be administered as part of the medicaid program.

An individual who is eligible for the state-funded component may participate in the component for not more than three months.

The director of aging shall adopt rules in accordance with section 111.15 of the Revised Code to implement the state-funded component.

Sec. 5111.891. To be eligible for the medicaid-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) Need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

~~(B) At the time the individual applies for the assisted living program, be one of the following:~~

~~(1) A nursing facility resident who is seeking to move to a residential care facility and would remain in a nursing facility for long-term care if not for the assisted living program;~~

~~(2) A participant of any of the following medicaid waiver components who would move to a nursing facility if not for the assisted living program:~~

~~(a) The PASSPORT program created under section 173.40 of the Revised Code;~~

~~(b) The choices program created under section 173.403 of the Revised Code;~~

~~(c) A medicaid waiver component that the department of job and family services administers.~~

~~(3) A resident of a residential care facility who has resided in a residential care facility for at least six months immediately before the date the individual applies for the assisted living program.~~

~~(C) At the time the individual receives While receiving assisted living services under the assisted living program medicaid-funded component, reside in a residential care facility that is authorized by a valid medicaid provider agreement to participate in the assisted living program component, including both of the following:~~

~~(1) A residential care facility that is owned or operated by a~~

metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

~~(D)~~(C) Meet all other eligibility requirements for the ~~assisted living program~~ medicaid-funded component established in rules adopted ~~under~~ pursuant to division (C) of section 5111.85 5111.89 of the Revised Code.

Sec. 5111.892. To be eligible for the state-funded component of the assisted living program, an individual must meet all of the following requirements:

(A) The individual must need an intermediate level of care as determined under rule 5101:3-3-06 of the Administrative Code;

(B) The individual must have an application for the medicaid-funded component of the assisted living program (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component) pending and the department or the department's designee must have determined that the individual meets the nonfinancial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component) and not have reason to doubt that the individual meets the financial eligibility requirements of the medicaid-funded component (or, if the medicaid-funded component is terminated under division (C)(2) of section 5111.89 of the Revised Code, the unified long-term services and support medicaid waiver component).

(C) While receiving assisted living services under state-funded component, the individual must reside in a residential care facility that is authorized by a valid provider agreement to participate in the component, including both of the following:

(1) A residential care facility that is owned or operated by a metropolitan housing authority that has a contract with the United States department of housing and urban development to receive an operating subsidy or rental assistance for the residents of the facility;

(2) A county or district home licensed as a residential care facility.

(D) The individual must meet all other eligibility requirements for the state-funded component established in rules adopted under division (D) of section 5111.89 of the Revised Code.

Sec. 5111.892 5111.893. A residential care facility providing services covered by the assisted living program to an individual enrolled in the

program shall have staff on-site twenty-four hours each day who are able to do all of the following:

(A) Meet the scheduled and unpredicted needs of the individuals enrolled in the assisted living program in a manner that promotes the individuals' dignity and independence;

(B) Provide supervision services for those individuals;

(C) Help keep the individuals safe and secure.

Sec. 5111.894. (A) ~~The state administrative agency~~ Subject to division (C)(2) of section 5111.89 of the Revised Code, the department of aging shall establish a home first component of the assisted living program under which eligible individuals may be enrolled in the medicaid-funded component of the assisted living program in accordance with this section. An individual is eligible for the assisted living program's home first component if ~~all~~ both of the following apply:

(1) The individual ~~is~~ has been determined to be eligible for the medicaid-funded component of the assisted living program.

(2) ~~The individual is on the unified waiting list established under section 173.404 of the Revised Code.~~

(3) At least one of the following applies:

(a) The individual has been admitted to a nursing facility.

(b) A physician has determined and documented in writing that the individual has a medical condition that, unless the individual is enrolled in home and community-based services such as the assisted living program, will require the individual to be admitted to a nursing facility within thirty days of the physician's determination.

(c) The individual has been hospitalized and a physician has determined and documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living program, the individual is to be transported directly from the hospital to a nursing facility and admitted.

(d) Both of the following apply:

(i) The individual is the subject of a report made under section 5101.61 of the Revised Code regarding abuse, neglect, or exploitation or such a report referred to a county department of job and family services under section 5126.31 of the Revised Code or has made a request to a county department for protective services as defined in section 5101.60 of the Revised Code.

(ii) A county department of job and family services and an area agency on aging have jointly documented in writing that, unless the individual is enrolled in home and community-based services such as the assisted living

program, the individual should be admitted to a nursing facility.

(e) The individual resided in a residential care facility for at least six months immediately before applying for the medicaid-funded component of the assisted living program and is at risk of imminent admission to a nursing facility because the costs of residing in the residential care facility have depleted the individual's resources such that the individual is unable to continue to afford the cost of residing in the residential care facility.

(B) Each month, each area agency on aging shall identify individuals residing in the area that the area agency on aging serves who are eligible for the home first component of the assisted living program. When an area agency on aging identifies such an individual and determines that there is a vacancy in a residential care facility participating in the medicaid-funded component of the assisted living program that is acceptable to the individual, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides. The administrator shall determine whether the assisted living program is appropriate for the individual and whether the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility. If the administrator determines that the assisted living program is appropriate for the individual and the individual would rather participate in the assisted living program than continue or begin to reside in a nursing facility, the administrator shall so notify the ~~state administrative agency~~ department of aging. On receipt of the notice from the administrator, the ~~state administrative agency~~ department shall approve the individual's enrollment in the medicaid-funded component of the assisted living program regardless of the unified waiting list established under section 173.404 of the Revised Code, unless the enrollment would cause the ~~assisted living program component~~ program component to exceed any limit on the number of individuals who may participate in the program component as set by the United States secretary of health and human services ~~when the medicaid waiver authorizing in the program is approved~~ assisted living waiver.

~~(C) Each quarter, the state administrative agency shall certify to the director of budget and management the estimated increase in costs of the assisted living program resulting from enrollment of individuals in the assisted living program pursuant to this section.~~

Sec. 5111.911. Any contract the department of job and family services enters into with the department of mental health or department of alcohol and drug addiction services under section 5111.91 of the Revised Code is subject to the approval of the director of budget and management and shall require or specify all of the following:

(A) In the case of a contract with the department of mental health, that section 5111.912 of the Revised Code be complied with;

(B) In the case of a contract with the department of alcohol and drug addiction services, that section 5111.913 of the Revised Code be complied with;

(C) How providers will be paid for providing the services;

(D) The department of mental health's or department of alcohol and drug addiction services' responsibilities for reimbursing with regard to providers, including program oversight and quality assurance.

Sec. 5111.912. If the department of job and family services enters into a contract with the department of mental health under section 5111.91 of the Revised Code, the department of ~~mental health and boards of alcohol, drug addiction, and mental health~~ job and family services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of mental health administers. If necessary, the director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services regarding the department of job and family services' duty under this section.

Sec. 5111.913. If the department of job and family services enters into a contract with the department of alcohol and drug addiction services under section 5111.91 of the Revised Code, the department of ~~alcohol and drug addiction services and boards of alcohol, drug addiction, and mental health~~ job and family services shall pay the nonfederal share of any medicaid payment to a provider for services under the component, or aspect of the component, the department of alcohol and drug addiction services administers. If necessary, the director of job and family services shall submit a medicaid state plan amendment to the United States secretary of health and human services regarding the department of job and family services' duty under this section.

Sec. 5111.94. (A) As used in this section, "vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

(B) There is hereby created in the state treasury the health care services administration fund. Except as provided in division (C) of this section, all the following shall be deposited into the fund:

(1) Amounts deposited into the fund pursuant to sections 5111.92 and 5111.93 of the Revised Code;

(2) The amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers

pursuant to a tort action under the department's right of recovery under section 5101.58 of the Revised Code that exceeds the state share of all money the department, in fiscal year 2002, recovers pursuant to a tort action under that right of recovery;

(3) Subject to division (D) of this section, the amount of the state share of all money the department of job and family services, in fiscal year 2003 and each fiscal year thereafter, recovers through audits of medicaid providers that exceeds the state share of all money the department, in fiscal year 2002, recovers through such audits;

(4) Amounts from assessments on hospitals under section 5112.06 of the Revised Code and intergovernmental transfers by governmental hospitals under section 5112.07 of the Revised Code that are deposited into the fund in accordance with the law;

(5) Amounts that the department of education pays to the department of job and family services, if any, pursuant to an interagency agreement entered into under section 5111.713 of the Revised Code;

(6) The application fees charged to providers under section 5111.063 of the Revised Code;

(7) The fines collected under section 5111.271 of the Revised Code.

(C) No funds shall be deposited into the health care services administration fund in violation of federal statutes or regulations.

(D) In determining under division (B)(3) of this section the amount of money the department, in a fiscal year, recovers through audits of medicaid providers, the amount recovered in the form of vendor offset shall be excluded.

(E) The director of job and family services shall use funds available in the health care services administration fund to pay for costs associated with the administration of the medicaid program.

Sec. 5111.941. ~~(A) The medicaid revenue and collections fund is hereby created in the state treasury. Except as otherwise provided by statute or as authorized by the controlling board, both of the following shall be credited to the fund:~~

~~(1) The the nonfederal share of all medicaid-related revenues, collections, and recoveries;~~

~~(2) The monthly premiums charged under the children's buy-in program pursuant to section 5101.5213 of the Revised Code shall be credited to the fund.~~

~~(B) The department of job and family services shall use money credited to the medicaid revenue and collections fund to pay for medicaid services and contracts and the children's buy-in program established under sections~~

~~5101.5211 to 5101.5216 of the Revised Code.~~

Sec. 5111.944. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Dual eligible integrated care demonstration project" means the demonstration project authorized by section 5111.981 of the Revised Code.

"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) There is created in the state treasury the integrated care delivery systems fund. If the terms of the federal approval for the dual eligible integrated care demonstration project provide for the state to receive a portion of the amounts that the demonstration project saves the medicare program, such amounts shall be deposited into the fund. The department of job and family services shall use the money in the fund to further develop integrated delivery systems and improved care coordination for dual eligible individuals.

Sec. 5111.945. There is created in the state treasury the health care special activities fund. The department of job and family services shall deposit all funds it receives pursuant to the administration of the medicaid program into the fund, other than any such funds that are required by law to be deposited into another fund. The department shall use the money in the fund to pay for expenses related to the services provided under, and the administration of, the medicaid program.

~~Sec. 5111.97. (A) As used in this section and in section 5111.971 of the Revised Code, "nursing facility" has the same meaning as in section 5111.20 of the Revised Code.~~

~~(B) To the extent funds are available, the director of job and family services may establish the Ohio access success project to help medicaid recipients make the transition from residing in a nursing facility to residing in a community setting. The program project may be established as a separate non-medicaid nonmedicaid program or integrated into a new or existing program of medicaid-funded home and community-based services authorized by a waiver approved by the United States department of health and human services. The director shall permit any recipient of medicaid-funded nursing facility services to apply for participation in the program project, but may limit the number of program project participants. If an application is received before the applicant has been a recipient of medicaid-funded nursing facility services for six months, the~~

The director shall ensure that an assessment of an applicant is conducted

as soon as practicable to determine whether the applicant is eligible for participation in the ~~program~~ project. To the maximum extent possible, the assessment and eligibility determination shall be completed not later than the date that occurs six months after the applicant became a recipient of medicaid-funded nursing facility services.

(C) To be eligible for benefits under the project, a medicaid recipient must satisfy all of the following requirements:

(1) ~~Be~~ The medicaid recipient must be a recipient of medicaid-funded nursing facility services, at the time of applying for the project benefits;

(2) ~~Need the level of care provided by nursing facilities;~~

~~(3) For participation in a non-medicaid~~ If the project is established as a nonmedicaid program, receive services the medicaid recipient must be able to remain in the community with a as a result of receiving project benefits and the projected cost of the benefits to the project does not exceeding exceed eighty per cent of the average monthly medicaid cost of a medicaid recipient in a nursing facility;

~~(4) For participation in a program established as part of.~~

(3) If the project is integrated into a medicaid-funded home and community-based services waiver program, the medicaid recipient must meet waiver enrollment criteria.

(D) If the director establishes the Ohio access success project, the benefits provided under the project may include payment of all of the following:

(1) The first month's rent in a community setting;

(2) Rental deposits;

(3) Utility deposits;

(4) Moving expenses;

(5) Other expenses not covered by the medicaid program that facilitate a medicaid recipient's move from a nursing facility to a community setting.

(E) If the project is established as a ~~non-medicaid~~ nonmedicaid program, no participant may receive more than two thousand dollars worth of benefits under the project.

(F) The director may submit a request to the United States secretary of health and human services pursuant to section 1915 of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396n, as amended, to create a medicaid home and community-based services waiver program to serve individuals who meet the criteria for participation in the Ohio access success project. The director may adopt rules under Chapter 119. of the Revised Code for the administration and operation of the ~~program~~ project.

Sec. 5111.981. (A) As used in this section:

"Dual eligible individual" has the same meaning as in section 1915(h)(2)(B) of the "Social Security Act," 124 Stat. 315 (2010), 42 U.S.C. 1396n(h)(2)(B).

"Medicare program" means the program created under Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1395, as amended.

(B) Subject to division (C) of this section, the director of job and family services may implement a demonstration project to test and evaluate the integration of the care that dual eligible individuals receive under the medicare and medicaid programs. No provision of Title LI of the Revised Code applies to the demonstration project if that provision implements or incorporates a provision of federal law governing the medicaid program and that provision of federal law does not apply to the demonstration project.

(C) Before implementing the demonstration project under division (B) of this section, the director shall obtain the approval of the United States secretary of health and human services in the form of a federal medicaid waiver, medicaid state plan amendment, or demonstration grant. The director is required to seek the federal approval only if the director seeks to implement the demonstration project. The director shall implement the demonstration project in accordance with the terms of the federal approval, including the terms regarding the duration of the demonstration project.

Sec. 5112.30. As used in sections 5112.30 to 5112.39 of the Revised Code:

(A) "Franchise permit fee rate" means the following:

(1) ~~Until August 1, 2009, eleven dollars and ninety-eight cents;~~

~~(2) For the period beginning August 1, 2009, and ending June 30, 2010, fourteen dollars and seventy-five cents;~~

~~(3) For fiscal year 2011 2012, thirteen seventeen dollars and fifty-five ninety-nine cents;~~

~~(4)(2) For fiscal year 2012 2013 and each fiscal year thereafter, the rate used for the immediately preceding fiscal year as adjusted in accordance with the composite inflation factor established in rules adopted under section 5112.39 of the Revised Code eighteen dollars and thirty-two cents.~~

(B) "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), as amended, 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.

(C) "Intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code, except that, until August 1, 2009, it does not include any such facility operated by the department of developmental disabilities.

~~(C)~~(D) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

Sec. 5112.31. The department of job and family services shall do all of the following:

(A) Subject to ~~division~~ divisions (B) and (C) of this section and for the purposes specified in sections 5112.37 and 5112.371 of the Revised Code, assess for each fiscal year each intermediate care facility for the mentally retarded a franchise permit fee equal to the franchise permit fee rate multiplied by the product of the following:

(1) The number of beds certified under Title XIX of the "Social Security Act" on the first day of May of the calendar year in which the assessment is determined pursuant to division (A) of section 5112.33 of the Revised Code;

(2) The following number of days:

~~(a) For fiscal year 2010, the following:~~

~~(i) For the part of fiscal year 2010 during which the franchise permit fee rate is eleven dollars and ninety eight cents, the number of days during fiscal year 2010 during which the franchise permit fee rate is that amount;~~

~~(ii) For the part of fiscal year 2010 during which the franchise permit fee rate is fourteen dollars and seventy five cents, the number of days during fiscal year 2010 during which the franchise permit fee is that amount;~~

~~(iii) For fiscal year 2011 and each fiscal year thereafter, the number of days in the fiscal year.~~

(B) If the total amount of the franchise permit fee assessed under division (A) 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 intermediate care facilities for the mentally retarded for that fiscal year, do both of the following:

(1) Recalculate the assessments under division (A) 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 intermediate care facilities for the mentally retarded for that fiscal year;

(2) Refund the difference between the amount of the franchise permit fee assessed for that fiscal year under division (A) of this section and the

amount recalculated under division (B)(1) of this section as a credit against the assessments imposed under division (A) of this section for the subsequent fiscal year.

(C) If the United States secretary of health and human services determines that the franchise permit fee established by sections 5112.30 to 5112.39 of the Revised Code would be an impermissible health care-related tax under section 1903(w) of the "Social Security Act," 42 U.S.C.A. 1396b(w), as amended, take all necessary actions to cease implementation of those sections in accordance with rules adopted under section 5112.39 of the Revised Code.

Sec. 5112.37. There is hereby created in the state treasury the home and community-based services for the mentally retarded and developmentally disabled fund. ~~Eighty-four~~ Eighty-one and ~~two-tenths~~ seventy-seven hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year ~~2010~~ 2012 shall be deposited into the fund. ~~Seventy-nine~~ Eighty-two and ~~twelve-hundredths~~ two tenths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year ~~2011~~ 2013 and thereafter shall be deposited into the fund. The department of job and family services shall distribute the money in the fund in accordance with rules adopted under section 5112.39 of the Revised Code. The departments of job and family services and developmental disabilities shall use the money for the medicaid program established under Chapter 5111. of the Revised Code and home and community-based services to mentally retarded and developmentally disabled persons.

Sec. 5112.371. There is hereby created in the state treasury the department of developmental disabilities operating and services fund. ~~Fifteen and eight tenths per cent of all~~ All installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code ~~for state fiscal year 2010~~ that are not deposited into the home and community-based services for the mentally retarded and developmentally disabled fund shall be deposited into the department of developmental disabilities operating and services fund. ~~Twenty and eighty eight hundredths per cent of all installment payments and penalties paid by an intermediate care facility for the mentally retarded under sections 5112.33 and 5112.34 of the Revised Code for state fiscal year 2011 and thereafter shall be deposited into the fund.~~ The money in the fund shall be used for the expenses of the programs that the

department of ~~mental retardation and~~ developmental disabilities administers and the department's administrative expenses.

Sec. 5112.39. The director of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to do all of the following:

~~(A)~~ Establish a composite inflation factor for the purpose of division ~~(A)(4)~~ of section 5112.30 of the Revised Code;

~~(B)~~ Prescribe the actions the department will take to cease implementation of sections 5112.30 to 5112.39 of the Revised Code if the United States secretary of health and human services determines that the franchise permit fee imposed under section 5112.31 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.A. 1396b(w), as amended;

~~(C)~~~~(B)~~ Establish the method of distributing the money in the home and community-based services for the mentally retarded and developmentally disabled fund created by section 5112.37 of the Revised Code;

~~(D)~~~~(C)~~ Establish any other requirements or procedures the director considers necessary to implement sections 5112.30 to 5112.39 of the Revised Code.

Sec. 5112.40. As used in sections 5112.40 to 5112.48 of the Revised Code:

(A) "Applicable assessment percentage" means the percentage specified in rules adopted under section 5112.46 of the Revised Code that is used in calculating a hospital's assessment under section 5112.41 of the Revised Code.

(B) "Assessment program year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

~~(B)~~~~(C)~~ "Cost reporting period" means the period of time used by a hospital in reporting costs for purposes of the medicare program.

~~(C)~~~~(D)~~ "Federal fiscal year" means the twelve-month period beginning the first day of October of a calendar year and ending the last day of September of the following calendar year.

~~(D)~~~~(E)~~(1) Except as provided in division ~~(D)~~~~(E)~~(2) of this section, "hospital" means a hospital to which any of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital and provides inpatient hospital services, as defined in 42 C.F.R. 440.10.

(b) The hospital is recognized under the medicare program as a cancer

hospital and is exempt from the medicare prospective payment system.

(c) The hospital is a psychiatric hospital licensed under section 5119.20 of the Revised Code.

(2) "Hospital" does not include either of the following:

(a) A federal hospital;

(b) A hospital that does not charge any of its patients for its services.

~~(E)~~(F) "Hospital care assurance program" means the program established under sections 5112.01 to 5112.21 of the Revised Code.

~~(F)~~(G) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

~~(G)~~(H) "Medicare" means the program established under Title XVIII of the Social Security Act.

~~(H)~~(I) "State fiscal year" means the twelve-month period beginning the first day of July of a calendar year and ending the last day of June of the following calendar year.

~~(I)~~(J)(1) Except as provided in divisions ~~(I)~~(J)(2) and (3) of this section, "total facility costs" means the total costs to a hospital for all care provided to all patients, including the direct, indirect, and overhead costs to the hospital of all services, supplies, equipment, and capital related to the care of patients, regardless of whether patients are enrolled in a health insuring corporation.

(2) "Total facility costs" excludes all of the following of a hospital's costs as shown on the cost-reporting data used for purposes of determining the hospital's assessment under section 5112.41 of the Revised Code:

(a) Skilled nursing services provided in distinct-part nursing facility units;

(b) Home health services;

(c) Hospice services;

(d) Ambulance services;

(e) Renting durable medical equipment;

(f) Selling durable medical equipment.

(3) "Total facility costs" excludes any costs excluded from a hospital's total facility costs pursuant to rules, if any, adopted under division (B)(1) of section 5112.46 of the Revised Code.

Sec. 5112.41. (A) For the purposes specified in section 5112.45 of the Revised Code and subject to section 5112.48 of the Revised Code, there is hereby imposed an assessment on all hospitals each assessment program year. The amount of a hospital's assessment for an assessment program year shall equal, ~~except as provided in division (D) of this section, the applicable assessment percentage specified in division (B) of this section~~ of the

hospital's total facility costs for the period of time specified in division ~~(C)~~(B) of this section. The amount of a hospital's total facility costs shall be derived from cost-reporting data for the hospital submitted to the department of job and family services for purposes of the hospital care assurance program. If a hospital has not submitted that cost-reporting data to the department, the amount of a hospital's total facility costs shall be derived from other financial statements that the hospital shall provide to the department as directed by the department. The cost-reporting data or financial statements used to determine a hospital's assessment is subject to the same type of adjustments made to the cost-reporting data under the hospital care assurance program.

~~(B)~~ The percentage specified in this division is the following:

~~(1)~~ For the first assessment program year beginning after the effective date of this section, one and fifty-two hundredths per cent;

~~(2)~~ Subject to division ~~(D)~~ of this section, for the second assessment program year after the effective date of this section and each successive assessment program year, one and sixty-one hundredths per cent.

~~(C)~~ The period of time specified in this division is the hospital's cost reporting period that ends in the state fiscal year that ends in the federal fiscal year that precedes the federal fiscal year that precedes the assessment program year for which the assessment is imposed.

~~(D)~~ 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)~~ to establish, for the second assessment program year after the effective date of this section and each successive assessment program year, a tiered assessment on hospitals' total facility costs instead of applying the percentage specified in division ~~(B)~~(2) of this section. If the United States secretary denies the waiver, the department shall apply the percentage specified in division ~~(B)~~(2) of this section for the second assessment program year after the effective date of this section and each successive assessment program year.

~~(E)~~(C) The assessment imposed by this section on a hospital is in addition to the assessment imposed by section 5112.06 of the Revised Code.

Sec. 5112.46. (A) The director of job and family services ~~may~~ shall adopt, amend, and rescind rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5112.40 to 5112.48 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5112.41 of the Revised Code.

(B) The rules adopted under this section may ~~provide~~ do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5112.41 of the Revised Code exclude any of the following:

~~(1)(a)~~ A hospital's costs associated with providing care to recipients of any of the following:

~~(a)(i)~~ The medicaid program;

~~(b)(ii)~~ The medicare program;

~~(c)(iii)~~ The disability financial assistance program established under Chapter 5115. of the Revised Code;

~~(d)(iv)~~ The program for medically handicapped children established under section 3701.023 of the Revised Code;

~~(e)(v)~~ Services provided under the maternal and child health services block grant established under Title V of the Social Security Act.

~~(2)(b)~~ Any other category of hospital costs the director deems appropriate under federal law and regulations governing the medicaid program.

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;

(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section 5112.43 of the Revised Code.

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under section 1903(w)(3)(E) of the "Social Security Act," 105 Stat. 1796 (1991), 42 U.S.C. 1396b(w)(3)(E), as amended, if the varied percentages would cause the assessments to not be imposed uniformly.

Sec. 5112.99. (A) The director of job and family services shall impose a penalty for each day that a hospital fails to report the information required under section 5112.04 of the Revised Code on or before the dates specified in that section. The amount of the penalty shall be established by the director in rules adopted under section 5112.03 of the Revised Code.

(B) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments and transfers under sections 5112.01 to 5112.21 of the Revised Code, the director shall impose a penalty of ten per cent of the amount due on any hospital that fails to pay assessments or make intergovernmental transfers by the dates required by rules adopted under section 5112.03 of the Revised Code.

(C) In addition to any other remedy available to the department of job and family services under law to collect unpaid assessments imposed under section 5112.41 of the Revised Code, the director shall impose a penalty of ten per cent of the amount due on any hospital that fails to pay the assessment by the date it is due.

(D) The director shall waive the penalties provided for in ~~divisions (A) and (B)~~ of this section for good cause shown by the hospital.

(E) All penalties imposed under this section shall be deposited into the health care administration fund created by section 5111.94 of the Revised Code.

Sec. 5112.991. The department of job and family services may offset the amount of a hospital's unpaid penalty imposed under section 5112.99 of the Revised Code from one or more payments due the hospital under the medicaid program. The total amount that may be offset from one or more payments shall not exceed the amount of the unpaid penalty.

Sec. 5119.01. The director of mental health is the chief executive and administrative officer of the department of mental health. The director may establish procedures for the governance of the department, conduct of its employees and officers, performance of its business, and custody, use, and preservation of departmental records, papers, books, documents, and property. Whenever the Revised Code imposes a duty upon or requires an action of the department or any of its institutions, the director shall perform the action or duty in the name of the department, except that the medical director appointed pursuant to section 5119.07 of the Revised Code shall be responsible for decisions relating to medical diagnosis, treatment, rehabilitation, quality assurance, and the clinical aspects of the following: licensure of hospitals and residential facilities, research, community mental health plans, and delivery of mental health services.

The director shall:

(A) Adopt rules for the proper execution of the powers and duties of the department with respect to the institutions under its control, and require the performance of additional duties by the officers of the institutions as necessary to fully meet the requirements, intents, and purposes of this chapter. In case of an apparent conflict between the powers conferred upon any managing officer and those conferred by such sections upon the department, the presumption shall be conclusive in favor of the department.

(B) Adopt rules for the nonpartisan management of the institutions under the department's control. An officer or employee of the department or any officer or employee of any institution under its control who, by solicitation or otherwise, exerts influence directly or indirectly to induce any

other officer or employee of the department or any of its institutions to adopt the exerting officer's or employee's political views or to favor any particular person, issue, or candidate for office shall be removed from the exerting officer's or employee's office or position, by the department in case of an officer or employee, and by the governor in case of the director.

(C) Appoint such employees, including the medical director, as are necessary for the efficient conduct of the department, and prescribe their titles and duties;

(D) Prescribe the forms of affidavits, applications, medical certificates, orders of hospitalization and release, and all other forms, reports, and records that are required in the hospitalization or admission and release of all persons to the institutions under the control of the department, or are otherwise required under this chapter or Chapter 5122. of the Revised Code;

(E) Contract with hospitals licensed by the department under section 5119.20 of the Revised Code for the care and treatment of mentally ill patients, or with persons, organizations, or agencies for the custody, evaluation, supervision, care, or treatment of mentally ill persons receiving services elsewhere than within the enclosure of a hospital operated under section 5119.02 of the Revised Code;

(F) Exercise the powers and perform the duties relating to community mental health facilities and services that are assigned to the director under this chapter and Chapter 340. of the Revised Code;

(G) Develop and implement clinical evaluation and monitoring of services that are operated by the department;

~~(H) At the director's discretion, adopt rules establishing standards for the adequacy of services provided by community mental health facilities, and certify the compliance of such facilities with the standards for the purpose of authorizing their participation in the health care plans of health insuring corporations under Chapter 1751. and sickness and accident insurance policies issued under Chapter 3923. of the Revised Code. The director shall cease to certify such compliance two years after June 6, 2001. The director shall rescind the rules after the date the director ceases to certify such compliance.~~

(H) Adopt rules establishing standards for the performance of evaluations by a forensic center or other psychiatric program or facility of the mental condition of defendants ordered by the court under section 2919.271, or 2945.371 of the Revised Code, and for the treatment of defendants who have been found incompetent to stand trial and ordered by the court under section 2945.38, 2945.39, 2945.401, or 2945.402 of the Revised Code to receive treatment in facilities;

~~(I)~~(I) On behalf of the department, have the authority and responsibility for entering into contracts and other agreements;

~~(K)~~(J) Prepare and publish regularly a state mental health plan that describes the department's philosophy, current activities, and long-term and short-term goals and activities;

~~(L)~~(K) Adopt rules in accordance with Chapter 119. of the Revised Code specifying the supplemental services that may be provided through a trust authorized by section 5815.28 of the Revised Code;

~~(M)~~(L) Adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the maintenance and distribution to a beneficiary of assets of a trust authorized by section 5815.28 of the Revised Code.

Sec. 5119.012. The department of mental health has all the authority necessary to carry out its powers and duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code.

Sec. 5119.013. Pursuant to the director of mental health's authority under division (I) of section 5119.01 of the Revised Code, the director may contract with agencies, institutions, and other entities both public and private, as necessary for the department of mental health to carry out its duties under this chapter and Chapters 340., 2919., 2945., and 5122. of the Revised Code. Chapter 125. of the Revised Code does not apply to contracts the director enters into under this section for services provided to individuals with mental illness by agencies, institutions, and other entities not owned or operated by the department of mental health.

Sec. 5119.02. (A) The department of mental health shall maintain, operate, manage, and govern state institutions for the care and treatment of mentally ill persons.

(B) The department of mental health may designate all institutions under its jurisdiction by appropriate respective names, regardless of present statutory designation.

(C) Subject to section 5139.08 and pursuant to Chapter 5122. of the Revised Code and on the agreement of the departments of mental health and youth services, the department of mental health may receive from the department of youth services for psychiatric observation, diagnosis, or treatment any person eighteen years of age or older in the custody of the department of youth services. The departments shall enter into a written agreement specifying the procedures necessary to implement this division.

(D) The department of mental health shall ~~provide and~~ designate hospitals, facilities, and community mental health agencies for the custody, care, and special treatment of, and authorize payment for such custody, care,

and special treatment provided to, persons who are charged with a crime and who are found incompetent to stand trial or not guilty by reason of insanity.

(E) The department of mental health may do all of the following:

(1) Require reports from the managing officer of any institution under the department's jurisdiction, relating to the admission, examination, comprehensive evaluation, diagnosis, release, or discharge of any patient;

(2) Visit each institution regularly to review its operations and to investigate complaints made by any patient or by any person on behalf of a patient, provided these duties may be performed by a person designated by the director.

(F) The department of mental health shall divide the state into districts for the purpose of designating the institution in which mentally ill persons are hospitalized, and may change the districts.

(G) In addition to the powers expressly conferred, the department of mental health shall have all powers and authority necessary for the full and efficient exercise of the executive, administrative, and fiscal supervision over the state institutions described in this section.

(H) The department of mental health may provide for the custody, supervision, control, treatment, and training of mentally ill persons hospitalized elsewhere than within the enclosure of a hospital, if the department so determines with respect to any individual or group of individuals. In all such cases, the department shall ensure adequate and proper supervision for the protection of such persons and of the public.

Sec. 5119.06. ~~(A)~~ The department of mental health shall:

~~(1) Establish and~~ (A) To the extent the department has available resources and in consultation with boards of alcohol, drug addiction, and mental health services, support a program at the state level to promote a community support system in accordance with section 340.03 of the Revised Code to be available for every alcohol, drug addiction, and mental health service district on a district or multi-district basis. The department shall define the essential elements of a community support system, shall assist in identifying resources, and ~~coordinating the planning, evaluation, and delivery of services to facilitate the access of mentally ill people to public services at federal, state, and local levels, and shall operate~~ may prioritize support for one or more of the elements.

~~(B) Operate~~ inpatient and other mental health services ~~pursuant to the approved community mental health plan.~~

~~(2);~~

(C) Provide training, consultation, and technical assistance regarding mental health programs and services and appropriate prevention and mental

health promotion activities, including those that are culturally sensitive, to employees of the department, community mental health agencies and boards, and other agencies providing mental health services;

~~(3)~~(D) To the extent the department has available resources, promote and support a full range of mental health services that are available and accessible to all residents of this state, especially for severely mentally disabled children, adolescents, and adults, and other special target populations, including racial and ethnic minorities, as determined by the department;

~~(4)~~(E) Design and set criteria for the determination of severe mental disability;

~~(5)~~(F) Establish standards for evaluation of mental health programs;

~~(6)~~(G) Promote, direct, conduct, and coordinate scientific research, taking ethnic and racial differences into consideration, concerning the causes and prevention of mental illness, methods of providing effective services and treatment, and means of enhancing the mental health of all residents of this state;

~~(7)~~(H) Foster the establishment and availability of vocational rehabilitation services and the creation of employment opportunities for consumers of mental health services, including members of racial and ethnic minorities;

~~(8)~~(I) Establish a program to protect and promote the rights of persons receiving mental health services, including the issuance of guidelines on informed consent and other rights;

~~(9)~~(J) Establish, in consultation with board of alcohol, drug addiction, and mental health services representatives and after consideration of the recommendations of the medical director, guidelines for the development of community mental health plans and the review and approval or disapproval of such plans submitted pursuant to section 340.03 of the Revised Code;

~~(10)~~(K) Promote the involvement of persons who are receiving or have received mental health services, including families and other persons having a close relationship to a person receiving mental health services, in the planning, evaluation, delivery, and operation of mental health services;

~~(H)~~(L) Notify and consult with the relevant constituencies that may be affected by rules, standards, and guidelines issued by the department of mental health. These constituencies shall include consumers of mental health services and their families, and may include public and private providers, employee organizations, and others when appropriate. Whenever the department proposes the adoption, amendment, or rescission of rules under Chapter 119. of the Revised Code, the notification and consultation

required by this division shall occur prior to the commencement of proceedings under Chapter 119. The department shall adopt rules under Chapter 119. of the Revised Code that establish procedures for the notification and consultation required by this division.

~~(12)~~(M) In cooperation with board of alcohol, drug addiction, and mental health services representatives, provide training regarding the provision of community-based mental health services to those department employees who are utilized in state-operated, community-based mental health services;

~~(13)~~(N) Provide consultation to the department of rehabilitation and correction concerning the delivery of mental health services in state correctional institutions;

~~(B) The department of mental health may negotiate and enter into agreements with other agencies and institutions, both public and private, for the joint performance of its duties.~~

Sec. 5119.18. There is hereby created in the state treasury the department of mental health trust fund. Not later than the first day of September of each year, the director of mental health shall certify to the director of budget and management the amount of all of the unexpended, unencumbered balances of general revenue fund appropriations made to the department of mental health for the previous fiscal year, excluding funds appropriated for rental payments to the Ohio public facilities commission. On receipt of the certification, the director of budget and management shall transfer cash to the trust fund in an amount up to, but not exceeding, the total of the amounts certified by the director of mental health.

In addition, the trust fund shall receive all amounts, subject to any provisions in bond documents, received from the sale or lease of lands and facilities by the department.

All moneys in the trust fund shall be used by the department of mental health ~~for mental health purposes specified in division (A) of section 5119.06 of the Revised Code to pay for expenditures the department incurs in performing any of its duties under this chapter.~~ The use of moneys in the trust fund pursuant to this section does not represent an ongoing commitment to the continuation of the trust fund or to the use of moneys in the trust fund.

Sec. 5119.22. (A)(1) As used in this section and section 5119.221 of the Revised Code:

(a) "Community mental health agency" means a community mental health agency as defined in division (H) of section 5122.01 of the Revised Code, ~~or, until two years after the effective date of this amendment, a~~

~~community mental health facility certified by the department of mental health pursuant to division (H) of section 5119.01 of the Revised Code.~~

(b) "Community mental health services" means any of the services listed in section 340.09 of the Revised Code.

(c) "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 this section;

(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 this section.

"Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(1)(c) of this section to be considered to be providing personal care services.

(d) "Residential facility" means a publicly or privately operated home or facility that provides one of the following:

(i) Room and board, personal care services, and community mental health services to one or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(ii) Room and board and personal care services to one or two persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner;

(iii) Room and board to five or more persons with mental illness or persons with severe mental disabilities who are referred by or are receiving community mental health services from a community mental health agency, hospital, or practitioner.

The following are not residential facilities: the residence of a relative or guardian of a mentally ill individual, a hospital subject to licensure under section 5119.20 of the Revised Code, a residential facility as defined in section 5123.19 of the Revised Code, a facility providing care for a child in the custody of a public children services agency or a private agency certified under section 5103.03 of the Revised Code, a foster care facility subject to section 5103.03 of the Revised Code, an adult care facility subject to licensure under ~~Chapter 3722~~ sections 5119.70 to 5119.88 of the Revised Code, and a nursing home, residential care facility, or home for the aging

subject to licensure under section 3721.02 of the Revised Code.

(2) Nothing in division (A)(1)(d) of this section shall be construed to permit personal care services to be imposed on a resident who is capable of performing the activity in question without assistance.

(3) Except in the case of a residential facility described in division (A)(1)(d)(i) of this section, members of the staff of a residential facility shall not administer medication to residents, all medication taken by residents of a residential facility shall be self-administered, and no person shall be admitted to or retained by a residential facility unless the person is capable of taking the person's own medication and biologicals, as determined in writing by the person's personal physician. Members of the staff of a residential facility may do any of 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 in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted pursuant to this section, 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.

(B) Every person operating or desiring to operate a residential facility shall apply for licensure of the facility to the department of mental health and shall send a copy of the application to the board of alcohol, drug addiction, and mental health services whose service district includes the county in which the person operates or desires to operate a residential facility. The board shall review such applications and recommend approval or disapproval to the department. Each recommendation shall be consistent with the board's community mental health plan.

(C) The department of mental health shall inspect and license the operation of residential facilities. The department shall consider the past record of the facility and the applicant or licensee in arriving at its licensure decision. The department may issue full, probationary, and interim licenses. A full license shall expire two years after the date of issuance, a probationary license shall expire in a shorter period of time as prescribed by

rule adopted by the director of mental health pursuant to Chapter 119. of the Revised Code, and an interim license shall expire ninety days after the date of issuance. The department may refuse to issue or renew and may revoke a license if it finds the facility is not in compliance with rules adopted by the department pursuant to division (G) of this section or if any facility operated by the applicant or licensee has had repeated violations of statutes or rules during the period of previous licenses. Proceedings initiated to deny applications for full or probationary licenses or to revoke such licenses are governed by Chapter 119. of the Revised Code.

(D) The department may issue an interim license to operate a residential facility if both of the following conditions are met:

(1) The department determines that the closing of or the need to remove residents from another residential facility has created an emergency situation requiring immediate removal of residents and an insufficient number of licensed beds are available.

(2) The residential facility applying for an interim license meets standards established for interim licenses in rules adopted by the director under Chapter 119. of the Revised Code.

An interim license shall be valid for ninety days and may be renewed by the director no more than twice. Proceedings initiated to deny applications for or to revoke interim licenses under this division are not subject to Chapter 119. of the Revised Code.

(E) The department of mental health may conduct an inspection of a residential facility:

(1) Prior to the issuance of a license to a prospective operator;

(2) Prior to the renewal of any operator's license;

(3) To determine whether a facility has completed a plan of correction required pursuant to this division and corrected deficiencies to the satisfaction of the department and in compliance with this section and rules adopted pursuant to it;

(4) Upon complaint by any individual or agency;

(5) At any time the director considers an inspection to be necessary in order to determine whether a residential facility is in compliance with this section and rules adopted pursuant to this section.

In conducting inspections the department may conduct an on-site examination and evaluation of the residential facility, its personnel, activities, and services. The department shall have access to examine all records, accounts, and any other documents relating to the operation of the residential facility, and shall have access to the facility in order to conduct interviews with the operator, staff, and residents. Following each inspection

and review, the department shall complete a report listing any deficiencies, and including, when appropriate, a time table within which the operator shall correct the deficiencies. The department may require the operator to submit a plan of correction describing how the deficiencies will be corrected.

(F) No person shall do any of the following:

(1) Operate a residential facility unless the facility holds a valid license;

(2) Violate any of the conditions of licensure after having been granted a license;

(3) Interfere with a state or local official's inspection or investigation of a residential facility;

(4) Violate any of the provisions of this section or any rules adopted pursuant to this section.

(G) The director shall adopt and may amend and rescind rules pursuant to Chapter 119. of the Revised Code, prescribing minimum standards for the health, safety, adequacy, and cultural specificity and sensitivity of treatment of and services for persons in residential facilities; establishing procedures for the issuance, renewal or revocation of the licenses of such facilities; establishing the maximum number of residents of a facility; establishing the rights of residents and procedures to protect such rights; and requiring an affiliation agreement approved by the board between a residential facility and a mental health agency. Such affiliation agreement must be consistent with the residential portion of the community mental health plan submitted pursuant to section 340.03 of the Revised Code.

(H) The department may investigate any facility that has been reported to the department or that the department has reasonable cause to believe is operating as a residential facility without a valid license.

(I) The department may withhold the source of any complaint reported as a violation of this act when the department determines that disclosure could be detrimental to the department's purposes or could jeopardize the investigation. The department may disclose the source of any complaint if the complainant agrees in writing to such disclosure and shall disclose the source upon order by a court of competent jurisdiction.

(J) The director of mental health may petition the court of common pleas of the county in which a residential facility is located for an order enjoining any person from operating a residential facility without a license or from operating a licensed facility when, in the director's judgment, there is a real and present danger to the health or safety of any of the occupants of the facility. The court shall have jurisdiction to grant such injunctive relief upon a showing that the respondent named in the petition is operating a

facility without a license or there is a real and present danger to the health or safety of any residents of the facility.

(K) Whoever violates division (F) of this section or any rule adopted under this section is liable for a civil penalty of one hundred dollars for the first offense; for each subsequent offense, such violator is liable for a civil penalty of five hundred dollars. If the violator does not pay, the attorney general, upon the request of the director of mental health, shall bring a civil action to collect the penalty. Fines collected pursuant to this section shall be deposited into the state treasury to the credit of the mental health sale of goods and services fund.

Sec. 5119.61. Any provision in this chapter that refers to a board of alcohol, drug addiction, and mental health services also refers to the community mental health board in an alcohol, drug addiction, and mental health service district that has a community mental health board.

The director of mental health with respect to all facilities and programs established and operated under Chapter 340. of the Revised Code for mentally ill and emotionally disturbed persons, shall do all of the following:

(A) Adopt rules pursuant to Chapter 119. of the Revised Code that may be necessary to carry out the purposes of Chapter 340. and sections 5119.61 to 5119.63 of the Revised Code.

(1) The rules shall include all of the following:

(a) Rules governing a community mental health agency's services under section 340.091 of the Revised Code to an individual referred to the agency under division (C)(2) of section ~~473.35~~ 5119.69 of the Revised Code;

(b) For the purpose of division (A)(16) of section 340.03 of the Revised Code, rules governing the duties of mental health agencies and boards of alcohol, drug addiction, and mental health services under section ~~3722.18~~ 5119.88 of the Revised Code regarding referrals of individuals with mental illness or severe mental disability to adult care facilities and effective arrangements for ongoing mental health services for the individuals. The rules shall do at least the following:

(i) Provide for agencies and boards to participate fully in the procedures owners and managers of adult care facilities must follow under division (A) of section ~~3722.18~~ 5119.88 of the Revised Code;

(ii) Specify the manner in which boards are accountable for ensuring that ongoing mental health services are effectively arranged for individuals with mental illness or severe mental disability who are referred by the board or mental health agency under contract with the board to an adult care facility.

(c) Rules governing a board of alcohol, drug addiction, and mental

health services when making a report to the director of mental health under section ~~3722.17~~ 5119.87 of the Revised Code regarding the quality of care and services provided by an adult care facility to a person with mental illness or a severe mental disability.

(2) Rules may be adopted to govern the method of paying a community mental health facility, as defined in section 5111.023 of the Revised Code, for providing services listed in division (B) of that section. Such rules must be consistent with the contract entered into between the departments of job and family services and mental health under section 5111.91 of the Revised Code and include requirements ensuring appropriate service utilization.

(B) Review and evaluate, and, taking into account the findings and recommendations of the board of alcohol, drug addiction, and mental health services of the district served by the program and the requirements and priorities of the state mental health plan, including the needs of residents of the district now residing in state mental institutions, ~~approve and allocate funds to support community programs;~~ and make recommendations for needed improvements to boards of alcohol, drug addiction, and mental health services;

(C) ~~Withhold state and federal funds for any program, in whole or in part, from a board of alcohol, drug addiction, and mental health services in the event of failure of that program to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.62 of the Revised Code or rules of the department of mental health. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the services not in compliance until the time that there is compliance. The director shall establish rules pursuant to Chapter 119. of the Revised Code to implement this division.~~

(D) ~~Withhold state or federal funds from a board of alcohol, drug addiction, and mental health services that denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, developmental disability, or the inability to pay;~~

~~(E)~~ Provide consultative services to community mental health agencies with the knowledge and cooperation of the board of alcohol, drug addiction, and mental health services;

~~(F)~~ ~~Provide~~ (D) At the director's discretion, provide to boards of alcohol, drug addiction, and mental health services state or federal funds, in addition to those allocated under section 5119.62 of the Revised Code, for special programs or projects the director considers necessary but for which local funds are not available;

~~(G)~~ (E) Establish criteria by which a board of alcohol, drug addiction, and mental health services reviews and evaluates the quality, effectiveness, and efficiency of services provided through its community mental health plan. The criteria shall include requirements ensuring appropriate service utilization. The department shall assess a board's evaluation of services and the compliance of each board with this section, Chapter 340. or section 5119.62 of the Revised Code, and other state or federal law and regulations. The department, in cooperation with the board, periodically shall review and evaluate the quality, effectiveness, and efficiency of services provided through each board. The department shall collect information that is necessary to perform these functions.

~~(H)~~ ~~Develop~~ (F) To the extent the director determines necessary and after consulting with boards of alcohol, drug addiction, and mental health services, develop and operate, or contract for the operation of, a community mental health information system or systems.

Boards of alcohol, drug abuse, and mental health services shall submit information requested by the department in the form and manner prescribed by the department. Information collected by the department shall include, but not be limited to, all of the following:

(1) Information regarding units of services provided in whole or in part under contract with a board, including diagnosis and special needs, demographic information, the number of units of service provided, past treatment, financial status, and service dates in accordance with rules adopted by the department in accordance with Chapter 119. of the Revised Code;

(2) Financial information other than price or price-related data regarding expenditures of boards and community mental health agencies, including units of service provided, budgeted and actual expenses by type, and sources of funds.

Boards shall submit the information specified in division ~~(H)~~ (F)(1) of this section no less frequently than annually for each client, and each time the client's case is opened or closed. 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.

~~(H)~~(G) Review each board's community mental health plan submitted pursuant to section 340.03 of the Revised Code and approve or disapprove it in whole or in part. Periodically, in consultation with representatives of boards and after considering the recommendations of the medical director, the director shall issue criteria for determining when a plan is complete, criteria for plan approval or disapproval, and provisions for conditional approval. The factors that the director considers may include, but are not limited to, the following:

(1) The mental health needs of all persons residing within the board's service district, especially severely mentally disabled children, adolescents, and adults;

(2) The demonstrated quality, effectiveness, efficiency, and cultural relevance of the services provided in each service district, the extent to which any services are duplicative of other available services, and whether the services meet the needs identified above;

(3) The adequacy of the board's accounting for the expenditure of funds.

If the director disapproves all or part of any plan, the director shall provide the board an opportunity to present its position. The director shall inform the board of the reasons for the disapproval and of the criteria that must be met before the plan may be approved. The director shall give the board a reasonable time within which to meet the criteria, and shall offer technical assistance to the board to help it meet the criteria.

If the approval of a plan remains in dispute ~~thirty days prior to the conclusion of the fiscal year in which the board's current plan is scheduled to expire~~, the board or the director may request that the dispute be submitted to a mutually agreed upon third-party mediator with the cost to be shared by the board and the department. The mediator shall issue to the board and the department recommendations for resolution of the dispute. ~~Prior to the conclusion of the fiscal year in which the current plan is scheduled to expire,~~ ~~the~~ The director, taking into consideration the recommendations of the mediator, shall make a final determination and approve or disapprove the plan, in whole or in part.

Sec. 5119.611. (A) A community mental health agency that seeks certification of its community mental health services shall submit an application to the director of mental health. On receipt of the application, the director may visit and shall evaluate the agency to determine whether its

services satisfy the standards established by rules adopted under division (C) of this section. The director shall make the evaluation, and, if the director visits the agency, shall make the visit, in cooperation with the board of alcohol, drug addiction, and mental health services with which the agency seeks to contract under division (A)(8)(a) of section 340.03 of the Revised Code.

(B) Subject to section 5119.612 of the Revised Code, the director shall determine whether the services of an applicant's community mental health agency satisfy the standards for certification of the services. If the director determines that a community mental health agency's services satisfy the standards for certification and the agency has paid the fee required under division ~~(B)~~(D) of this section, the director shall certify the services.

(C) If the director determines that a community mental health agency's services do not satisfy the standards for certification, the director shall identify the areas of noncompliance, specify what action is necessary to satisfy the standards, and offer technical assistance to the board of alcohol, drug addiction, and mental health services so that the board may assist the agency in satisfying the standards. The director shall give the agency a reasonable time within which to demonstrate that its services satisfy the standards or to bring the services into compliance with the standards. If the director concludes that the services continue to fail to satisfy the standards, the director may request that the board reallocate the funds for the community mental health services the agency was to provide to another community mental health agency whose community mental health services satisfy the standards. If the board does not reallocate those funds in a reasonable period of time, the director may withhold state and federal funds for the community mental health services and allocate those funds directly to a community mental health agency whose community mental health services satisfy the standards.

~~(B)~~(D) Each community mental health agency seeking certification of its community mental health services under this section shall pay a fee for the certification ~~review~~ required by this section. Fees shall be paid into the sale of goods and services fund created pursuant to section 5119.161 of the Revised Code.

~~(C)~~(E) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the following:

(1) Establish certification standards for community mental health services, including assertive community treatment and intensive home-based mental health services, that are consistent with nationally recognized

applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of services or the health and safety of clients of community mental health services. The standards shall address at a minimum all of the following:

- (a) Reporting major unusual incidents to the director;
 - (b) Procedures for applicants for and clients of community mental health services to file grievances and complaints;
 - (c) Seclusion;
 - (d) Restraint;
 - (e) Development of written policies addressing the rights of clients, including all of the following:
 - (i) The right to a copy of the written policies addressing client rights;
 - (ii) The right at all times to be treated with consideration and respect for the client's privacy and dignity;
 - (iii) The right to have access to the client's own psychiatric, medical, or other treatment records unless access is specifically restricted in the client's treatment plan for clear treatment reasons;
 - (iv) The right to have a client rights officer provided by the agency or board of alcohol, drug addiction, and mental health services advise the client of the client's rights, including the client's rights under Chapter 5122. of the Revised Code if the client is committed to the agency or board.
- (2) Establish standards for qualifications of mental health professionals as defined in section 340.02 of the Revised Code and personnel who provide the community mental health services;
 - (3) Establish the process for certification of community mental health services;
 - (4) Set the amount of certification review fees based on a portion of the cost of performing the review;
 - (5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds.

Sec. 5119.612. (A) In lieu of a determination by the director of mental health of whether the services of a community mental health agency satisfy the standards for certification under section 5119.611 of the Revised Code, the director shall accept appropriate accreditation of an applicant's mental health services, integrated mental health and alcohol and other drug addiction services, or integrated mental health 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 director determines that an applicant's accreditation is current, is appropriate for the services 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 director shall certify the applicant's services that are accredited. Except as provided in division (C)(2) of this section, the director shall issue the certification without further evaluation of the services.

(C) For purposes of this section, all of the following apply:

(1) The director 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 director considers appropriate for mental health services, physical health services, or both. The director may communicate to an accrediting organization any identified concerns, trends, needs, and recommendations.

(2) The director may visit or otherwise evaluate a community mental health agency 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 director.

(3) The director shall require a community mental health agency to notify the director not later than ten days after any change in the agency's accreditation status. The agency may notify the director by providing a copy of the relevant document the agency received from the accrediting organization.

(4) The director shall require a community mental health agency to submit to the director reports of major unusual incidents.

(5) The director may require a community mental health agency to submit to the director cost reports pertaining to the agency.

(D) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. In adopting the rules, the director 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 director 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 agency cost reports must be submitted to the director:

(4) Specify the circumstances under which the director may visit or otherwise evaluate a community mental health agency for cause;

(5) Establish a process by which the director, based on deficiencies identified as a result of visiting or evaluating a community mental health agency under division (C)(2) of this section, may take any of a range of corrective actions, with the most stringent being revocation of the certification of the agency's services.

Sec. ~~5119.612~~ 5119.613. The director of mental health shall require that each board of alcohol, drug addiction, and mental health services ensure that each community mental health agency with which it contracts under division (A)(8)(a) of section 340.03 of the Revised Code to provide community mental health services establish grievance procedures consistent with rules adopted under section 5119.611 of the Revised Code that are available to all applicants for and clients of the community mental health services.

Sec. ~~5119.613~~ 5119.614. For purposes of ~~Chapter 3722~~, sections 5119.70 to 5119.88 of the Revised Code, the director of mental health shall approve a standardized form to be used in all areas of this state by adult care facilities and boards of alcohol, drug addiction, and mental health services when entering into mental health resident program participation agreements. As part of approving the form, the director shall specify the requirements that adult care facilities must meet in order to be authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

Sec. 5119.62. (A) ~~Upon approving the plan submitted pursuant to section 340.03 of the Revised Code, the director~~ The department of mental health shall ~~authorize the payment of funds~~ establish a methodology for allocating to a board boards of alcohol, drug addiction, and mental health services ~~from the funds appropriated for such purpose~~ by the general assembly to the department for the purpose of local mental health systems of care. ~~The director~~ department shall ~~release all or part of such~~ establish the methodology after notifying and consulting with relevant constituencies as required by division (L) of section 5119.06 of the Revised Code. The methodology may provide for the funds to be allocated to boards on a district or multi-district basis. Subject to sections 5119.622 and 5119.623 of the Revised Code, the department shall allocate the funds as is to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations, and the approved plan.

~~(B)(1) The director, in consultation with relevant constituencies as~~

~~required by division (A)(11) of section 5119.06 of the Revised Code, shall establish a formula for allocating to boards of alcohol, drug addiction, and mental health services appropriations from the general revenue fund for the purpose of local management of mental health services as this purpose is identified in appropriations to the department of mental health in appropriation acts. The formula shall include as a factor the number of severely mentally disabled persons residing in each alcohol, drug addiction, and mental health service district and may include other factors, including, but not limited to, the historical utilization of public hospitals by persons in each service district. The appropriations shall be allocated to each board in accordance with the formula but shall be distributed only to those boards that elect the option provided under division (B)(3)(a) of this section.~~

~~(2) The director shall allocate each fiscal year to boards of alcohol, drug addiction, and mental health services for services to severely mentally disabled persons a percentage of the appropriations to the department from the general revenue fund for the purposes of hospital personal services, hospital maintenance, and hospital equipment as those purposes are identified in appropriations to the department in appropriation acts. After excluding funds for providing services to persons committed to the department pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, or 5139.08 of the Revised Code, the percentage of those appropriations so allocated each year shall equal ten per cent in fiscal year 1990, twenty per cent in fiscal year 1991, forty per cent in fiscal year 1992, sixty per cent in fiscal year 1993, eighty per cent in fiscal year 1994, and one hundred per cent in fiscal year 1995 and thereafter. The amounts so allocated shall be transferred from the appropriations for the purposes of hospital personal services, hospital maintenance, and hospital equipment and credited to appropriations for the purpose of local management of mental health services. Appropriations for the purpose of local management of mental health services may be used by the department and by the boards. The department may allocate to boards a portion of the funds appropriated by the general assembly to the department for the operation of state hospital services. If the department allocates the funds, the department shall do all of the following:~~

~~(1) In consultation with the boards:~~

~~(a) Annually determine the unit costs of providing state hospital services; and~~

~~(b) Establish the methodology for allocating the funds to the boards.~~

~~(2) Determine the type of unit costs of providing state hospital services to be included as a factor in the methodology and include that unit cost as a~~

factor in the methodology:

(3) Subject to sections 5119.622 and 5119.623 of the Revised Code, allocate the funds to the boards in a manner consistent with the methodology, this section, other state and federal laws, rules, and regulations.

~~(3) No~~(c) Not later than the first day of April of each year, the department of ~~mental health~~ shall notify each board of ~~alcohol, drug addiction, and mental health services~~ of the department's estimate of the amount of ~~general revenue~~ funds to be allocated to the board under ~~division (D)~~ of this section during the fiscal year beginning on the next July first. ~~No~~ If the department makes an allocation under division (B) of this section, the department shall also notify each board of the unit costs of providing state hospital services for the upcoming fiscal year as determined under that division. Not later than the first day of May of each year, each board shall notify the ~~director~~ department as to which of the following options it has elected for that the upcoming fiscal year:

(a)(1) The board elects to accept distribution of the amount allocated to it under division (B)(1) of this section. Any board that makes such an election shall agree to make payments into the risk fund established in division (E) of this section, to make any payments for utilization of state hospitals that are required under division (E)(3) of this section, to use the funds distributed to it within the limitations set forth in division (B)(2) of this section, and to provide the department with a statement of projected utilization of state hospitals and other state-operated services by residents of its service district during the fiscal year.

~~The department shall retain and expend the funds projected to be utilized for state hospitals and other state-operated services section.~~ Funds distributed to each board shall be used to supplement and not to supplant other state, local, or federal funds that are being used to support community-based programs for severely mentally disabled children, adolescents, and adults, unless the funds have been specifically designated for the initiation of programs in accordance with the community mental health plan developed and submitted under section 340.03 and approved under section 5119.61 of the Revised Code. Notwithstanding section 131.33 of the Revised Code, any board may expend unexpended funds distributed to the board from appropriations for the purpose of local management of mental health services in the fiscal year following the fiscal year ~~in~~ for which the appropriations are made, in accordance with the approved community mental health plan.

~~(b) The~~ (2) Subject to division (D) of this section, the board elects not to

accept the amount allocated to it under ~~division (B)(1)~~ of this section, authorizes the department to determine the use of its allocation, and agrees to provide the department with a statement of projected utilization of state hospitals and other state-operated services by residents of its service district during the fiscal year.

~~(4) Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no (D) No board of alcohol, drug addiction, and mental health services shall elect the option in division (B)(3)(b)(C)(2) of this section unless one all of the following applies apply:~~

~~(a) The (1) Either the total general revenue funds estimated by the department to be allocated to the board under this section for the next fiscal year is are reduced by a substantial amount, as defined in guidelines adopted by the director of mental health under division (B)(4)(E) of this section, in comparison to the amount allocated for the current fiscal year, for reasons not related to performance;~~

~~(b) The amount of estimated general revenue funds to be allocated to the board is not reduced by a substantial amount but or the board has experienced other circumstances specified in the guidelines adopted by the director under division (B)(4) of this section.~~

~~The director shall consult with boards of alcohol, drug addiction, and mental health services and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of general revenue funds for the purpose of electing the option under division (B)(3)(b) of this section, and what other circumstances qualify a board to elect that option.~~

~~Beginning with the notification required to be made by May 1, 1995, under division (B)(3) of this section, no board shall notify the director that it elects the option under division (B)(3)(b) of this section unless it has conducted (2) The board provides the department written confirmation that the board has received input about the impact that the board's election will have on the mental health system in the board's district from all of the following:~~

~~(a) Individuals who receive mental health services and such individuals' families;~~

~~(b) Boards of county commissioners;~~

~~(c) Judges of juvenile and probate courts;~~

~~(d) County sheriffs, jail administrators, and other local law enforcement officials.~~

~~(3) Not later than seven days before notifying the department of its election and after providing the department the written confirmation~~

~~required by division (D)(2) of this section, the board conducts a public hearing on the issue no later than seven days before making the notification.~~

~~(C) Boards of alcohol, drug addiction, and mental health services and community mental health agencies (E) For the purpose of division (D)(1) of this section, the director of mental health shall consult with the boards and other relevant constituencies to develop guidelines for determining what constitutes a substantial reduction of funds and what other circumstances qualify a board to elect the option in division (C)(2) of this section.~~

~~(F) No board shall not use state funds for the purpose of influencing employees with respect to unionization. As used in this division, "influencing" means discouraging employees from seeking collective bargaining representation or encouraging employees to decertify a recognized collective bargaining agent.~~

~~(D) The director shall develop, and review at least annually, a methodology, including the formula developed under division (B)(1) of this section, for distributing and allocating funds to boards. The methodology shall be consistent with state and federal law and regulations. A portion of the funds shall be distributed based on the ratio of the population of the district served by the board to the total population of the state as determined from the federal census or the most recent estimates produced by the United States census bureau's federal state cooperative program for population program series P-26 or the population estimates and projections program series P-25, whichever is most recent.~~

~~(E)(1) There is hereby created in the state treasury the department of mental health risk fund, which shall receive payments from boards that have elected the option provided in division (B)(3)(a) of this section. All investment earnings of the fund shall be credited to the fund. Moneys in the fund shall be used for the following purposes:~~

~~(a) To assist boards that elect the option provided in division (B)(3)(a) of this section and that serve service districts in which the costs of utilization of state hospitals by residents in a fiscal year exceed the amount allocated to the district under the formula developed under division (B)(1) of this section. The department shall define such costs by unit and establish them annually after consultation with representatives of such boards.~~

~~(b) To make payments to boards that elect the option provided in division (B)(3)(a) of this section and that experience conditions of financial hardship, as determined by the director.~~

~~The director of mental health, in consultation with representatives of the boards, shall develop guidelines for the use of moneys in the risk fund.~~

~~(2) On or before the first day of April of each year, the department shall~~

~~specify the percentage of the amount of money allocated under division (B)(1) of this section for distribution to boards subject to division (E) of this section that each such board is to transmit to the director of mental health for deposit in the risk fund for the following fiscal year. On or before the first day of August of each year, each such board shall transmit to the director for deposit to the credit of the risk fund the amount obtained by multiplying that percentage by the amount allocated for distribution to such boards.~~

~~(3) Whenever the costs of utilization of state hospitals by residents in a district served by a board subject to division (E) of this section exceed the amount allocated to the district under the formula, responsibility for payment of the excess costs shall be borne by the board of that district and the risk fund as follows:~~

~~(a) The board and the risk fund each are responsible for payment of one-half of any costs that exceed one hundred per cent of the amount allocated under the formula but do not exceed one hundred five per cent of that amount.~~

~~(b) The board is responsible for payment of one-fourth, and the risk fund responsible for three-fourths, of any costs that exceed one hundred five per cent of the amount allocated under the formula but do not exceed one hundred ten per cent of that amount.~~

~~(c) The risk fund is responsible for payment of any costs that exceed one hundred ten per cent of the amount allocated under the formula but do not exceed one hundred fifteen per cent of that amount.~~

~~(d) The board is responsible for payment of all costs that exceed one hundred fifteen per cent of the amount allocated under the formula.~~

~~(F)(G) The department shall charge against the allocation made to a board under division (B)(1) of this section, if any, any unreimbursed costs for services provided by the department. ~~This requirement is not affected by any election a board makes under division (B)(3) of this section.~~~~

~~(H) A board's use of funds allocated under this section is subject to audit by county, state, and federal authorities.~~

Sec. 5119.621. (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 mental health specifying how the board used ~~state and federal~~ funds allocated to the board, ~~according to the formula the director of mental health establishes~~ under section 5119.62 of the Revised Code, for administrative functions in the year preceding the report's submission. The director of mental health shall establish the date by which the report must be submitted each year.

Sec. 5119.622. The director of mental health, in whole or in part, may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board fails to comply with Chapter 340. or section 5119.61, 5119.611, 5119.612, or 5119.621 of the Revised Code or rules of the department of mental health regarding a community mental health service. The director shall identify the areas of noncompliance and the action necessary to achieve compliance. The director shall offer technical assistance to the board to achieve compliance. The director shall give the board a reasonable time within which to comply or to present its position that it is in compliance. Before withholding funds, a hearing shall be conducted to determine if there are continuing violations and that either assistance is rejected or the board is unable to achieve compliance. Subsequent to the hearing process, if it is determined that compliance has not been achieved, the director may allocate all or part of the withheld funds to a public or private agency to provide the community mental health service for which the board is not in compliance until the time that there is compliance. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5119.623. The director of mental health may withhold funds otherwise to be allocated to a board of alcohol, drug addiction, and mental health services under section 5119.62 of the Revised Code if the board denies available service on the basis of religion, race, color, creed, sex, national origin, age, disability as defined in section 4112.01 of the Revised Code, or developmental disability.

~~Sec. 173.35 5119.69. (A) As used in this section, "PASSPORT administrative agency" means an entity under contract with the department of aging to provide administrative services regarding the PASSPORT program created under section 173.40 of the Revised Code.~~

(B) The department of aging mental health shall ~~administer~~ implement the residential state supplement program under which the state supplements the supplemental security income payments received by aged, blind, or

disabled adults under Title XVI of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A., as amended. Residential state supplement payments shall be used for the provision of accommodations, supervision, and personal care services to supplemental security income recipients who the department determines are at risk of needing institutional care.

(B) In implementing the program, the department may designate one or more entities to be responsible for providing administrative services regarding the program. The department may designate an entity to be a residential state supplement administrative agency under this division either by entering into a contract with the entity to serve in that capacity or by otherwise delegating to the entity the responsibility to serve in that capacity.

(C) For an individual to be eligible for residential state supplement payments, all of the following must be the case:

(1) Except as provided by division (G) of this section, the individual must reside in one of the following:

(a) An adult foster home certified under section ~~473.36~~ 5119.692 of the Revised Code;

(b) A home or facility, other than a nursing home or nursing home unit of a home for the aging, licensed by the department of health under Chapter 3721. ~~or 3722.~~ of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section~~ or the department of mental health under sections 5119.70 to 5119.88 of the Revised Code;

(c) A residential facility as defined in division (A)(1)(d)(ii) of section 5119.22 of the Revised Code licensed by the department of mental health ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section;~~

(d) An apartment or room used to provide community mental health housing services certified by the department of mental health under section 5119.611 of the Revised Code and approved by a board of alcohol, drug addiction, and mental health services under division (A)(14) of section 340.03 of the Revised Code ~~and certified in accordance with standards established by the director of aging under division (D)(2) of this section.~~

(2) ~~Effective July 1, 2000, a PASSPORT~~ A residential state supplement administrative agency must have determined that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. If the individual is eligible for supplemental security income payments or social security disability insurance benefits because of a mental disability, the PASSPORT residential state supplement administrative agency shall refer the individual to a community mental

health agency for the community mental health agency to issue in accordance with section 340.091 of the Revised Code a recommendation on whether the PASSPORT residential state supplement administrative agency should determine that the environment in which the individual will be living while receiving the payments is appropriate for the individual's needs. ~~Division (C)(2) of this section does not apply to an individual receiving residential state supplement payments on June 30, 2000, until the individual's first eligibility redetermination after that date.~~

(3) The individual satisfies all eligibility requirements established by rules adopted under division (D) of this section.

(D)(4) The directors of aging mental health and job and family services shall adopt rules in accordance with section 111.15 of the Revised Code as necessary to implement the residential state supplement program.

To the extent permitted by Title XVI of the "Social Security Act," and any other provision of federal law, the director of job and family services ~~shall~~ may adopt rules establishing standards for adjusting the eligibility requirements concerning the level of impairment a person must have so that the amount appropriated for the program by the general assembly is adequate for the number of eligible individuals. The rules shall not limit the eligibility of disabled persons solely on a basis classifying disabilities as physical or mental. The director of job and family services also ~~shall~~ may adopt rules that establish eligibility standards for aged, blind, or disabled individuals who reside in one of the homes or facilities specified in division (C)(1) of this section but who, because of their income, do not receive supplemental security income payments. The rules may provide that these individuals may include individuals who receive other types of benefits, including, social security disability insurance benefits provided under Title II of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 401, as amended. Notwithstanding division ~~(B)(A)~~ of this section, such payments may be made if funds are available for them.

The director of ~~aging~~ aging shall mental health ~~may~~ adopt rules establishing the method to be used to determine the amount an eligible individual will receive under the program. The amount the general assembly appropriates for the program ~~shall~~ may be a factor included in the method that ~~department~~ director establishes.

~~(2) The director of aging shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for certification of living facilities described in division (C)(1) of this section.~~

~~The directors of aging and mental health shall enter into an agreement to certify facilities that apply for certification and meet the standards~~

~~established by the director of aging under this division.~~

(E) The county department of job and family services of the county in which an applicant for the residential state supplement program resides shall determine whether the applicant meets income and resource requirements for the program.

(F) The department of ~~aging~~ aging mental health shall maintain a waiting list of any individuals eligible for payments under this section but not receiving them because moneys appropriated to the department for the purposes of this section are insufficient to make payments to all eligible individuals. An individual may apply to be placed on the waiting list even though the individual does not reside in one of the homes or facilities specified in division (C)(1) of this section at the time of application. The director of ~~aging~~ aging mental health, by rules adopted in accordance with Chapter 119. of the Revised Code, ~~shall~~ may specify procedures and requirements for placing an individual on the waiting list and priorities for the order in which individuals placed on the waiting list are to begin to receive residential state supplement payments. The rules specifying priorities may give priority to individuals placed on the waiting list on or after July 1, 2006, who receive supplemental security income benefits under Title XVI of the "Social Security Act," 86 Stat. 1475 (1972), 42 U.S.C. 1381, as amended. The rules shall not affect the place on the waiting list of any person who was on the list on July 1, 2006. The rules specifying priorities may also set additional priorities based on living arrangement, such as whether an individual resides in a facility listed in division (C)(1) of this section or has been admitted to a nursing facility.

(G) An individual in a licensed or certified living arrangement receiving state supplementation on November 15, 1990, under former section 5101.531 of the Revised Code shall not become ineligible for payments under this section solely by reason of the individual's living arrangement as long as the individual remains in the living arrangement in which the individual resided on November 15, 1990.

(H) The department of ~~aging~~ aging mental health shall notify each person denied approval for payments under this section of the person's right to a hearing. On request, the hearing shall be provided ~~by the department of job and family services~~ in accordance with ~~section 5101.35~~ Chapter 119. of the Revised Code.

Sec. ~~173.351~~ 5119.691. (A) As used in this section:

~~"Area agency on aging" has the same meaning as in section 173.14 of the Revised Code.~~

"Long-term care consultation program" means the program the

department of aging is required to develop under section 173.42 of the Revised Code.

"Long-term care consultation program administrator" or "administrator" means the department of aging or, if the department contracts with an area agency on aging or other entity to administer the long-term care consultation program for a particular area, that agency or entity.

"Nursing facility" has the same meaning as in section 5111.20 of the Revised Code.

"Residential state supplement administrative agency" means an entity designated as such by the department of mental health under section 5119.69 of the Revised Code.

"Residential state supplement program" means the program administered pursuant to section ~~473.35~~ 5119.69 of the Revised Code.

(B) ~~Each month, each area agency on aging~~ On a periodic schedule determined by the department of mental health, each residential state supplement administrative agency shall determine whether individuals who reside in the area that the ~~area agency on aging~~ residential state supplement administrative agency on aging serves and are on a waiting list for the residential state supplement program have been admitted to a nursing facility. If ~~an area~~ a residential state supplement administrative agency on aging determines that such an individual has been admitted to a nursing facility, the agency shall notify the long-term care consultation program administrator serving the area in which the individual resides about the determination. The administrator shall determine whether the residential state supplement program is appropriate for the individual and whether the individual would rather participate in the program than continue residing in the nursing facility. If the administrator determines that the residential state supplement program is appropriate for the individual and the individual would rather participate in the program than continue residing in the nursing facility, the administrator shall so notify the department of ~~aging mental health~~ aging mental health. On receipt of the notice from the administrator, the department of ~~aging mental health~~ aging mental health shall approve the individual's enrollment in the residential state supplement program in accordance with the priorities specified in rules adopted under division (F) of section ~~473.35~~ 5119.69 of the Revised Code. Each quarter, the department of ~~aging mental health~~ aging mental health shall certify to the director of budget and management the estimated increase in costs of the residential state supplement program resulting from enrollment of individuals in the program pursuant to this section.

(C) ~~Not later than the last day of each calendar year, the director of aging shall submit to the general assembly a report regarding the number of individuals enrolled in the residential state supplement program pursuant to~~

~~this section and the costs incurred and savings achieved as a result of the enrollments.~~

Sec. ~~173.36~~ 5119.692. As used in this section, "adult foster home" means a residence, other than a ~~residence certified or~~ residential facility licensed by the department of mental health under section 5119.22 of the Revised Code, in which accommodations and personal care services, as defined in section ~~3722.04~~ 5119.70 of the Revised Code, are provided to one or two adults who are unrelated to the owners of the residence.

The department of ~~aging~~ mental health shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for the certification of adult foster homes. The department or its designee shall certify adult foster homes that apply for certification and meet the standards established by the department.

Sec. 5119.693. (A) As used in this section:

(1) "Adult resident" means an individual residing in an adult foster home certified by the department of mental health.

(2) "Applicant" means a person who is under final consideration for employment with an adult foster home in a full-time, part-time, or temporary position that involves providing direct care to an adult resident. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the owner or administrator of an adult foster home shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the owner or administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the owner or administrator may request that the superintendent include information from the federal bureau of investigation

in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult foster home shall employ a person in a position that involves providing direct care to an adult resident if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) An adult foster home may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the foster home shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, an adult foster home may employ conditionally an applicant who has been referred to the adult foster home by an employment service

that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) An adult foster home that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (D)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the foster home shall terminate the individual's employment unless the foster home chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the foster home about the individual's criminal record.

(D)(1) Each adult foster home shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) An adult foster home may charge an applicant a fee not exceeding the amount the foster home pays under division (D)(1) of this section. An adult foster home may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The owner or administrator of the foster home requesting the criminal records check or the owner's or administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to adult residents that is owned or operated by the same entity that owns or operates the adult foster home;

(4) A court, hearing officer, or other necessary individual involved in a

case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The department of mental health may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules may specify circumstances under which an adult foster home may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the department.

(G) The owner or administrator of an adult foster home shall inform each individual, at the time of initial application for a position that involves providing direct care to an adult resident, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who an adult foster home employs in a position that involves providing direct care to adult residents, all of the following shall apply:

(1) If the foster home employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the foster home shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the foster home employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the foster home shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the foster home in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the foster home shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The owner or administrator of an adult foster home is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the foster home by an employment service

that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and both of the following apply:

(a) The owner or administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral:

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the adult foster home chooses to employ the individual pursuant to division (F) of this section.

(2) The owner or administrator of an adult foster home is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the foster home by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of adult residents and if the owner or administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the adult care foster home. If an adult foster home employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the adult foster home, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. ~~3722.01~~ 5119.70. (A) As used in ~~this chapter~~ sections 5119.70 to 5119.88:

(1) "Owner" means the person who owns the business of and who ultimately controls the operation of an adult care facility and to whom the

manager, if different from the owner, is responsible.

(2) "Manager" means the person responsible for the daily operation of an adult care facility. The manager and the owner of a facility may be the same person.

(3) "Adult" means an individual eighteen years of age or older.

(4) "Unrelated" means that an adult resident is not related to the owner or manager of an adult care facility or to the owner's or manager's spouse as a parent, grandparent, child, stepchild, grandchild, brother, sister, niece, nephew, aunt, or uncle, or as the child of an aunt or uncle.

(5) "Skilled nursing care" means skilled nursing care as defined in section 3721.01 of the Revised Code.

(6)(a) "Personal care services" means services including, but not limited to, the following:

(i) Assistance with activities of daily living;

(ii) Assistance with self-administration of medication, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code;

(iii) Preparation of special diets, other than complex therapeutic diets, for residents pursuant to the instructions of a physician or a licensed dietitian, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code.

(b) "Personal care services" does not include "skilled nursing care" as defined in section 3721.01 of the Revised Code. A facility need not provide more than one of the services listed in division (A)(6)(a) of this section for the facility to be considered to be providing personal care services.

(7) "Adult family home" means a residence or facility that provides accommodations and supervision to three to five unrelated adults, at least three of whom require personal care services.

(8) "Adult group home" means a residence or facility that provides accommodations and supervision to six to sixteen unrelated adults, at least three of whom require personal care services.

(9) "Adult care facility" means an adult family home or an adult group home. For the purposes of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, any residence, facility, institution, hotel, congregate housing project, or similar facility that provides accommodations and supervision to three to sixteen unrelated adults, at least three of whom require personal care services, is an adult care facility regardless of how the facility holds itself out to the public. "Adult care facility" does not include:

(a) A facility operated by a hospice care program licensed under section 3712.04 of the Revised Code that is used exclusively for care of hospice

patients;

(b) A nursing home, residential care facility, or home for the aging as defined in section 3721.01 of the Revised Code;

(c) An alcohol and drug addiction program as defined in section 3793.01 of the Revised Code;

(d) A residential facility for the mentally ill licensed by the department of mental health under section 5119.22 of the Revised Code;

(e) A facility licensed to provide methadone treatment under section 3793.11 of the Revised Code;

(f) A residential facility licensed under section 5123.19 of the Revised Code or otherwise regulated by the department of developmental disabilities;

(g) Any residence, institution, hotel, congregate housing project, or similar facility that provides personal care services to fewer than three residents or that provides, for any number of residents, only housing, housekeeping, laundry, meal preparation, social or recreational activities, maintenance, security, transportation, and similar services that are not personal care services or skilled nursing care;

(h) Any facility that receives funding for operating costs from the department of development under any program established to provide emergency shelter housing or transitional housing for the homeless;

(i) A terminal care facility for the homeless that has entered into an agreement with a hospice care program under section 3712.07 of the Revised Code;

(j) A facility approved by the veterans administration under section 104(a) of the "Veterans Health Care Amendments of 1983," 97 Stat. 993, 38 U.S.C.A. 630, as amended, and used exclusively for the placement and care of veterans.

(10) "Residents' rights advocate" means:

~~(a) An employee or representative of any state or local government entity that has a responsibility for residents of adult care facilities and has registered with the department of health under section 3701.07 of the Revised Code;~~

~~(b) An employee or representative, other than a manager or employee of an adult care facility or nursing home, of any private nonprofit corporation or association that qualifies for tax exempt status under section 501(a) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501(a), as amended, that has registered with the department of health under section 3701.07 of the Revised Code, and whose purposes include educating and counseling residents, assisting residents in resolving problems and~~

~~complaints concerning their care and treatment, and assisting them in securing adequate services.~~

~~(11)~~ "Sponsor" means an adult relative, friend, or guardian of a resident of an adult care facility who has an interest in or responsibility for the resident's welfare.

~~(12)~~(11) "Ombudsperson" means a "representative of the office of the state long-term care ombudsperson program" as defined in section 173.14 of the Revised Code.

~~(13)~~(12) "Mental health agency" means a community mental health agency, as defined in division (H) of section 5119.22 5122.01 of the Revised Code, under contract with an ADAMHS board pursuant to division (A)(8)(a) of section 340.03 of the Revised Code.

~~(14)~~(13) "ADAMHS board" means a board of alcohol, drug addiction, and mental health services;

~~(15)~~(14) "Mental health resident program participation agreement" means a written agreement between an adult care facility and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located, under which the facility is authorized to admit residents who are receiving or are eligible for publicly funded mental health services.

~~(16)~~(15) "PASSPORT RSS administrative agency" means an entity ~~under contract with the department of aging to provide that provides~~ administrative services regarding the PASSPORT residential state supplement program created under section 173.40 of the Revised Code on behalf of the department of mental health, either by having entered into a contract with the department to serve in that capacity or by having the department otherwise delegate to it the responsibility to serve in that capacity.

(B) For purposes of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, personal care services or skilled nursing care shall be considered to be provided by a facility if they are provided by a person employed by or associated with the facility or by another person pursuant to an agreement to which neither the resident who receives the services nor the resident's sponsor is a party.

(C) Nothing in division (A)(6) of this section shall be construed to permit personal care services to be imposed upon a resident who is capable of performing the activity in question without assistance.

Sec. ~~3722.011~~ 5119.701. (A) All medication taken by residents of an adult care facility shall be self-administered, except that medication may be administered to a resident as part of the skilled nursing care provided in

accordance with division (B) of section ~~3722.16~~ 5119.86 of the Revised Code. No person shall be admitted to or retained by an adult care facility unless the person is capable of self-administering the person's medication, as determined in writing by a physician, except that a person may be admitted to or retained by such a facility if the person's medication is administered as part of the skilled nursing care provided in accordance with division (B) of section ~~3722.16~~ 5119.86 of the Revised Code.

(B) Members of the staff of an adult care facility shall not administer medication to residents but may do any of the following:

Remind a resident when to take medication and watch to ensure that the resident follows the directions on the container;

Assist a resident in the self-administration of medication by taking the medication from the locked area where it is stored, in accordance with rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 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.

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.

Sec. ~~3722.02~~ 5119.71. A person seeking a license to operate an adult care facility shall submit to the director of mental health an application on a form prescribed by the director and the following:

(A) In the case of an adult group home seeking licensure as an adult care facility, evidence that the home has been inspected and approved by a local certified building department or by the division of labor in the department of commerce as meeting the applicable requirements of sections 3781.06 to 3781.18 and 3791.04 of the Revised Code and any rules adopted under those sections and evidence that the home has been inspected by the state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal and found to be in compliance with rules adopted under section 3737.83 of the Revised Code regarding fire prevention and safety in adult group homes;

(B) Valid approvals of the facility's water and sewage systems issued by the responsible governmental entity, if applicable;

(C) A statement of ownership containing the following information:

(1) If the owner is an individual, the owner's name, address, telephone number, business address, business telephone number, and occupation. If the owner is an association, corporation, or partnership, the business activity, address, and telephone number of the entity and the name of every person who has an ownership interest of five per cent or more in the entity.

(2) If the owner does not own the building or if the owner owns only part of the building in which the facility is housed, the name of each person who has an ownership interest of five per cent or more in the building;

(3) The address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.04~~ 5119.70 of the Revised Code in which the owner has an ownership interest of five per cent or more;

(4) The identity of the manager of the adult care facility, if different from the owner;

(5) The name and address of any adult care facility and any facility described in divisions (A)(9)(a) to (j) of section ~~3722.04~~ 5119.70 of the Revised Code with which either the owner or manager has been affiliated through ownership or employment in the five years prior to the date of the application;

(6) The names and addresses of three persons not employed by or associated in business with the owner who will provide information about the character, reputation, and competence of the owner and the manager and the financial responsibility of the owner;

(7) Information about any arrest of the owner or manager for, or adjudication or conviction of, a criminal offense related to the provision of care in an adult care facility or any facility described in divisions (A)(9)(a) to (j) of section ~~3722.04~~ 5119.70 of the Revised Code or the ability to operate a facility;

(8) Any other information the director may require regarding the owner's ability to operate the facility.

(D) If the facility is an adult group home, a balance sheet showing the assets and liabilities of the owner and a statement projecting revenues and expenses for the first twelve months of the facility's operation;

(E) A statement containing the following information regarding admissions to the facility:

(1) The intended bed capacity of the facility;

(2) If the facility will admit persons referred by or receiving services from an ADAMHS board or a mental health agency, the total number of beds anticipated to be occupied as a result of those admissions.

(F) A nonrefundable license application fee in an amount established in rules adopted ~~by the public health council pursuant to this chapter~~ under

section 5119.79 of the Revised Code.

Sec. ~~3722.021~~ 5119.711. In determining the number of residents in a facility for the purpose of licensure ~~under this chapter~~ as an adult care facility, the director of mental health shall consider all the individuals for whom the facility provides accommodations as one group unless either of the following is the case:

(A) In addition to being an adult care facility, the facility is a nursing home licensed under Chapter 3721. of the Revised Code, a residential facility licensed under that chapter, or both. In that case, all the individuals in the part or unit licensed as a nursing home, residential care facility, or both, 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.

(B) The facility maintains, in addition to an adult care facility, a separate and discrete part or unit that provides accommodations to individuals who do not receive supervision or personal care services from the adult care facility, 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 adult care facility 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 adult care facility, to the extent of its authority, 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.

Sec. ~~3722.022~~ 5119.712. A person may not apply for a license to operate an adult care facility if the person is or has been the owner or manager of an adult care facility for which a license to operate was revoked or for which renewal of a license was refused for any reason other than nonpayment of the license renewal fee, unless both of the following conditions are met:

(A) A period of not less than two years has elapsed since the date the director of mental health issued the order revoking or refusing to renew the facility's license.

(B) The director's revocation or refusal to renew the license was not based on an act or omission at the facility that violated a resident's right to be free from abuse, neglect, or exploitation.

Sec. ~~3722.03~~ 5119.72. (A) Any person may operate an adult family home licensed as an adult care facility as a permitted use in any residential district or zone, including any single-family residential district or zone of any political subdivision. Such adult family homes may be required to

comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(B) Any person may operate an adult group home licensed as an adult care facility as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned-unit development districts as defined in section 519.021 of the Revised Code may exclude adult group homes from such districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate adult group homes in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the home and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation.

(C) This section does not affect any right of a political subdivision to permit a person to operate an adult group home licensed under this chapter in a single-family residential district or zone under conditions established by the political subdivision.

(D)(1) Notwithstanding divisions (A) and (B) of this section and except as otherwise provided in division (D)(2) of this section, a political subdivision that has enacted a zoning ordinance or resolution may limit the excessive concentration of adult family homes and adult group homes required to be licensed as adult care facilities.

(2) Nothing in division (D)(1) of this section authorizes a political subdivision to prevent or limit the continued existence and operation of adult family homes and adult group homes existing and operating on the effective date of this section and required to be licensed as adult care facilities. A political subdivision may consider the existence of such homes for the purpose of limiting the excessive concentration of adult family homes or adult group homes required to be licensed as adult care facilities that are not existing and operating on the effective date of this section.

Sec. ~~3722.04~~ 5119.73. (A) The director of mental health shall inspect, license, and regulate adult care facilities. Except as otherwise provided in division (D) of this section, the director shall issue a license to an adult care facility that meets the requirements of section ~~3722.02~~ 5119.71 of the

Revised Code and that the director determines to be in substantial compliance with the rules adopted ~~by the public health council pursuant to this chapter~~ sections 5119.70 to 5119.88 of the Revised Code. The director shall consider the past record of the owner and manager and any individuals who are principal participants in an entity that is the owner or manager in operating facilities providing care to adults. The director may, in accordance with Chapter 119. of the Revised Code, deny a license if the past record indicates that the owner or manager is not suitable to own or manage an adult care facility.

The license shall contain the name and address of the facility for which it was issued, the date of expiration of the license, and the maximum number of residents that may be accommodated by the facility. A license for an adult care facility shall be valid for a period of two years after the date of issuance. No single facility may be licensed to operate as more than one adult care facility.

(B) The director shall renew a license for a two-year period if the facility continues to be in compliance with the requirements of this chapter and in substantial compliance with the rules adopted ~~under this chapter pursuant to sections 5119.70 to 5119.88 of the Revised Code~~. The owner shall submit a nonrefundable license renewal application fee in an amount established in rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code. Before the license of an adult group home is renewed, if any alterations have been made to the buildings, a certificate of occupancy for the facility shall have been issued by the division of labor in the department of commerce or a local certified building department. The facility shall have water and sewage system approvals, if required by law, and, in the case of an adult group home, documentation of continued compliance with the rules adopted by the state fire marshal under division (F) of section 3737.83 of the Revised Code.

(C)(1) During each licensure period, the director shall make at least one unannounced inspection of an adult care facility in addition to inspecting the facility to determine whether a license should be issued or renewed, and may make additional unannounced inspections as the director considers necessary. Other inspections may be made at any time that the director considers appropriate. Inspections may be conducted as desk audits or on-site inspections.

The director shall take all reasonable actions to avoid giving notice of an inspection by the manner in which the inspection is scheduled or performed.

If an inspection is conducted to investigate an alleged violation of the

requirements of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code in a facility with residents referred by or receiving services from a mental health agency or ADAMHS board or a facility with residents receiving assistance under the residential state supplement program administered by the department of ~~aging mental health~~ pursuant to section ~~173.35~~ 5119.69 of the Revised Code, the director ~~shall~~ may coordinate the inspection with the appropriate mental health agency, ADAMHS board, or ~~PASSPORT~~ residential state supplement administrative agency designated under section 5119.69 of the Revised Code. ~~As the director considers appropriate, the~~ The director ~~shall~~ may conduct the inspection jointly with the mental health agency, ADAMHS board, or ~~PASSPORT~~ residential state supplement administrative agency.

Not later than sixty days after the date of an inspection of a facility, the director shall send a report of the inspection to the regional long-term care ombudsperson in whose region representing the program in the area in which the facility is located.

(2) The state fire marshal or fire prevention officer of a municipal, township, or other legally constituted fire department approved by the state fire marshal shall inspect an adult group home seeking a license or renewal ~~under this chapter~~ as an adult care facility prior to issuance of a license or renewal, at least once annually thereafter, and at any other time at the request of the director, to determine compliance with the rules adopted under division (F) of section 3737.83 of the Revised Code.

(D) The director may waive any of the licensing requirements established by rule ~~adopted by the public health council~~ pursuant to ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code upon written request of the facility. The director may grant a waiver if the director determines that the strict application of the licensing requirement would cause undue hardship to the facility and that granting the waiver would not jeopardize the health or safety of any resident. The director may provide a facility with an informal hearing concerning the denial of a waiver request, but the facility shall not be entitled to a hearing under Chapter 119. of the Revised Code unless the director takes an action that requires a hearing to be held under section ~~3722.05~~ 5119.74 of the Revised Code.

(E)(1) Not later than thirty days after each of the following, the owner of an adult care facility shall submit an inspection fee of twenty dollars for each bed for which the facility is licensed:

(a) Issuance or renewal of a license;

(b) The unannounced inspection required by division (C)(1) of this section that is in addition to the inspection conducted to determine whether a

license should be issued or renewed;

(c) If, during an inspection conducted in addition to the two inspections required by division (C)(1) of this section, the facility was found to be in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or the rules adopted under ~~it~~ those sections, receipt by the facility of the report of that investigation.

(2) The director may revoke the license of any adult care facility that fails to submit the fee within the thirty-day period.

(3) All inspection fees received by the director, all civil penalties assessed under section ~~3722.08~~ 5119.77 of the Revised Code, all fines imposed under section ~~3722.99~~ 5119.99 of the Revised Code, and all license application and renewal application fees received under division (F) of section ~~3722.02~~ 5119.71 of the Revised Code or under division (B) of this section ~~shall be deposited into the general operations fund created in section 3701.83 of the Revised Code and~~ shall be used only to pay the costs of administering and enforcing the requirements of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code and rules adopted under ~~it~~ those sections.

(F)(1) An owner shall inform the director in writing of any changes in the information contained in the statement of ownership made pursuant to division (C) of section ~~3722.02~~ 5119.71 of the Revised Code or in the identity of the manager, not later than ten days after the change occurs.

(2) An owner who sells or transfers an adult care facility shall be responsible and liable for the following:

(a) Any civil penalties imposed against the facility under section ~~3722.08~~ 5119.77 of the Revised Code for violations that occur before the date of transfer of ownership or during any period in which the seller or the seller's agent operates the facility;

(b) Any outstanding liability to the state, unless the buyer or transferee has agreed, as a condition of the sale or transfer, to accept the outstanding liabilities and to guarantee their payment, except that if the buyer or transferee fails to meet these obligations the seller or transferor shall remain responsible for the outstanding liability.

(G) The director shall annually publish a list of licensed adult care facilities, facilities for which licenses have been revoked, facilities for which license renewal has been refused, any facilities under an order suspending admissions pursuant to section ~~3722.07~~ 5119.76 of the Revised Code, and any facilities that have been assessed a civil penalty pursuant to section ~~3722.08~~ 5119.77 of the Revised Code. The director shall furnish information concerning the status of licensure of any facility to any person upon request.

The director shall annually send a copy of the list to the department of job and family services, ~~to the department of mental health,~~ and to the department of aging.

Sec. ~~3722.041~~ 5119.731. (A) Sections 3781.06 to 3781.18 and 3791.04 of the Revised Code do not apply to an adult family home for which application is made to the director of mental health for licensure as an adult care facility ~~under this chapter~~. Adult family homes shall not be required to submit evidence to the director ~~of health~~ that the home has been inspected by a local certified building department or the division of labor in the department of commerce or by the state fire marshal or a fire prevention officer under section ~~3722.02~~ 5119.71 of the Revised Code, but shall be inspected by the director ~~of health~~ to determine compliance with this section. An inspection made under this section may be made at the same time as an inspection made under section ~~3722.04~~ 5119.73 of the Revised Code.

(B) The director shall not license or renew the license of an adult family home unless it meets the fire protection standards established by rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.79 of the Revised Code.

Sec. ~~3722.05~~ 5119.74. If an adult care facility fails to comply with any requirement of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or with any rule adopted ~~pursuant to this chapter~~ under those sections, the director of mental health may do any one or all of the following:

(A) In accordance with Chapter 119. of the Revised Code, deny, revoke, or refuse to renew the license of the facility;

(B) Give the facility an opportunity to correct the violation, in accordance with section ~~3722.06~~ 5119.75 of the Revised Code;

(C) Issue an order suspending the admission of residents to the facility, in accordance with section ~~3722.07~~ 5119.76 of the Revised Code;

(D) Impose a civil penalty in accordance with section ~~3722.08~~ 5119.77 of the Revised Code;

(E) Petition the court of common pleas for injunctive relief in accordance with section ~~3722.09~~ 5119.78 of the Revised Code.

Sec. ~~3722.06~~ 5119.75. Except as otherwise provided in sections ~~3722.07~~ 5119.76 to ~~3722.09~~ 5119.78 of the Revised Code and except in cases of violations that jeopardize the health and safety of any of the residents, if the director of mental health determines that a licensed adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of rules adopted ~~pursuant to this chapter~~ under those sections, the director shall give the facility an opportunity to correct the violation. The director

shall notify the facility of the violation and specify a reasonable time for making the corrections. Notice of the violation shall be in writing and shall include a citation to the statute or rule violated. The director shall state the action that the director will take if the corrections are not made within the specified period of time.

The facility shall submit to the director a plan of correction stating the actions that will be taken to correct the violation. The director shall conduct an inspection to determine whether the facility has corrected the violation in accordance with the plan of correction.

If the director determines that the facility has failed to correct the violation in accordance with the plan of correction, the director may impose a penalty under section ~~3722.08~~ 5119.77 of the Revised Code. If the director determines that the license of the facility should be revoked or should not be renewed because the facility has failed to correct the violation within the time specified or because the violation jeopardizes the health or safety of any of the residents, the director shall revoke or refuse to renew the license in accordance with Chapter 119. of the Revised Code.

Sec. ~~3722.07~~ 5119.76. (A) If the director of mental health determines that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of rules adopted ~~pursuant to it~~ under those sections, the director may immediately issue an order suspending the admission of residents to the facility. This order shall be effective immediately without prior hearing, and no resident shall be admitted to the facility until termination of the order. The director shall send a copy of the order to each organization known by the director to have placed residents in the facility and upon termination of the order shall send written notice of the termination to each of these organizations. Upon inquiry by any person about the licensure status of the facility, the director shall disclose the existence of an order of suspension. If the director discloses the existence of such an order to any person pursuant to this division, ~~he~~ the director shall also notify that person, and any other person upon inquiry, of any subsequent termination of the order of suspension. The facility shall post the notice provided for in division (B) of this section prominently and shall inform any person who inquires about residence or placement in the facility of the order.

(B) The director shall give written notice of the order of suspension to the facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. If requested by the facility in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility

concerning the suspension. The conference shall be held not later than seven days after the director receives the request.

The notice sent by the director shall contain all of the following:

- (1) A description of the violation;
- (2) A citation to the statute or rule violated;
- (3) A description of the corrections required for termination of the order of suspension;
- (4) Procedures for the facility to follow to request a conference on the order of suspension.

(C) At the conference the director shall discuss with the representatives of the facility the violation cited in the notice provided for in division (B) of this section and shall advise the representatives in regard to correcting the violations. Not later than five days after the conference, the director shall issue another order either upholding or terminating the suspension. If the director issues an order upholding the suspension, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the notice and hearing under that chapter shall be provided after the order is issued, and the suspension shall remain in effect during the hearing process unless terminated by the director or until ninety days have elapsed after a timely request for an adjudication hearing is received by the director, whichever is sooner.

Sec. ~~3722.08~~ 5119.77. (A) If the director of mental health determines that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or rules adopted under ~~# those sections~~, the director may impose a civil penalty on the owner of the facility, pursuant to rules adopted ~~by the public health council~~ under this chapter sections 5119.79 and 5119.80 of the Revised Code. The director shall determine the classification and amount of the penalty by considering the following factors:

- (1) The gravity of the violation, the severity of the actual or potential harm, and the extent to which the provisions of this chapter or rules adopted under it were violated;
- (2) Actions taken by the owner or manager to correct the violation;
- (3) The number, if any, of previous violations by the adult care facility.

(B) The director shall give written notice of the order imposing a civil penalty to the adult care facility by certified mail, return receipt requested, or shall provide for delivery of the notice in person. The notice shall specify the classification of the violation as determined by rules adopted ~~by the public health council pursuant to this chapter~~ under section 5119.80 of the Revised Code, the amount of the penalty and the rate of interest, the action

that is required to be taken to correct the violation, the time within which it is to be corrected as specified in division (C) of this section, and the procedures for the facility to follow to request a conference on the order imposing a civil penalty. If the facility requests a conference in a letter mailed or delivered not later than two working days after it has received the notice, the director shall hold a conference with representatives of the facility concerning the civil penalty. The conference shall be held not later than seven days after the director receives the request. The conference shall be conducted as prescribed in division (C) of section ~~3722.07~~ 5119.76 of the Revised Code. If the director issues an order upholding the civil penalty, the facility may request an adjudication hearing pursuant to Chapter 119. of the Revised Code, but the order of the director shall be in effect during proceedings instituted pursuant to that chapter until a final adjudication is made.

(C) The director shall order that the condition or practice constituting a class I violation be abated or eliminated within twenty-four hours or any longer period that the director considers reasonable. The notice for a class II or a class III violation shall specify a time within which the violation is required to be corrected.

(D) If the facility does not request a conference or if, after a conference, it fails to take action to correct a violation in the time prescribed by the director, the director shall issue an order upholding the penalty, plus interest at the rate specified in section 1343.03 of the Revised Code for each day beyond the date set for payment of the penalty. The director may waive the interest payment for the period prior to the conference if the director concludes that the conference was necessitated by a legitimate dispute.

(E) The director may cancel or reduce the penalty for a class I violation if the facility corrects the violation within the time specified in the notice, except that the director shall impose the penalty even though the facility has corrected the violation if a resident suffers physical harm because of the violation or the facility has been cited previously for the same violation. The director may cancel the penalty for a class II or class III violation if the facility corrects the violation within the time specified in the notice and the facility has not been cited previously for the same violation. Each day of a violation of any class, after the date the director sets for abatement or elimination, constitutes a separate and additional violation.

(F) If an adult care facility fails to pay a penalty imposed under this section, the director may commence a civil action to collect the penalty. The license of an adult care facility that has failed to pay a penalty imposed under this section shall not be renewed until the penalty has been paid.

(G) If a penalty is imposed under this section, a fine shall not be imposed under section ~~3722.99~~ 5119.99 of the Revised Code for the same violation.

Sec. ~~3722.09~~ 5119.78. (A) If the director of mental health determines that the operation of an adult care facility jeopardizes the health or safety of any of the residents of the facility or if the director determines that an adult care facility is operating without a license, the director may petition the court of common pleas in the county in which the facility is located for appropriate injunctive relief against the facility. If injunctive relief is granted against a facility for operating without a license and the facility continues to operate without a license, the director shall refer the case to the attorney general for further action.

(B) The court petitioned under division (A) of this section shall grant injunctive relief upon a showing that the operation of the facility jeopardizes the health or safety of any of the residents of the facility or that the facility is operating without a license. When the court grants injunctive relief in the case of a facility operating without a license, the court shall issue, at a minimum, an order enjoining the facility from admitting new residents to the facility and an order requiring the facility to assist ~~resident rights advocates~~ with the safe and orderly relocation of the facility's residents.

Sec. ~~3722.10~~ 5119.79. (A) The ~~public health council shall have the exclusive authority to adopt, and the council~~ department of mental health shall adopt; rules governing the licensing and operation of adult care facilities. The rules shall be adopted in accordance with Chapter 119. of the Revised Code ~~and shall. Subject to any provision of sections 5119.70 to 5119.88 of the Revised Code for which rules are required to be adopted, the rules may specify~~ at any of the following:

(1) Procedures for the issuance, renewal, and revocation of licenses, for the granting and denial of waivers, and for the issuance and termination of orders of suspension of admission pursuant to section ~~3722.07~~ 5119.76 of the Revised Code;

(2) The qualifications required for owners, managers, and employees of adult care facilities, including character, training, education, experience, and financial resources and the number of staff members required in a facility;

(3) Adequate space, equipment, safety, and sanitation standards for the premises of adult care facilities, and fire protection standards for adult family homes as required by section ~~3722.041~~ 5119.731 of the Revised Code;

(4) The personal, social, dietary, and recreational services to be provided to each resident of adult care facilities;

(5) Rights of residents of adult care facilities, in addition to the rights enumerated under section ~~3722.12~~ 5119.81 of the Revised Code, and procedures to protect and enforce the rights of these residents;

(6) Provisions for keeping records of residents and for maintaining the confidentiality of the records as required by division (B) of section ~~3722.12~~ 5119.81 of the Revised Code. The provisions for maintaining the confidentiality of records shall, at the minimum, meet the requirements for maintaining the confidentiality of records under Title XIX of the "Social Security Act," 49 Stat. 620, 42 U.S.C. 301, as amended, and regulations promulgated thereunder.

(7) Measures to be taken by adult care facilities relative to residents' medication, including policies and procedures concerning medication, storage of medication in a locked area, and disposal of medication and assistance with self-administration of medication, if the facility provides assistance;

(8) Requirements for initial and periodic health assessments of prospective and current adult care facility residents by physicians or other health professionals to ensure that they do not require a level of care beyond that which is provided by the adult care facility, including assessment of their capacity to self-administer the medications prescribed for them;

(9) Requirements relating to preparation of special diets;

(10) The amount of the fees for new and renewal license applications made pursuant to sections ~~3722.02~~ 5119.71 and ~~3722.04~~ 5119.73 of the Revised Code;

(11) Measures to be taken by any employee of the state or any political subdivision of the state authorized by this chapter to enter an adult care facility to inspect the facility or for any other purpose, to ensure that the employee respects the privacy and dignity of residents of the facility, cooperates with residents of the facility and behaves in a congenial manner toward them, and protects the rights of residents;

(12) How an owner or manager of an adult care facility is to comply with section ~~3722.18~~ 5119.88 of the Revised Code. ~~At a minimum, the~~ The rules ~~shall~~ may establish the procedures an owner or manager is to follow under division (A) of section ~~3722.18~~ 5119.88 of the Revised Code regarding referrals to the facility of prospective residents with mental illness or severe mental disability and effective arrangements for ongoing mental health services for such prospective residents. The procedures may provide for any of the following:

(a) That the owner or manager and the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the

facility is located sign a mental health resident program participation agreement, as developed by the director of mental health under section ~~5119.613~~ 5119.614 of the Revised Code;

(b) That the owner or manager comply with the requirements of its mental health resident program participation agreement;

(c) That the owner or manager and the mental health agencies and ADAMHS boards that refer such prospective residents to the facility develop and sign a mental health plan for ongoing mental health services for each such prospective resident;

(d) Any other process established by the ~~public health council in consultation with the director of health and~~ director of mental health regarding referrals and effective arrangements for ongoing mental health services for prospective residents with mental illness.

(13) Any other rules necessary for the administration and enforcement of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code.

~~(B) After consulting with relevant constituencies, the director of mental health shall prepare and submit to the director of health recommendations for the content of rules to be adopted under division (A)(12) of this section.~~

~~(C)~~ The director of mental health shall advise adult care facilities regarding compliance with the requirements of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code and with the rules adopted pursuant to ~~this chapter~~ those sections.

~~(D)~~(C) Any duty or responsibility imposed upon the director of mental health by this chapter may be carried out by ~~an employee of the department of health~~ persons designated by the director.

~~(E)~~(D) Employees of the department of mental health may enter, for the purposes of investigation, any institution, residence, facility, or other structure which has been reported to the department as, or that the department has reasonable cause to believe is, operating as an adult care facility without a valid license.

~~Sec. 3722.11~~ 5119.80. The ~~public health council~~ department of mental health shall, ~~not later than twelve months after the effective date of this section,~~ adopt rules under Chapter 119. of the Revised Code that set guidelines for classifying violations of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or rules adopted under ~~# those sections~~ for the purpose of imposing civil penalties. The rules shall establish the following classifications:

(A) Class I violations are conditions or occurrences that present an immediate and serious threat to the physical or emotional health, safety, or security of residents of an adult care facility. Whoever is determined to have

committed a class I violation is subject to a civil penalty of not less than seven hundred dollars nor more than one thousand dollars for each violation.

(B) Class II violations are conditions or occurrences, other than class I violations, that directly threaten the physical or emotional health, safety, or security of residents of an adult care facility. Whoever is determined to have committed a class II violation is subject to a civil penalty of not less than five hundred dollars nor more than seven hundred dollars for each violation.

(C) Class III violations are conditions or occurrences, other than class I or class II violations, that indirectly or potentially threaten the physical or emotional health, safety, or security of residents of a facility. Whoever is determined to have committed a class III violation is subject to a civil penalty of not less than one hundred dollars nor more than five hundred dollars for each violation.

Sec. ~~3722.12~~ 5119.81. (A) As used in this section:

(1) "Abuse" means the unreasonable confinement or intimidation of a resident, or the infliction of injury or cruel punishment upon a resident, resulting in physical harm, pain, or mental anguish.

(2) "Exploitation" means the unlawful or improper utilization of an adult resident or ~~his~~ the resident's resources for personal or monetary benefit, profit, or gain.

(3) "Mechanical restraint" means any method of restricting a resident's freedom of movement, physical activity, or normal use of the resident's body, using an appliance or device manufactured for this purpose.

(4) "Neglect" means failure to provide a resident with the goods or services necessary to prevent physical harm, mental anguish, or mental illness.

~~(4)(5) "Physical restraint," includes, but is not limited to, the locked door of a room or any article, device, or garment that interferes with the free movement of the resident and that he is unable to remove easily also known as "manual restraint,"~~ means any method of physically restricting a resident's freedom of movement, physical activity, or normal use of the resident's body without the use of a mechanical restraint.

(6) "Seclusion" means the involuntary confinement of a resident alone in a room in which the resident is physically prevented from leaving.

(B) The rights of a resident of an adult care facility include all of the following:

(1) The right to a safe, healthy, clean, and decent living environment;

(2) The right to be treated at all times with courtesy and respect, and with full recognition of personal dignity and individuality;

(3) The right to practice a religion of ~~his~~ the resident's choice or to

abstain from the practice of religion;

(4) The right to manage personal financial affairs;

(5) The right to retain and use personal clothing;

(6) The right to ownership and reasonable use of personal property so as to maintain personal dignity and individuality;

(7) The right to participate in activities within the facility and to use the common areas of the facility;

(8) The right to engage in or refrain from engaging in activities of ~~his~~ the resident's own choosing within reason;

(9) The right to private and unrestricted communications, including:

(a) The right to receive, send, and mail sealed, unopened correspondence;

(b) The right to reasonable access to a telephone for private communications;

(c) The right to private visits at any reasonable hour.

(10) The right to initiate and maintain contact with the community, including the right to participate in the activities of community groups at ~~his~~ the resident's initiative or at the initiative of community groups;

(11) The right to state grievances to the owner or the manager of the facility, to any governmental agency, or to any other person without reprisal;

(12) Prior to becoming a resident, the right to visit the facility alone or with ~~his~~ the prospective resident's sponsor;

(13) The right to retain the services of any health or social services practitioner at ~~his~~ the resident's own expense;

(14) The right to refuse medical treatment or services, or if the resident has been adjudicated incompetent pursuant to Chapter 2111. of the Revised Code and has not been restored to legal capacity, the right to have ~~his~~ the resident's legal guardian make decisions about medical treatment and services for ~~him~~ the resident;

(15) The right to be free from abuse, neglect, or exploitation;

(16) The right to be free from seclusion and mechanical and physical restraints;

(17) The right not to be deprived of any legal rights solely by reason of residence in an adult care facility;

(18) The right to examine records maintained by the adult care facility concerning ~~him~~ the resident, upon request;

(19) The right to confidential treatment of ~~his~~ the resident's personal records, and the right to approve or refuse the release of these records to any individual outside the facility, except upon transfer to another adult care facility or a nursing home, residential care facility, home for the aging,

hospital, or other health care facility or provider, and except as required by law or rule or as required by a third-party payment contract;

(20) The right to be informed in writing of the rates charged by the facility as well as any additional charges, and to receive thirty days notice in writing of any change in the rates and charges;

(21) The right to have any significant change in ~~his~~ the resident's health reported to ~~his~~ the resident's sponsor;

(22) The right to share a room with a spouse if both are residents of the facility.

(C) A sponsor, ~~or the director of mental health, the director of aging, or a residents' rights advocate registered under section 3701.07 of the Revised Code~~ may assert on behalf of a resident any of the rights enumerated under this section, section ~~3722.14~~ 5119.83 of the Revised Code, or rules adopted ~~by the public health council pursuant to this chapter~~ sections 5119.70 to 5119.88 of the Revised Code. Any attempted waiver of these rights is void. No adult care facility or person associated with an adult care facility shall deny a resident any of these rights.

(D) Any resident whose rights under this section or section ~~3722.13~~ 5119.82 or ~~3722.14~~ 5119.83 of the Revised Code are violated has a cause of action against any person or facility committing the violation. ~~The action may be commenced by the resident or by his sponsor on his behalf.~~ The court may award actual and punitive damages for violation of the rights. The court may award to the prevailing party reasonable attorney's fees limited to the work reasonably performed.

Sec. ~~3722.13~~ 5119.82. (A) Each adult care facility shall establish a written residents' rights policy containing the text of sections ~~3722.12~~ 5119.81 and ~~3722.14~~ 5119.83 of the Revised Code and rules adopted by the ~~public health council pursuant to this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, a discussion of the rights and responsibilities of residents under ~~that section~~ sections 5119.81 to 5119.83 of the Revised Code, and the text of any additional rule for residents promulgated by the facility. At the time of admission the manager shall give a copy of the residents' rights policy to the resident and the resident's sponsor, if any, and explain the contents of the policy to them. The facility shall establish procedures for facilitating the residents' exercise of their rights.

(B) Each adult care facility shall post prominently within the facility a copy of the residents' rights listed in division (B) of section ~~3722.12~~ 5119.81 of the Revised Code and any additional residents' rights established by rules adopted ~~by the public health council pursuant to this chapter~~ sections 5119.70 to 5119.88 of the Revised Code, the addresses and telephone

numbers of the state long-term care ombudsperson and the regional long-term care ombudsperson program for the area in which the facility is located, and the telephone number maintained by the department ~~of health~~ for accepting complaints.

Sec. ~~3722.14~~ 5119.83. (A)(1) Except as provided in division (A)(2) of this section, an adult care facility may transfer or discharge a resident, in the absence of a request from the resident, only for the following reasons:

(a) Charges for the resident's accommodations and services have not been paid within thirty days after the date on which they became due;

(b) The mental, emotional, or physical condition of the resident requires a level of care that the facility is unable to provide;

(c) The health, safety, or welfare of the resident or of another resident requires a transfer or discharge;

(d) The facility's license has been revoked or renewal has been denied ~~pursuant to this chapter~~ by the director of mental health;

(e) The owner closes the facility;

(f) The resident is relocated as the result of a court's order issued under section ~~3722.09~~ 5119.78 of the Revised Code as part of the injunctive relief granted against a facility that is operating without a license;

(g) The resident is receiving publicly funded mental health services and the facility's mental health resident program participation agreement is terminated by the facility or ADAMHS board.

(2) An adult family home may transfer or discharge a resident if transfer or discharge is required for the health, safety, or welfare of an individual who resides in the home but is not a resident for whom supervision or personal services are provided.

(B)(1) The facility shall give a resident thirty days' advance notice, in writing, of a proposed transfer or discharge, except that if the transfer or discharge is for a reason given in divisions (A)(1)(b) to (g) or (A)(2) of this section and an emergency exists, the notice need not be given thirty days in advance. The facility shall state in the written notice the reasons for the proposed transfer or discharge. If the resident is entitled to a hearing as specified in division (B)(2) of this section, the written notice shall outline the procedure for the resident to follow in requesting a hearing.

(2) A resident may request a hearing if a proposed transfer or discharge is based on reason given in ~~division~~ divisions (A)(1)(a) to (c) or (A)(2) of this section. If the resident seeks a hearing, the resident shall submit a request to the director of mental health not later than ten days after receiving the written notice. The director shall hold the hearing not later than ten days after receiving the request. A representative of the director shall preside over

the hearing and shall issue a written recommendation of action to be taken by the director not later than three days after the hearing. The director shall issue an order regarding the transfer or discharge not later than two days after receipt of the recommendation. The order may prohibit or place conditions on the discharge or transfer. In the case of a transfer, the order may require that the transfer be to an institution or facility specified by the director. The hearing is not subject to section 121.22 of the Revised Code. The ~~public health council~~ department of mental health shall adopt rules governing any additional procedures necessary for conducting the hearing.

(C)(1) The owner of an adult care facility who is closing the facility shall inform the director ~~of health~~ in writing at least thirty days prior to the proposed date of closing. At the same time, the owner or manager shall inform each resident, the resident's guardian, the resident's sponsor, or any organization or agency acting on behalf of the resident, of the closing of the facility and the date of the closing.

(2) Immediately upon receiving notice that a facility is to be closed, the director shall monitor the transfer of residents to other facilities and ensure that residents' rights are protected. The director shall notify the ombudsperson in the region in which the facility is located of the closing.

(3) All charges shall be prorated as of the date on which the facility closes. If payments have been made in advance, the payments for services not rendered shall be refunded to the resident or the resident's guardian not later than seven days after the closing of the facility.

(4) Immediately upon the closing of a facility, the owner shall surrender the license to the director, and the license shall be canceled.

Sec. ~~3722.15~~ 5119.84. (A) The following may enter an adult care facility at any time:

- (1) Employees designated by the director of mental health;
- (2) Employees designated by the director of aging;
- (3) Employees designated by the attorney general;
- (4) Employees designated by a county department of job and family services to implement sections 5101.60 to 5101.71 of the Revised Code;
- (5) Persons employed pursuant to division (M) of section 173.01 of the Revised Code in the long-term care ombudsperson program;
- (6) ~~Employees of the department of mental health designated by the director of mental health;~~
- (7) Employees of a mental health agency under any of the following circumstances:
 - (a) When the agency has a client residing in the facility;
 - (b) When the agency is acting as an agent of an ADAMHS board other

than the board with which it is under contract;

(c) When there is a mental health resident program participation agreement between the facility and the ADAMHS board with which the agency is under contract.

~~(8)(7)~~ Employees of an ADAMHS board under any of the following circumstances:

(a) When authorized by section 340.05 of the Revised Code;

(b) When a resident of the facility is receiving mental health services provided by that ADAMHS board or another ADAMHS board pursuant to division (A)(8)(b) of section 340.03 of the Revised Code;

(c) When a resident of the facility is receiving services from a mental health agency under contract with that ADAMHS board or another ADAMHS board;

(d) When there is a mental health resident program participation agreement between the facility and that ADAMHS board.

The employees specified in divisions (A)(1) to ~~(8)(7)~~ of this section shall be afforded access to all records of the facility, including records pertaining to residents, and may copy the records. Neither these employees nor the director of mental health shall release, without consent, any information obtained from the records of an adult care facility that reasonably would tend to identify a specific resident of the facility, except as ordered by a court of competent jurisdiction or when the release is otherwise authorized by law.

(B) The following persons may enter any adult care facility during reasonable hours:

(1) ~~A resident's sponsor;~~

~~(2) Residents' rights advocates;~~

~~(3) A resident's attorney;~~

~~(4)(2)~~ A minister, priest, rabbi, or other person ministering to a resident's religious needs;

~~(5)(3)~~ A physician or other person providing health care services to a resident;

~~(6)(4)~~ Employees authorized by county departments of job and family services and local boards of health or health departments to enter adult care facilities;

~~(7)(5) A prospective resident and prospective resident's sponsor.~~

(C) The manager of an adult care facility may require a person seeking to enter the facility to present identification sufficient to identify the person as an authorized person under this section.

Sec. ~~3722.151~~ 5119.85. (A) As used in this section:

(1) "~~Adult care facility~~" ~~has the same meaning as in section 3722.01 of the Revised Code~~ resident" means an individual residing in an adult care facility licensed by the department of mental health.

(2) "Applicant" means a person who is under final consideration for employment with an adult care facility in a full-time, part-time, or temporary position that involves providing direct care to an ~~older~~ adult resident. "Applicant" does not include a person who provides direct care as a volunteer without receiving or expecting to receive any form of remuneration other than reimbursement for actual expenses.

(3) "Criminal records check" ~~and "older adult"~~ have has the same ~~meanings~~ meaning as in section 109.572 of the Revised Code.

(B)(1) Except as provided in division (I) of this section, the chief administrator of an adult care facility shall request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check with respect to each applicant. If an applicant for whom a criminal records check request is required under this division does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant from the federal bureau of investigation in a criminal records check, the chief administrator shall request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the applicant. Even if an applicant for whom a criminal records check request is required under this division presents proof of having been a resident of this state for the five-year period, the chief administrator may request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) A person required by division (B)(1) of this section to request a criminal records check shall do both of the following:

(a) Provide to each applicant for whom a criminal records check request is required under that division a copy of the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and a standard fingerprint impression sheet prescribed pursuant to division (C)(2) of that section, and obtain the completed form and impression sheet from the applicant;

(b) Forward the completed form and impression sheet to the superintendent of the bureau of criminal identification and investigation.

(3) An applicant provided the form and fingerprint impression sheet under division (B)(2)(a) of this section who fails to complete the form or

provide fingerprint impressions shall not be employed in any position for which a criminal records check is required by this section.

(C)(1) Except as provided in rules adopted by the ~~public health council~~ department of mental health in accordance with division (F) of this section and subject to division (C)(2) of this section, no adult care facility shall employ a person in a position that involves providing direct care to an ~~older~~ adult resident if the person has been convicted of or pleaded guilty to any of the following:

(a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.11, 2905.12, 2907.02, 2907.03, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.12, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.03, 2913.04, 2913.11, 2913.21, 2913.31, 2913.40, 2913.43, 2913.47, 2913.51, 2919.25, 2921.36, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.11, 2925.13, 2925.22, 2925.23, or 3716.11 of the Revised Code.

(b) A violation of an existing or former law of this state, any other state, or the United States that is substantially equivalent to any of the offenses listed in division (C)(1)(a) of this section.

(2)(a) An adult care facility may employ conditionally an applicant for whom a criminal records check request is required under division (B) of this section prior to obtaining the results of a criminal records check regarding the individual, provided that the facility shall request a criminal records check regarding the individual in accordance with division (B)(1) of this section not later than five business days after the individual begins conditional employment. In the circumstances described in division (I)(2) of this section, an adult care facility may employ conditionally an applicant who has been referred to the adult care facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of ~~older adults~~ adult residents and for whom, pursuant to that division, a criminal records check is not required under division (B) of this section.

(b) An adult care facility that employs an individual conditionally under authority of division (C)(2)(a) of this section shall terminate the individual's employment if the results of the criminal records check requested under division (B) of this section or described in division (I)(2) of this section, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending thirty days after the date the request is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the individual has

been convicted of or pleaded guilty to any of the offenses listed or described in division (C)(1) of this section, the facility shall terminate the individual's employment unless the facility chooses to employ the individual pursuant to division (F) of this section. Termination of employment under this division shall be considered just cause for discharge for purposes of division (D)(2) of section 4141.29 of the Revised Code if the individual makes any attempt to deceive the facility about the individual's criminal record.

(D)(1) Each adult care facility shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for each criminal records check conducted pursuant to a request made under division (B) of this section.

(2) An adult care facility may charge an applicant a fee not exceeding the amount the facility pays under division (D)(1) of this section. A facility may collect a fee only if it notifies the person at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(E) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The individual who is the subject of the criminal records check or the individual's representative;

(2) The chief administrator of the facility requesting the criminal records check or the administrator's representative;

(3) The administrator of any other facility, agency, or program that provides direct care to ~~elder adults~~ adult residents that is owned or operated by the same entity that owns or operates the adult care facility;

(4) A court, hearing officer, or other necessary individual involved in a case dealing with a denial of employment of the applicant or dealing with employment or unemployment benefits of the applicant;

(5) Any person to whom the report is provided pursuant to, and in accordance with, division (I)(1) or (2) of this section.

(F) The ~~public health council shall~~ department may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules ~~shall~~ may specify circumstances under which an adult care facility may employ a person who has been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section but meets personal character standards set by the council.

(G) The chief administrator of an adult care facility shall inform each individual, at the time of initial application for a position that involves

providing direct care to an ~~elder~~ adult resident, that the individual is required to provide a set of fingerprint impressions and that a criminal records check is required to be conducted if the individual comes under final consideration for employment.

(H) In a tort or other civil action for damages that is brought as the result of an injury, death, or loss to person or property caused by an individual who an adult care facility employs in a position that involves providing direct care to ~~elder adults~~ adult residents, all of the following shall apply:

(1) If the facility employed the individual in good faith and reasonable reliance on the report of a criminal records check requested under this section, the facility shall not be found negligent solely because of its reliance on the report, even if the information in the report is determined later to have been incomplete or inaccurate;

(2) If the facility employed the individual in good faith on a conditional basis pursuant to division (C)(2) of this section, the facility shall not be found negligent solely because it employed the individual prior to receiving the report of a criminal records check requested under this section;

(3) If the facility in good faith employed the individual according to the personal character standards established in rules adopted under division (F) of this section, the facility shall not be found negligent solely because the individual prior to being employed had been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section.

(I)(1) The chief administrator of an adult care facility is not required to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant if the applicant has been referred to the facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of ~~elder adults~~ adult residents and both of the following apply:

(a) The chief administrator receives from the employment service or the applicant a report of the results of a criminal records check regarding the applicant that has been conducted by the superintendent within the one-year period immediately preceding the applicant's referral;

(b) The report of the criminal records check demonstrates that the person has not been convicted of or pleaded guilty to an offense listed or described in division (C)(1) of this section, or the report demonstrates that the person has been convicted of or pleaded guilty to one or more of those offenses, but the adult care facility chooses to employ the individual pursuant to division (F) of this section.

(2) The chief administrator of an adult care facility is not required to

request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of an applicant and may employ the applicant conditionally as described in this division, if the applicant has been referred to the facility by an employment service that supplies full-time, part-time, or temporary staff for positions involving the direct care of ~~older adults~~ adult residents and if the chief administrator receives from the employment service or the applicant a letter from the employment service that is on the letterhead of the employment service, dated, and signed by a supervisor or another designated official of the employment service and that states that the employment service has requested the superintendent to conduct a criminal records check regarding the applicant, that the requested criminal records check will include a determination of whether the applicant has been convicted of or pleaded guilty to any offense listed or described in division (C)(1) of this section, that, as of the date set forth on the letter, the employment service had not received the results of the criminal records check, and that, when the employment service receives the results of the criminal records check, it promptly will send a copy of the results to the adult care facility. If an adult care facility employs an applicant conditionally in accordance with this division, the employment service, upon its receipt of the results of the criminal records check, promptly shall send a copy of the results to the adult care facility, and division (C)(2)(b) of this section applies regarding the conditional employment.

Sec. ~~3722.16~~ 5119.86. (A) No person shall:

(1) Operate an adult care facility unless the facility is validly licensed by the director of mental health under section ~~3722.04~~ 5119.73 of the Revised Code;

(2) Admit to an adult care facility more residents than the number authorized in the facility's license;

(3) Admit a resident to an adult care facility after the director has issued an order pursuant to section ~~3722.07~~ 5119.76 of the Revised Code suspending admissions to the facility. Violation of division (A)(3) of this section is cause for revocation of the facility's license.

(4) Interfere with any authorized inspection of an adult care facility conducted pursuant to section ~~3722.02~~ 5119.71 or ~~3722.04~~ 5119.73 of the Revised Code;

(5) Admit to an adult care facility a resident requiring publicly funded mental health services, unless both of the following conditions are met:

(a) The ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the facility is located is notified;

(b) The facility and ADAMHS board have entered into a mental health resident program participation agreement by using the standardized form approved by the director of mental health under section ~~5119.613~~ 5119.614 of the Revised Code.

(6) Violate any of the provisions of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or any of the rules adopted pursuant to ~~it~~ those sections.

(B) No adult care facility shall provide, or admit or retain any resident in need of, skilled nursing care unless all of the following conditions are met:

(1) 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.

(2) The care will be provided by one or more of the following:

(a) A home health agency certified under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended;

(b) A hospice care program licensed under Chapter 3712. of the Revised Code;

(c) A nursing home licensed under Chapter 3721. of the Revised Code and owned and operated by the same person and located on the same site as the adult care facility;

(d) A mental health agency or, pursuant to division (A)(8)(b) of section 340.03 of the Revised Code, an ADAMHS board.

(3) Each individual employed by, under contract with, or otherwise used by any of the entities specified in division (B)(2) of this section to perform the skilled nursing care is authorized under the laws of this state to perform the care by being appropriately licensed, as specified in rules adopted under division (G) of this section.

(4) The staff of the one or more entities providing the skilled nursing care does not train the adult care facility staff to provide the skilled nursing care;

(5) The individual to whom the skilled nursing care is provided is suffering from a short-term illness;

(6) If the skilled nursing care is to be provided by the nursing staff of a nursing home, all of the following are the case:

(a) The adult care facility evaluates the individual receiving the skilled nursing care at least once every seven days to determine whether the individual should be transferred to a nursing home;

(b) The adult care facility meets at all times staffing requirements established by rules adopted under section ~~3722.10~~ 5119.79 of the Revised Code;

(c) The nursing home does not include the cost of providing skilled nursing care to the adult care facility residents in a cost report filed under section 5111.26 of the Revised Code;

(d) The nursing home meets at all times the nursing home licensure staffing ratios established by rules adopted under section 3721.04 of the Revised Code;

(e) The nursing home staff providing skilled nursing care to adult care facility residents are registered nurses or licensed practical nurses licensed under Chapter 4723. of the Revised Code and meet the personnel qualifications for nursing home staff established by rules adopted under section 3721.04 of the Revised Code;

(f) The skilled nursing care is provided in accordance with rules established for nursing homes under section 3721.04 of the Revised Code;

(g) The nursing home meets the skilled nursing care needs of the adult care facility residents;

(h) Using the nursing home's nursing staff does not prevent the nursing home or adult care facility from meeting the needs of the nursing home and adult care facility residents in a quality and timely manner.

(7) No adult care facility staff shall provide skilled nursing care.

Notwithstanding section 3721.01 of the Revised Code, an adult care facility in which residents receive skilled nursing care as described in division (B) of this section is not a nursing home.

(C) A home health agency or hospice care program that provides skilled nursing care pursuant to division (B) of this section may not be associated with the adult care facility unless the facility is part of a home for the aged as defined in section 5701.13 of the Revised Code or the adult care facility is owned and operated by the same person and located on the same site as a nursing home licensed under Chapter 3721. of the Revised Code that is associated with the home health agency or hospice care program. In addition, the following requirements shall be met:

(1) The adult care facility shall evaluate the individual receiving the skilled nursing care not less than once every seven days to determine whether the individual should be transferred to a nursing home;

(2) If the costs of providing the skilled nursing care are included in a cost report filed pursuant to section 5111.26 of the Revised Code by the nursing home that is part of the same home for the aged, the home health agency or hospice care program shall not seek reimbursement for the care under the medical assistance program established under Chapter 5111. of the Revised Code.

(D) No person knowingly shall place or recommend placement of any

person in an adult care facility that is operating without a license.

(E) No employee of a unit of local or state government, ADAMHS board, mental health agency, or ~~PASSPORT~~ RSS administrative agency shall place or recommend placement of any person in an adult care facility if the employee knows any of the following:

(1) That the facility cannot meet the needs of the potential resident;

(2) That placement of the resident would cause the facility to exceed its licensed capacity;

(3) That an enforcement action initiated by the director of mental health is pending and may result in the revocation of or refusal to renew the facility's license;

(4) That the potential resident is receiving or is eligible for publicly funded mental health services and the facility has not entered into a mental health resident program participation agreement.

(F) No person who has reason to believe that an adult care facility is operating without a license shall fail to report this information to the director of mental health.

(G) In accordance with Chapter 119. of the Revised Code, the ~~public health council~~ department of mental health shall adopt rules for purposes of division (B) of this section that do all of the following:

(1) Define a short-term illness for purposes of division (B)(5) of this section;

(2) Specify, consistent with rules pertaining to home health care adopted by the director of job and family services under the medical assistance program established under Chapter 5111. of the Revised Code and Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, what constitutes a part-time, intermittent basis for purposes of division (B)(1) of this section;

(3) Specify what constitutes being appropriately licensed for purposes of division (B)(3) of this section.

Sec. ~~3722.17~~ 5119.87. (A) Any person who believes that an adult care facility is in violation of ~~this chapter~~ sections 5119.70 to 5119.88 of the Revised Code or of any of the rules ~~promulgated~~ adopted pursuant to ~~it~~ those sections may report the information to the director of mental health. The director shall investigate each report made under this section or section ~~3722.16~~ 5119.86 of the Revised Code and shall inform the facility of the results of the investigation. When investigating a report made pursuant to section 340.05 of the Revised Code, the director shall consult with the ADAMHS board that made the report. The director shall keep a record of the investigation and the action taken as a result of the investigation.

The director shall not reveal, without consent, the identity of a person who makes a report under this section or division (G) of section ~~3722.16~~ 5119.86 of the Revised Code, the identity of a specific resident or residents referred to in such a report, or any other information that could reasonably be expected to reveal the identity of the person making the report or the resident or residents referred to in the report, except that the director may provide this information to a government agency responsible for enforcing laws applying to adult care facilities.

(B) Any person who believes that a resident's rights under sections ~~3722.12~~ 5119.81 to ~~3722.15~~ 5119.84 of the Revised Code have been violated may report the information to the state long-term care ombudsperson, the regional long-term care ombudsperson program for the area in which the facility is located, or the director of mental health. If the person believes that the resident has mental illness or severe mental disability and is suffering abuse or neglect, the person may report the information to the ADAMHS board serving the alcohol, drug addiction, and mental health service district in which the adult care facility is located or a mental health agency under contract with the board in addition to or instead of the ombudsperson, regional program, or director.

(C) Any person who makes a report pursuant to division (A) or (B) of this section or division (G) of section ~~3722.16~~ 5119.86 of the Revised Code or any person who participates in an administrative or judicial proceeding resulting from such a report is immune from any civil liability or criminal liability, other than perjury, that might otherwise be incurred or imposed as a result of these actions, unless the person has acted in bad faith or with malicious purpose.

Sec. ~~3722.18~~ 5119.88. Before an adult care facility admits a prospective resident who the owner or manager of the facility knows has been assessed as having a mental illness or severe mental disability, the owner or manager is subject to both of the following:

(A) If the prospective resident is referred to the facility by a mental health agency or ADAMHS board, the owner or manager shall follow procedures established in rules adopted under division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code regarding referrals and effective arrangements for ongoing mental health services.

(B) If the prospective resident is not referred to the facility by a mental health agency or ADAMHS board, the owner or manager shall offer to assist the prospective resident in obtaining appropriate mental health services and document the offer of assistance in accordance with rules adopted under division (A)(12) of section ~~3722.10~~ 5119.79 of the Revised Code.

Sec. 5119.99. (A) Whoever violates section 5119.21 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (A)(1) of section 5119.86 of the Revised Code shall be fined two thousand dollars for a first offense; for each subsequent offense, such person shall be fined five thousand dollars.

(C) Whoever violates division (C) of section 5119.81 or division (A)(2), (3), (4), (5), or (6), (B), (C), (D), (E), or (F) of section 5119.86 of the Revised Code shall be fined five hundred dollars for a first offense; for each subsequent offense, such person shall be fined one thousand dollars.

Sec. 5120.092. There is hereby created in the state treasury the adult and juvenile correctional facilities bond retirement fund. The fund shall receive proceeds derived from the sale of state adult or juvenile correctional facilities. Investment income with respect to moneys on deposit in the fund shall be retained by the fund. No investment of moneys in, or transfer of moneys from, the fund shall be made if the effect of the investment or transfer would be to adversely affect the exclusion from gross income of the interest payable on state bonds issued for state adult or juvenile correctional facilities that have been sold under authority of Section 753.10 or 753.30 of the act in which this section was enacted. To the extent necessary to maintain the exclusion from gross income of the interest payable on those bonds, moneys in the fund shall first be used to redeem or defease the outstanding portion of such bonds. To accomplish the redemption or defeasance, the director of budget and management, at the request of the Ohio building authority, may direct that moneys in the fund be transferred to the appropriate trustees under the applicable bond trust agreements. Upon receipt of both (i) one or more opinions of a nationally recognized bond counsel firm appointed by the Ohio building authority stating that the aforementioned bonds have been redeemed or defeased and that the transfer of such moneys will not adversely affect the exclusion from gross income of the interest payable on such bonds, and (ii) a certification by both the director of administrative services and the director of rehabilitation and correction stating either that all sales of state adult and juvenile correctional facilities contemplated by Sections 753.10 and 753.30 of the act in which this section was enacted have been completed or that no further sales of any such facilities will be undertaken, the director of budget and management may direct that any moneys remaining in the fund after the redemption or defeasance of the aforementioned bonds shall be transferred to the general revenue fund. Upon completion of that transfer, the adult and juvenile correctional facilities bond retirement fund shall be abolished.

Sec. 5120.105. (A) The department of administrative services shall

provide for the construction of a halfway house facility in conformity with Chapter 153. of the Revised Code, except that construction services may be provided by the department of rehabilitation and correction.

(B) The director of rehabilitation and correction may enter into an agreement with a halfway house organization for the management of a halfway house facility. The halfway house organization that occupies, will occupy, or is responsible for the management of a halfway house facility shall pay the costs of management of and general building services for the halfway house facility as provided in an agreement between the department of rehabilitation and correction and the halfway house organization.

(C) No state funds, including state bond proceeds, shall be spent on the construction of a halfway house facility under sections 5120.102 to 5120.105 of the Revised Code, unless the general assembly has specifically authorized the spending of money on, or has made an appropriation to the department of rehabilitation and correction for, the construction of the halfway house facility or rental payments relating to the financing of the construction of that facility. An authorization to spend money or an appropriation for planning a halfway house facility does not constitute an authorization to spend money on, or an appropriation for, the construction of that facility. Capital funds for the construction of halfway house facilities under sections 5120.102 to 5120.105 of the Revised Code shall be paid from the adult correctional building fund created ~~by the general assembly in the custody of the state treasurer~~ in division (F) of section 154.24 of the Revised Code.

Sec. 5120.135. (A) As used in this section, "laboratory services" includes the performance of medical laboratory analysis; professional laboratory and pathologist consultation; the procurement, storage, and distribution of laboratory supplies; and the performance of phlebotomy services.

(B) The department of rehabilitation and correction ~~shall~~ may provide laboratory services to the departments of mental health, developmental disabilities, youth services, and rehabilitation and correction. The department of rehabilitation and correction may also provide laboratory services to other state, county, or municipal agencies and to private persons that request laboratory services if the department of rehabilitation and correction determines that the provision of laboratory services is in the public interest and considers it advisable to provide such services. The department of rehabilitation and correction may also provide laboratory services to agencies operated by the United States government and to public and private entities funded in whole or in part by the state if the director of

rehabilitation and correction designates them as eligible to receive such services.

The department of rehabilitation and correction shall provide laboratory services from a laboratory that complies with the standards for certification set by the United States department of health and human services under the "Clinical Laboratory Improvement Amendments of 1988," 102 Stat. 293, 42 U.S.C.A. 263a. In addition, the laboratory shall maintain accreditation or certification with an appropriate accrediting or certifying organization as considered necessary by the recipients of its laboratory services and as authorized by the director of rehabilitation and correction.

(C) The cost of administering this section shall be determined by the department of rehabilitation and correction and shall be paid by entities that receive laboratory services to the department for deposit in the state treasury to the credit of the laboratory services fund, which is hereby created. The fund shall be used to pay the costs the department incurs in administering this section.

~~(D) If the department of rehabilitation and correction does not provide laboratory services under this section in a satisfactory manner to the department of developmental disabilities, youth services, or mental health, the director of developmental disabilities, youth services, or mental health shall attempt to resolve the matter of the unsatisfactory provision of services with the director of rehabilitation and correction. If, after this attempt, the provision of laboratory services continues to be unsatisfactory, the director of developmental disabilities, youth services, or mental health shall notify the director of rehabilitation and correction regarding the continued unsatisfactory provision of laboratory services. If, within thirty days after the director receives this notice, the department of rehabilitation and correction does not provide the specified laboratory services in a satisfactory manner, the director of developmental disabilities, youth services, or mental health shall notify the director of rehabilitation and correction of the notifying director's intent to cease obtaining laboratory services from the department of rehabilitation and correction. Following the end of a cancellation period of sixty days that begins on the date of the notice, the department that sent the notice may obtain laboratory services from a provider other than the department of rehabilitation and correction, if the department that sent the notice certifies to the department of administrative services that the requirements of this division have been met.~~

~~(E) Whenever a state agency fails to make a payment for laboratory services provided to it by the department of rehabilitation and correction under this section within thirty-one days after the date the payment was due,~~

the office of budget and management may transfer moneys from that state agency to the department of rehabilitation and correction for deposit to the credit of the laboratory services fund. The amount transferred shall not exceed the amount of the overdue payments. Prior to making a transfer under this division, the office shall apply any credits the state agency has accumulated in payment for laboratory services provided under this section.

Sec. 5120.17. (A) As used in this section:

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(2) "Mentally ill person subject to hospitalization" means a mentally ill person to whom any of the following applies because of the person's mental illness:

(a) The person represents a substantial risk of physical harm to the person as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm.

(b) The person represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness.

(c) The person represents a substantial and immediate risk of serious physical impairment or injury to the person as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the correctional institution in which the inmate is currently housed.

(d) The person would benefit from treatment in a hospital for the person's mental illness and is in need of treatment in a hospital as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(3) "Psychiatric hospital" means all or part of a facility that is operated and managed by the department of ~~rehabilitation and correction~~, ~~is designated as a psychiatric hospital~~ mental health to provide psychiatric hospitalization services in accordance with the requirements of this section pursuant to an agreement between the directors of rehabilitation and correction and mental health or, is licensed by the department of mental health pursuant to section 5119.20 of the Revised Code; as a psychiatric hospital and is ~~in substantial compliance with the standards set by the joint commission on accreditation of healthcare organizations~~ accredited by a

healthcare accrediting organization approved by the department of mental health and the psychiatric hospital is any of the following:

(a) Operated and managed by the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;

(b) Operated and managed by a contractor for the department of rehabilitation and correction within a facility that is operated by the department of rehabilitation and correction;

(c) Operated and managed in the community by an entity that has contracted with the department of rehabilitation and correction to provide psychiatric hospitalization services in accordance with the requirements of this section.

(4) "Inmate patient" means an inmate who is admitted to a psychiatric hospital.

(5) "Admitted" to a psychiatric hospital means being accepted for and staying at least one night at the psychiatric hospital.

(6) "Treatment plan" means a written statement of reasonable objectives and goals for an inmate patient that is based on the needs of the inmate patient and that is established by the treatment team, with the active participation of the inmate patient and with documentation of that participation. "Treatment plan" includes all of the following:

(a) The specific criteria to be used in evaluating progress toward achieving the objectives and goals;

(b) The services to be provided to the inmate patient during the inmate patient's hospitalization;

(c) The services to be provided to the inmate patient after discharge from the hospital, including, but not limited to, housing and mental health services provided at the state correctional institution to which the inmate patient returns after discharge or community mental health services.

(7) "Mentally retarded person subject to institutionalization by court order" has the same meaning as in section 5123.01 of the Revised Code.

(8) "Emergency transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate presents an immediate danger to self or others and requires hospital-level care.

(9) "Uncontested transfer" means the transfer of a mentally ill inmate to a psychiatric hospital when the inmate has the mental capacity to, and has waived, the hearing required by division (B) of this section.

(10)(a) "Independent decision-maker" means a person who is employed or retained by the department of rehabilitation and correction and is appointed by the chief or chief clinical officer of mental health services as a

hospitalization hearing officer to conduct due process hearings.

(b) An independent decision-maker who presides over any hearing or issues any order pursuant to this section shall be a psychiatrist, psychologist, or attorney, shall not be specifically associated with the institution in which the inmate who is the subject of the hearing or order resides at the time of the hearing or order, and previously shall not have had any treatment relationship with nor have represented in any legal proceeding the inmate who is the subject of the order.

(B)(1) Except as provided in division (C) of this section, if the warden of a state correctional institution or the warden's designee believes that an inmate should be transferred from the institution to a psychiatric hospital, the department shall hold a hearing to determine whether the inmate is a mentally ill person subject to hospitalization. The department shall conduct the hearing at the state correctional institution in which the inmate is confined, and the department shall provide qualified independent assistance to the inmate for the hearing. An independent decision-maker provided by the department shall preside at the hearing and determine whether the inmate is a mentally ill person subject to hospitalization.

(2) Except as provided in division (C) of this section, prior to the hearing held pursuant to division (B)(1) of this section, the warden or the warden's designee shall give written notice to the inmate that the department is considering transferring the inmate to a psychiatric hospital, that it will hold a hearing on the proposed transfer at which the inmate may be present, that at the hearing the inmate has the rights described in division (B)(3) of this section, and that the department will provide qualified independent assistance to the inmate with respect to the hearing. The department shall not hold the hearing until the inmate has received written notice of the proposed transfer and has had sufficient time to consult with the person appointed by the department to provide assistance to the inmate and to prepare for a presentation at the hearing.

(3) At the hearing held pursuant to division (B)(1) of this section, the department shall disclose to the inmate the evidence that it relies upon for the transfer and shall give the inmate an opportunity to be heard. Unless the independent decision-maker finds good cause for not permitting it, the inmate may present documentary evidence and the testimony of witnesses at the hearing and may confront and cross-examine witnesses called by the department.

(4) If the independent decision-maker does not find clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the department shall not transfer the inmate to a psychiatric

hospital but shall continue to confine the inmate in the same state correctional institution or in another state correctional institution that the department considers appropriate. If the independent decision-maker finds clear and convincing evidence that the inmate is a mentally ill person subject to hospitalization, the decision-maker shall order that the inmate be transported to a psychiatric hospital for observation and treatment for a period of not longer than thirty days. After the hearing, the independent decision-maker shall submit to the department a written decision that states one of the findings described in division (B)(4) of this section, the evidence that the decision-maker relied on in reaching that conclusion, and, if the decision is that the inmate should be transferred, the reasons for the transfer.

(C)(1) The department may transfer an inmate to a psychiatric hospital under an emergency transfer order if the chief clinical officer of mental health services of the department or that officer's designee and either a psychiatrist employed or retained by the department or, in the absence of a psychiatrist, a psychologist employed or retained by the department determines that the inmate is mentally ill, presents an immediate danger to self or others, and requires hospital-level care.

(2) The department may transfer an inmate to a psychiatric hospital under an uncontested transfer order if both of the following apply:

(a) A psychiatrist employed or retained by the department determines all of the following apply:

(i) The inmate has a mental illness or is a mentally ill person subject to hospitalization.

(ii) The inmate requires hospital care to address the mental illness.

(iii) The inmate has the mental capacity to make a reasoned choice regarding the inmate's transfer to a hospital.

(b) The inmate agrees to a transfer to a hospital.

(3) The written notice and the hearing required under divisions (B)(1) and (2) of this section are not required for an emergency transfer or uncontested transfer under division (C)(1) or (2) of this section.

(4) After an emergency transfer under division (C)(1) of this section, the department shall hold a hearing for continued hospitalization within five working days after admission of the transferred inmate to the psychiatric hospital. The department shall hold subsequent hearings pursuant to division (F) of this section at the same intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section.

(5) After an uncontested transfer under division (C)(2) of this section, the inmate may withdraw consent to the transfer in writing at any time. Upon the inmate's withdrawal of consent, the hospital shall discharge the

inmate, or, within five working days, the department shall hold a hearing for continued hospitalization. The department shall hold subsequent hearings pursuant to division (F) of this section at the same time intervals as required for inmate patients who are transported to a psychiatric hospital under division (B)(4) of this section.

(D)(1) If an independent decision-maker, pursuant to division (B)(4) of this section, orders an inmate transported to a psychiatric hospital or if an inmate is transferred pursuant to division (C)(1) or (2) of this section, the staff of the psychiatric hospital shall examine the inmate patient when admitted to the psychiatric hospital as soon as practicable after the inmate patient arrives at the hospital and no later than twenty-four hours after the time of arrival. The attending physician responsible for the inmate patient's care shall give the inmate patient all information necessary to enable the patient to give a fully informed, intelligent, and knowing consent to the treatment the inmate patient will receive in the hospital. The attending physician shall tell the inmate patient the expected physical and medical consequences of any proposed treatment and shall give the inmate patient the opportunity to consult with another psychiatrist at the hospital and with the inmate advisor.

(2) No inmate patient who is transported or transferred pursuant to division (B)(4) or (C)(1) or (2) of this section to a psychiatric hospital ~~pursuant to division (B)(4) or (C)(1) or (2) of this section and who is in the physical custody of~~ within a facility that is operated by the department of rehabilitation and correction shall be subjected to any of the following procedures:

- (a) Convulsive therapy;
- (b) Major aversive interventions;
- (c) Any unusually hazardous treatment procedures;
- (d) Psychosurgery.

(E) ~~The warden of the psychiatric hospital or the warden's designee~~ department of rehabilitation and correction shall ensure that an inmate patient hospitalized pursuant to this section receives or has all of the following:

(1) Receives sufficient professional care within twenty days of admission to ensure that an evaluation of the inmate patient's current status, differential diagnosis, probable prognosis, and description of the current treatment plan have been formulated and are stated on the inmate patient's official chart;

(2) Has a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals of treatment;

- (3) Receives treatment consistent with the treatment plan;
- (4) Receives periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed thirty days;
- (5) Is provided with adequate medical treatment for physical disease or injury;
- (6) Receives humane care and treatment, including, without being limited to, the following:
 - (a) Access to the facilities and personnel required by the treatment plan;
 - (b) A humane psychological and physical environment;
 - (c) The right to obtain current information concerning the treatment program, the expected outcomes of treatment, and the expectations for the inmate patient's participation in the treatment program in terms that the inmate patient reasonably can understand;
 - (d) Opportunity for participation in programs designed to help the inmate patient acquire the skills needed to work toward discharge from the psychiatric hospital;
 - (e) The right to be free from unnecessary or excessive medication and from unnecessary restraints or isolation;
 - (f) All other rights afforded inmates in the custody of the department consistent with rules, policy, and procedure of the department.
- (F) The department shall hold a hearing for the continued hospitalization of an inmate patient who is transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section prior to the expiration of the initial thirty-day period of hospitalization. The department shall hold any subsequent hearings, if necessary, not later than ninety days after the first thirty-day hearing and then not later than each one hundred and eighty days after the immediately prior hearing. An independent decision-maker shall conduct the hearings at the psychiatric hospital in which the inmate patient is confined. The inmate patient shall be afforded all of the rights set forth in this section for the hearing prior to transfer to the psychiatric hospital. The department may not waive a hearing for continued commitment. A hearing for continued commitment is mandatory for an inmate patient transported or transferred to a psychiatric hospital pursuant to division (B)(4) or (C)(1) of this section unless the inmate patient has the capacity to make a reasoned choice to execute a waiver and waives the hearing in writing. An inmate patient who is transferred to a psychiatric hospital pursuant to an uncontested transfer under division (C)(2) of this section and who has scheduled hearings after withdrawal of consent for hospitalization may waive any of the scheduled hearings if the inmate has the capacity to make a reasoned choice and

executes a written waiver of the hearing.

If upon completion of the hearing the independent decision-maker does not find by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order the inmate patient's discharge from the psychiatric hospital. If the independent decision-maker finds by clear and convincing evidence that the inmate patient is a mentally ill person subject to hospitalization, the independent decision-maker shall order that the inmate patient remain at the psychiatric hospital for continued hospitalization until the next required hearing.

If at any time prior to the next required hearing for continued hospitalization, the medical director of the hospital or the attending physician determines that the treatment needs of the inmate patient could be met equally well in an available and appropriate less restrictive state correctional institution or unit, the medical director or attending physician may discharge the inmate to that facility.

(G) An inmate patient is entitled to the credits toward the reduction of the inmate patient's stated prison term pursuant to Chapters 2967. and 5120. of the Revised Code under the same terms and conditions as if the inmate patient were in any other institution of the department of rehabilitation and correction.

(H) The adult parole authority may place an inmate patient on parole or under post-release control directly from a psychiatric hospital.

(I) If an inmate patient who is a mentally ill person subject to hospitalization is to be released from a psychiatric hospital because of the expiration of the inmate patient's stated prison term, the ~~warden of the psychiatric hospital~~ director of rehabilitation and correction or the director's designee, at least fourteen days before the expiration date, may file an affidavit under section 5122.11 or 5123.71 of the Revised Code with the probate court in the county where the psychiatric hospital is located or the probate court in the county where the inmate will reside, alleging that the inmate patient is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order, whichever is applicable. The proceedings in the probate court shall be conducted pursuant to Chapter 5122. or 5123. of the Revised Code except as modified by this division.

Upon the request of the inmate patient, the probate court shall grant the inmate patient an initial hearing under section 5122.141 of the Revised Code or a probable cause hearing under section 5123.75 of the Revised Code before the expiration of the stated prison term. After holding a full hearing,

the probate court shall make a disposition authorized by section 5122.15 or 5123.76 of the Revised Code before the date of the expiration of the stated prison term. No inmate patient shall be held in the custody of the department of rehabilitation and correction past the date of the expiration of the inmate patient's stated prison term.

(J) The department of rehabilitation and correction shall set standards for treatment provided to inmate patients, ~~consistent where applicable with the standards set by the joint commission on accreditation of healthcare organizations.~~

(K) A certificate, application, record, or report that is made in compliance with this section and that directly or indirectly identifies an inmate or former inmate whose hospitalization has been sought under this section is confidential. No person shall disclose the contents of any certificate, application, record, or report of that nature or any other psychiatric or medical record or report regarding a mentally ill inmate unless one of the following applies:

(1) The person identified, or the person's legal guardian, if any, consents to disclosure, and the chief clinical officer or designee of mental health services of the department of rehabilitation and correction determines that disclosure is in the best interests of the person.

(2) Disclosure is required by a court order signed by a judge.

(3) An inmate patient seeks access to the inmate patient's own psychiatric and medical records, unless access is specifically restricted in the treatment plan for clear treatment reasons.

(4) Hospitals and other institutions and facilities within the department of rehabilitation and correction may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, but the information that may be released about an inmate patient is limited to medication history, physical health status and history, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(5) An inmate patient's family member who is involved in planning, providing, and monitoring services to the inmate patient may receive medication information, a summary of the inmate patient's diagnosis and prognosis, and a list of the services and personnel available to assist the inmate patient and family if the attending physician determines that disclosure would be in the best interest of the inmate patient. No disclosure shall be made under this division unless the inmate patient is notified of the possible disclosure, receives the information to be disclosed, and does not object to the disclosure.

(6) The department of rehabilitation and correction may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with county sheriffs' offices, hospitals, institutions, and facilities of the department of mental health and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department of mental health has a current agreement for patient care or services to ensure continuity of care. Disclosure under this division is limited to records regarding a mentally ill inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any. No office, department, agency, or board shall disclose the records and other information unless one of the following applies:

(a) The mentally ill inmate is notified of the possible disclosure and consents to the disclosure.

(b) The mentally ill inmate is notified of the possible disclosure, an attempt to gain the consent of the inmate is made, and the office, department, agency, or board documents the attempt to gain consent, the inmate's objections, if any, and the reasons for disclosure in spite of the inmate's objections.

(7) Information may be disclosed to staff members designated by the director of rehabilitation and correction for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards.

The name of an inmate patient shall not be retained with the information obtained during the evaluations.

(L) The director of rehabilitation and correction may adopt rules setting forth guidelines for the procedures required under divisions (B), (C)(1), and (C)(2) of this section.

Sec. 5120.22. (A) The division of business administration shall examine the conditions of all buildings, grounds, and other property connected with the institutions under the control of the department of rehabilitation and correction, the methods of bookkeeping and storekeeping, and all matters relating to the management of such property. The division shall study and become familiar with the advantages and disadvantages of each as to location, freight rates, and efficiency of farm and equipment, for the purpose of aiding in the determination of the local and general requirements both for maintenance and improvements.

(B) The division, with respect to the various types of state-owned housing under jurisdiction of the department, shall adopt, in accordance with section 111.15 of the Revised Code, rules governing maintenance of the

housing and its usage by department personnel. The rules shall include a procedure for determining charges for rent and utilities, which the division shall assess against and collect from department personnel using the housing. All money collected for rent and utilities pursuant to the rules shall be deposited into the property receipts fund, which is hereby created in the state treasury. Money in the fund shall be used for any expenses necessary to provide housing of department employees, including but not limited to expenses for the acquisition, construction, operation, maintenance, repair, reconstruction, or demolition of land and buildings.

(C) The division may enter into a lease or agreement with a state agency, political subdivision of the state, or private entity to use facilities or other property under the jurisdiction of the department that is not being utilized by the department. All money collected for leasing and services performed in accordance with the lease or agreement shall be deposited into the property receipts fund created under division (B) of this section. Money in the fund shall be used for any expenses resulting from the lease or agreement, including, but not limited to, expenses for services performed, construction, maintenance, repair, reconstruction, or demolition of the facilities or other property.

Sec. 5120.28. (A) The department of rehabilitation and correction, subject to the approval of the office of budget and management, shall fix the prices at which all labor and services performed, all agricultural products produced, and all articles manufactured in correctional and penal institutions shall be furnished to the state, the political subdivisions of the state, and the public institutions of the state and the political subdivisions, and to private persons. The prices shall be uniform to all and not higher than the usual market price for like labor, products, services, and articles.

(B) Any money received by the department of rehabilitation and correction for labor and services performed ~~and agricultural products produced~~ shall be deposited into the institutional services ~~and agricultural~~ fund created pursuant to division (A) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division (B) of section 5145.03 of the Revised Code.

(C) Any money received by the department of rehabilitation and correction for articles manufactured and agricultural products produced in penal and correctional institutions shall be deposited into the Ohio penal industries manufacturing fund created pursuant to division (B) of section 5120.29 of the Revised Code and shall be used and accounted for as provided in that section and division (B) of section 5145.03 of the Revised Code.

Sec. 5120.29. (A) There is hereby created, in the state treasury, the institutional services and agricultural fund, which shall be used for the:

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in service industries and agriculture services provided between institutions of the department of rehabilitation and correction;

~~(2) Purchase of lands and buildings necessary to carry on or extend the service industries and agriculture, upon the approval of the governor;~~

~~(3) Payment of compensation to employees necessary to carry on the service industries and agriculture~~ institutional services;

~~(4)~~(3) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code.

(B) There is hereby created, in the state treasury, the Ohio penal industries manufacturing fund, which shall be used for the:

(1) Purchase of material, supplies, and equipment and the erection and extension of buildings used in manufacturing industries and agriculture;

(2) Purchase of lands and buildings necessary to carry on or extend the manufacturing industries and agriculture upon the approval of the governor;

(3) Payment of compensation to employees necessary to carry on the manufacturing industries and agriculture;

(4) Payment of prisoners confined in state correctional institutions a portion of their earnings in accordance with rules adopted pursuant to section 5145.03 of the Revised Code.

(C) The department of rehabilitation and correction shall, in accordance with rules adopted pursuant to section 5145.03 of the Revised Code and subject to any pledge made as provided in division (D) of this section, place to the credit of each prisoner ~~his~~ the prisoner's earnings and pay the earnings so credited to the prisoner or ~~his~~ the prisoner's family.

(D) Receipts credited to the funds created in divisions (A) and (B) of this section constitute available receipts as defined in section 152.09 of the Revised Code, and may be pledged to the payment of bond service charges on obligations issued by the Ohio building authority pursuant to Chapter 152. of the Revised Code to construct, reconstruct, or otherwise improve capital facilities useful to the department. The authority may, with the consent of the department, provide in the bond proceedings for a pledge of all or such portion of receipts credited to the funds as the authority determines. The authority may provide in the bond proceedings for the transfer of receipts credited to the funds to the appropriate bond service fund or bond service reserve fund as required to pay the bond service charges

when due, and any such provision for the transfer of receipts shall be controlling notwithstanding any other provision of law pertaining to such receipts.

All receipts received by the treasurer of state on account of the department and required by the applicable bond proceedings to be deposited, transferred, or credited to the bond service fund or bond service reserve fund established by such bond proceedings shall be transferred by the treasurer of state to such fund, whether or not such fund is in the custody of the treasurer of state, without necessity for further appropriation, upon receipt of notice from the Ohio building authority as prescribed in the bond proceedings. The authority may covenant in the bond proceedings that so long as any obligations are outstanding to which receipts credited to the fund are pledged, the state and the department shall neither reduce the prices charged pursuant to section 5120.28 of the Revised Code nor the level of manpower collectively devoted to the production of goods and services for which prices are set pursuant to section 5120.28 of the Revised Code, which covenant shall be controlling notwithstanding any other provision of law; provided, that no covenant shall require the general assembly to appropriate money derived from the levying of excises or taxes to purchase such goods and services or to pay rent or bond service charges.

Sec. 5122.01. As used in this chapter and Chapter 5119. of the Revised Code:

(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(B) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit 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 under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported and under the jurisdiction of the department of mental health.

(H) "Community mental health agency" means ~~any an agency, program, or facility with which a board of alcohol, drug addiction, and mental health services contracts to provide the~~ that provides community mental health services listed in that are certified by the director of mental health under section 340.09 5119.611 of the Revised Code.

(I) "Licensed clinical psychologist" means a person who holds a current

valid psychologist license issued under section 4732.12 or 4732.15 of the Revised Code, and in addition, meets either of the following criteria:

(1) Meets the educational requirements set forth in division (B) of section 4732.10 of the Revised Code and has a minimum of two years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, at least one year of which shall be a predoctoral internship, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under the supervision of a psychologist who is licensed or who holds a diploma issued by the American board of professional psychology, or whose qualifications are substantially similar to those required for licensure by the state board of psychology when the supervision has occurred prior to enactment of laws governing the practice of psychology;

(2) Meets the educational requirements set forth in division (B) of section 4732.15 of the Revised Code and has a minimum of four years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under supervision, as set forth in division (I)(1) of this section.

(J) "Health officer" means any public health physician; public health nurse; or other person authorized by or designated by a city health district; a general health district; or a board of alcohol, drug addiction, and mental health services to perform the duties of a health officer under this chapter.

(K) "Chief clinical officer" means the medical director of a hospital, or a community mental health agency, or a board of alcohol, drug addiction, and mental health services, or, if there is no medical director, the licensed physician responsible for the treatment a hospital or community mental health agency provides. The chief clinical officer may delegate to the attending physician responsible for a patient's care the duties imposed on the chief clinical officer by this chapter. Within a community mental health agency, the chief clinical officer shall be designated by the governing body of the agency and shall be a licensed physician or licensed clinical psychologist who supervises diagnostic and treatment services. A licensed physician or licensed clinical psychologist designated by the chief clinical officer may perform the duties and accept the responsibilities of the chief clinical officer in the chief clinical officer's absence.

(L) "Working day" or "court day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday.

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) "Legal rights service" means the service established under section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals shall be documented. The treatment plan shall be based on patient needs and include services to be provided to the patient while the patient is hospitalized and after the patient is discharged. The treatment plan shall address services to be provided upon discharge, including but not limited to housing, financial, and vocational services.

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

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

Sec. 5122.15. (A) Full hearings shall be conducted in a manner consistent with this chapter and with due process of law. The hearings shall be conducted by a judge of the probate court or a referee designated by a judge of the probate court and may be conducted in or out of the county in which the respondent is held. Any referee designated under this division shall be an attorney.

(1) With the consent of the respondent, the following shall be made available to counsel for the respondent:

(a) All relevant documents, information, and evidence in the custody or control of the state or prosecutor;

(b) All relevant documents, information, and evidence in the custody or control of the hospital in which the respondent currently is held, or in which the respondent has been held pursuant to this chapter;

(c) All relevant documents, information, and evidence in the custody or control of any hospital, facility, or person not included in division (A)(1)(a) or (b) of this section.

(2) The respondent has the right to attend the hearing and to be represented by counsel of the respondent's choice. The right to attend the hearing may be waived only by the respondent or counsel for the respondent after consultation with the respondent.

(3) If the respondent is not represented by counsel, is absent from the

hearing, and has not validly waived the right to counsel, the court shall appoint counsel immediately to represent the respondent at the hearing, reserving the right to tax costs of appointed counsel to the respondent, unless it is shown that the respondent is indigent. If the court appoints counsel, or if the court determines that the evidence relevant to the respondent's absence does not justify the absence, the court shall continue the case.

(4) The respondent shall be informed that the respondent may retain counsel and have independent expert evaluation. If the respondent is unable to obtain an attorney, the respondent shall be represented by court-appointed counsel. If the respondent is indigent, court-appointed counsel and independent expert evaluation shall be provided as an expense under section 5122.43 of the Revised Code.

(5) The hearing shall be closed to the public, unless counsel for the respondent, with the permission of the respondent, requests that the hearing be open to the public.

(6) If the hearing is closed to the public, the court, for good cause shown, may admit persons who have a legitimate interest in the proceedings. If the respondent, the respondent's counsel, the designee of the director or of the chief clinical officer objects to the admission of any person, the court shall hear the objection and any opposing argument and shall rule upon the admission of the person to the hearing.

(7) The affiant under section 5122.11 of the Revised Code shall be subject to subpoena by either party.

(8) The court shall examine the sufficiency of all documents filed and shall inform the respondent, if present, and the respondent's counsel of the nature and content of the documents and the reason for which the respondent is being detained, or for which the respondent's placement is being sought.

(9) The court shall receive only reliable, competent, and material evidence.

(10) Unless proceedings are initiated pursuant to section 5120.17 or 5139.08 of the Revised Code or proceedings are initiated regarding a resident of the service district of a board of alcohol, drug addiction, and mental health services that elects under division ~~(B)(3)(b)~~ (C)(2) of section 5119.62 of the Revised Code not to accept the amount allocated to it under ~~division (B)(1) of~~ that section, an attorney that the board designates shall present the case demonstrating that the respondent is a mentally ill person subject to hospitalization by court order. The attorney shall offer evidence of the diagnosis, prognosis, record of treatment, if any, and less restrictive

treatment plans, if any. In proceedings pursuant to section 5120.17 or 5139.08 of the Revised Code and in proceedings in which the respondent is a resident of a service district of a board that elects under division ~~(B)(3)(b)~~(C)(2) of section 5119.62 of the Revised Code not to accept the amount allocated to it under ~~division (B)(1)~~ of that section, the attorney general shall designate an attorney who shall present the case demonstrating that the respondent is a mentally ill person subject to hospitalization by court order. The attorney shall offer evidence of the diagnosis, prognosis, record of treatment, if any, and less restrictive treatment plans, if any.

(11) The respondent or the respondent's counsel has the right to subpoena witnesses and documents and to examine and cross-examine witnesses.

(12) The respondent has the right, but shall not be compelled, to testify, and shall be so advised by the court.

(13) On motion of the respondent or the respondent's counsel for good cause shown, or on the court's own motion, the court may order a continuance of the hearing.

(14) If the respondent is represented by counsel and the respondent's counsel requests a transcript and record, or if the respondent is not represented by counsel, the court shall make and maintain a full transcript and record of the proceeding. If the respondent is indigent and the transcript and record is made, a copy shall be provided to the respondent upon request and be treated as an expense under section 5122.43 of the Revised Code.

(15) To the extent not inconsistent with this chapter, the Rules of Civil Procedure are applicable.

(B) Unless, upon completion of the hearing the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, it shall order the respondent's discharge immediately.

(C) If, upon completion of the hearing, the court finds by clear and convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court shall order the respondent for a period not to exceed ninety days to any of the following:

(1) A hospital operated by the department of mental health if the respondent is committed pursuant to section 5139.08 of the Revised Code;

(2) A nonpublic hospital;

(3) The veterans' administration or other agency of the United States government;

(4) A board of alcohol, drug addiction, and mental health services or agency the board designates;

(5) Receive private psychiatric or psychological care and treatment;

(6) Any other suitable facility or person consistent with the diagnosis, prognosis, and treatment needs of the respondent.

(D) Any order made pursuant to division (C)(2), (3), (5), or (6) of this section shall be conditioned upon the receipt by the court of consent by the hospital, facility, agency, or person to accept the respondent.

(E) In determining the place to which, or the person with whom, the respondent is to be committed, the court shall consider the diagnosis, prognosis, preferences of the respondent and the projected treatment plan for the respondent and shall order the implementation of the least restrictive alternative available and consistent with treatment goals. If the court determines that the least restrictive alternative available that is consistent with treatment goals is inpatient hospitalization, the court's order shall so state.

(F) During such ninety-day period the hospital; facility; board of alcohol, drug addiction, and mental health services; agency the board designates; or person shall examine and treat the individual. If, at any time prior to the expiration of the ninety-day period, it is determined by the hospital, facility, board, agency, or person that the respondent's treatment needs could be equally well met in an available and appropriate less restrictive environment, both of the following apply:

(1) The respondent shall be released from the care of the hospital, agency, facility, or person immediately and shall be referred to the court together with a report of the findings and recommendations of the hospital, agency, facility, or person; and

(2) The hospital, agency, facility, or person shall notify the respondent's counsel or the attorney designated by a board of alcohol, drug addiction, and mental health services or, if the respondent was committed to a board or an agency designated by the board, it shall place the respondent in the least restrictive environment available consistent with treatment goals and notify the court and the respondent's counsel of the placement.

The court shall dismiss the case or order placement in the least restrictive environment.

(G)(1) Except as provided in divisions (G)(2) and (3) of this section, any person who has been committed under this section, or for whom proceedings for hospitalization have been commenced pursuant to section 5122.11 of the Revised Code, may apply at any time for voluntary admission to the hospital, facility, agency that the board designates, or person to which the person was committed. Upon admission as a voluntary patient the chief clinical officer of the hospital, agency, or other facility, or

the person immediately shall notify the court, the patient's counsel, and the attorney designated by the board, if the attorney has entered the proceedings, in writing of that fact, and, upon receipt of the notice, the court shall dismiss the case.

(2) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit the person pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

(H) If, at the end of the first ninety-day period or any subsequent period of continued commitment, there has been no disposition of the case, either by discharge or voluntary admission, the hospital, facility, board, agency, or person shall discharge the patient immediately, unless at least ten days before the expiration of the period the attorney the board designates or the prosecutor files with the court an application for continued commitment. The application of the attorney or the prosecutor shall include a written report containing the diagnosis, prognosis, past treatment, a list of alternative treatment settings and plans, and identification of the treatment setting that is the least restrictive consistent with treatment needs. The attorney the board designates or the prosecutor shall file the written report at least three days prior to the full hearing. A copy of the application and written report shall be provided to the respondent's counsel immediately.

The court shall hold a full hearing on applications for continued commitment at the expiration of the first ninety-day period and at least every two years after the expiration of the first ninety-day period.

Hearings following any application for continued commitment are mandatory and may not be waived.

Upon request of a person who is involuntarily committed under this section, or the person's counsel, that is made more than one hundred eighty days after the person's last full hearing, mandatory or requested, the court shall hold a full hearing on the person's continued commitment. Upon the application of a person involuntarily committed under this section, supported by an affidavit of a psychiatrist or licensed clinical psychologist, alleging that the person no longer is a mentally ill person subject to hospitalization by court order, the court for good cause shown may hold a full hearing on the person's continued commitment prior to the expiration of one hundred eighty days after the person's last full hearing. Section 5122.12 of the Revised Code applies to all hearings on continued commitment.

If the court, after a hearing for continued commitment finds by clear and

convincing evidence that the respondent is a mentally ill person subject to hospitalization by court order, the court may order continued commitment at places specified in division (C) of this section.

(I) Unless the admission is pursuant to section 5120.17 or 5139.08 of the Revised Code, the chief clinical officer of the hospital or agency admitting a respondent pursuant to a judicial proceeding, within ten working days of the admission, shall make a report of the admission to the board of alcohol, drug addiction, and mental health services serving the respondent's county of residence.

(J) A referee appointed by the court may make all orders that a judge may make under this section and sections 5122.11 and 5122.141 of the Revised Code, except an order of contempt of court. The orders of a referee take effect immediately. Within fourteen days of the making of an order by a referee, a party may file written objections to the order with the court. The filed objections shall be considered a motion, shall be specific, and shall state their grounds with particularity. Within ten days of the filing of the objections, a judge of the court shall hold a hearing on the objections and may hear and consider any testimony or other evidence relating to the respondent's mental condition. At the conclusion of the hearing, the judge may ratify, rescind, or modify the referee's order.

(K) An order of the court under division (C), (H), or (J) of this section is a final order.

(L) Before a board, or an agency the board designates, may place an unconsenting respondent in an inpatient setting from a less restrictive placement, the board or agency shall do all of the following:

(1) Determine that the respondent is in immediate need of treatment in an inpatient setting because the respondent represents a substantial risk of physical harm to the respondent or others if allowed to remain in a less restrictive setting;

(2) On the day of placement in the inpatient setting or on the next court day, file with the court a motion for transfer to an inpatient setting or communicate to the court by telephone that the required motion has been mailed;

(3) Ensure that every reasonable and appropriate effort is made to take the respondent to the inpatient setting in the least conspicuous manner possible;

(4) Immediately notify the board's designated attorney and the respondent's attorney.

At the respondent's request, the court shall hold a hearing on the motion and make a determination pursuant to division (E) of this section within five

days of the placement.

(M) Before a board, or an agency the board designates, may move a respondent from one residential placement to another, the board or agency shall consult with the respondent about the placement. If the respondent objects to the placement, the proposed placement and the need for it shall be reviewed by a qualified mental health professional who otherwise is not involved in the treatment of the respondent.

Sec. 5122.21. (A) The chief clinical officer shall as frequently as practicable, and at least once every thirty days, examine or cause to be examined every patient, and, whenever the chief clinical officer determines that the conditions justifying involuntary hospitalization or commitment no longer obtain, shall, ~~except as provided in division (C) of this section,~~ discharge the patient not under indictment or conviction for crime and immediately make a report of the discharge to the department of mental health. The chief clinical officer may discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole ten days after written notice of intent to discharge the patient has been given by personal service or certified mail, return receipt requested, to the court having criminal jurisdiction over the patient. Except when the patient was found not guilty by reason of insanity and the defendant's commitment is pursuant to section 2945.40 of the Revised Code, the chief clinical officer has final authority to discharge a patient who is under an indictment, a sentence of imprisonment, a community control sanction, or a post-release control sanction or on parole.

(B) After a finding pursuant to section 5122.15 of the Revised Code that a person is a mentally ill person subject to hospitalization by court order, the chief clinical officer of the hospital or agency to which the person is ordered or to which the person is transferred under section 5122.20 of the Revised Code, may, ~~except as provided in division (C) of this section,~~ grant a discharge without the consent or authorization of any court.

Upon discharge, the chief clinical officer shall notify the court that caused the judicial hospitalization of the discharge from the hospital.

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if

the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section 5123.60 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies may exchange psychiatric records and other pertinent information with payors and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health agencies may exchange psychiatric

records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.341. (A) As used in this section:

(1) "Facility or agency" means, in the context of a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code, any entity in which the department of mental health places such a person.

(2) "Person committed to the department" means a person committed to the department of mental health under sections 2945.37 to 2945.402 of the Revised Code.

(B) No member of a board of directors, or employee, of a facility or agency in which the department of mental health places a person committed to the department is liable for injury or damages caused by any action or inaction taken within the scope of the board member's official duties or employee's employment relating to the commitment of, and services provided to, the person committed to the department, unless the action or inaction constitutes willful or wanton misconduct. A board member's or employee's action or inaction does not constitute willful or wanton misconduct if the board member or employee acted in good faith and reasonably under the circumstances and with the knowledge reasonably attributable to the board member or employee.

The immunity from liability conferred by this section is in addition to and not in limitation of any immunity conferred by any other section of the Revised Code or by judicial precedent.

Sec. 5123.01. As used in this chapter:

(A) "Chief medical officer" means the licensed physician appointed by the managing officer of an institution for the mentally retarded with the approval of the director of developmental disabilities to provide medical treatment for residents of the institution.

(B) "Chief program director" means a person with special training and experience in the diagnosis and management of the mentally retarded, certified according to division (C) of this section in at least one of the designated fields, and appointed by the managing officer of an institution for the mentally retarded with the approval of the director to provide

habilitation and care for residents of the institution.

(C) "Comprehensive evaluation" means a study, including a sequence of observations and examinations, of a person leading to conclusions and recommendations formulated jointly, with dissenting opinions if any, by a group of persons with special training and experience in the diagnosis and management of persons with mental retardation or a developmental disability, which group shall include individuals who are professionally qualified in the fields of medicine, psychology, and social work, together with such other specialists as the individual case may require.

(D) "Education" means the process of formal training and instruction to facilitate the intellectual and emotional development of residents.

(E) "Habilitation" means the process by which the staff of the institution assists the resident in acquiring and maintaining those life skills that enable the resident to cope more effectively with the demands of the resident's own person and of the resident's environment and in raising the level of the resident's physical, mental, social, and vocational efficiency. Habilitation includes but is not limited to programs of formal, structured education and training.

(F) "Health officer" means any public health physician, public health nurse, or other person authorized or designated by a city or general health district.

(G) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code. However, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

(H) "Indigent person" means a person who is unable, without substantial financial hardship, to provide for the payment of an attorney and for other necessary expenses of legal representation, including expert testimony.

(I) "Institution" means a public or private facility, or a part of a public or private facility, that is licensed by the appropriate state department and is equipped to provide residential habilitation, care, and treatment for the mentally retarded.

(J) "Licensed physician" means a person who holds a valid certificate issued under Chapter 4731. of the Revised Code authorizing the person to

practice medicine and surgery or osteopathic medicine and surgery, or a medical officer of the government of the United States while in the performance of the officer's official duties.

(K) "Managing officer" means a person who is appointed by the director of developmental disabilities to be in executive control of an institution for the mentally retarded under the jurisdiction of the department.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mentally retarded person" means a person having significantly subaverage general intellectual functioning existing concurrently with deficiencies in adaptive behavior, manifested during the developmental period.

(O) "Mentally retarded person subject to institutionalization by court order" means a person eighteen years of age or older who is at least moderately mentally retarded and in relation to whom, because of the person's retardation, either of the following conditions exist:

(1) The person represents a very substantial risk of physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's most basic physical needs and that provision for those needs is not available in the community;

(2) The person needs and is susceptible to significant habilitation in an institution.

(P) "A person who is at least moderately mentally retarded" means a person who is found, following a comprehensive evaluation, to be impaired in adaptive behavior to a moderate degree and to be functioning at the moderate level of intellectual functioning in accordance with standard measurements as recorded in the most current revision of the manual of terminology and classification in mental retardation published by the American association on mental retardation.

(Q) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of

section 5122.01 of the Revised Code.

(2) It is manifested before age twenty-two.

(3) It is likely to continue indefinitely.

(4) It results in one of the following:

(a) In the case of a person under three years of age, at least one developmental delay or an established risk;

(b) In the case of a person at least three years of age but under six years of age, at least two developmental delays or an established risk;

(c) In the case of a person six years of age or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least sixteen years of age, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(R) "Developmentally disabled person" means a person with a developmental disability.

(S) "State institution" means an institution that is tax-supported and under the jurisdiction of the department.

(T) "Residence" and "legal residence" have the same meaning as "legal settlement," which is acquired by residing in Ohio for a period of one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given. A person having a legal settlement in the state shall be considered as having legal settlement in the assistance area in which the person resides. No adult person coming into this state and having a spouse or minor children residing in another state shall obtain a legal settlement in this state as long as the spouse or minor children are receiving public assistance, care, or support at the expense of the other state or its subdivisions. For the purpose of determining the legal settlement of a person who is living in a public or private institution or in a home subject to licensing by the department of job and family services, the department of mental health, or the department of developmental disabilities, the residence of the person shall be considered as though the person were residing in the county in which the person was living prior to the person's entrance into the institution or home. Settlement once acquired shall continue until a person

has been continuously absent from Ohio for a period of one year or has acquired a legal residence in another state. A woman who marries a man with legal settlement in any county immediately acquires the settlement of her husband. The legal settlement of a minor is that of the parents, surviving parent, sole parent, parent who is designated the residential parent and legal custodian by a court, other adult having permanent custody awarded by a court, or guardian of the person of the minor, provided that:

(1) A minor female who marries shall be considered to have the legal settlement of her husband and, in the case of death of her husband or divorce, she shall not thereby lose her legal settlement obtained by the marriage.

(2) A minor male who marries, establishes a home, and who has resided in this state for one year without receiving general assistance prior to July 17, 1995, under former Chapter 5113. of the Revised Code, financial assistance under Chapter 5115. of the Revised Code, or assistance from a private agency that maintains records of assistance given shall be considered to have obtained a legal settlement in this state.

(3) The legal settlement of a child under eighteen years of age who is in the care or custody of a public or private child caring agency shall not change if the legal settlement of the parent changes until after the child has been in the home of the parent for a period of one year.

No person, adult or minor, may establish a legal settlement in this state for the purpose of gaining admission to any state institution.

(U)(1) "Resident" means, subject to division (R)(2) of this section, a person who is admitted either voluntarily or involuntarily to an institution or other facility pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter who is under observation or receiving habilitation and care in an institution.

(2) "Resident" does not include a person admitted to an institution or other facility under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to resident, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(V) "Respondent" means the person whose detention, commitment, or continued commitment is being sought in any proceeding under this chapter.

(W) "Working day" and "court day" mean Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a legal holiday.

(X) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case

in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(Y) "Court" means the probate division of the court of common pleas.

(Z) "Supported living" ~~has~~ and "residential services" have the same ~~meaning~~ meanings as in section 5126.01 of the Revised Code.

Sec. 5123.0412. (A) The department of developmental disabilities shall charge each county board of developmental disabilities an annual fee equal to one and ~~one-half~~ one-quarter per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board. No county board shall pass the cost of a fee charged to the county board under this section on to another provider of these services.

(B) The fees collected under this section shall be deposited into the ODDD administration and oversight fund and the ODJFS administration and oversight fund, both of which are hereby created in the state treasury. The portion of the fees to be deposited into the ODDD administration and oversight fund and the portion of the fees to be deposited into the ODJFS administration and oversight fund shall be the portion specified in an interagency agreement entered into under division (C) of this section. The department of developmental disabilities shall use the money in the ODDD administration and oversight fund and the department of job and family services shall use the money in the ODJFS administration and oversight fund for both of the following purposes:

(1) Medicaid administrative costs, including administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources the departments need and dedicate solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the departments identify.

(2) Providing technical support to county boards' local administrative authority under section 5126.055 of the Revised Code for the services.

(C) The departments of developmental disabilities and job and family services shall enter into an interagency agreement to do both of the following:

(1) Specify which portion of the fees collected under this section is to be deposited into the ODDD administration and oversight fund and which portion is to be deposited into the ODJFS administration and oversight fund;

(2) Provide for the departments to coordinate the staff whose costs are paid for with money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund.

(D) The departments shall submit an annual report to the director of budget and management certifying how the departments spent the money in the ODDD administration and oversight fund and the ODJFS administration and oversight fund for the purposes specified in division (B) of this section.

Sec. 5123.0413. The department of developmental disabilities, in consultation with the department of job and family services, office of budget and management, and county boards of developmental disabilities, shall adopt rules in accordance with Chapter 119. of the Revised Code to establish both of the following in the event a county property tax levy for services for individuals with mental retardation or other developmental disability fails:

(A) A method of paying for home and community-based services;

(B) A method of reducing the number of individuals a county board would otherwise be required by section 5126.0512 of the Revised Code to ensure are enrolled in ~~a medicaid waiver component under which~~ home and community-based services ~~are provided~~.

Sec. 5123.0417. (A) The director of developmental disabilities shall establish one or more programs for individuals under ~~twenty-one~~ twenty-two years of age who have intensive behavioral needs, including such individuals with a primary diagnosis of autism spectrum disorder. The programs may include one or more medicaid waiver components that the director administers pursuant to section 5111.871 of the Revised Code. The programs may do one or more of the following:

(1) Establish models that incorporate elements common to effective intervention programs and evidence-based practices in services for children with intensive behavioral needs;

(2) Design a template for individualized education plans and individual service plans that provide consistent intervention programs and evidence-based practices for the care and treatment of children with intensive behavioral needs;

(3) Disseminate best practice guidelines for use by families of children

with intensive behavioral needs and professionals working with such families;

(4) Develop a transition planning model for effectively mainstreaming school-age children with intensive behavioral needs to their public school district;

(5) Contribute to the field of early and effective identification and intervention programs for children with intensive behavioral needs by providing financial support for scholarly research and publication of clinical findings.

(B) The director of developmental disabilities shall collaborate with the director of job and family services and consult with the executive director of the Ohio center for autism and low incidence and university-based programs that specialize in services for individuals with developmental disabilities when establishing programs under this section.

Sec. 5123.0418. (A) In addition to other authority granted the director of developmental disabilities for use of funds appropriated to the department of developmental disabilities, the director may use such funds for the following purposes:

(1) All of the following to assist persons with mental retardation or a developmental disability remain in the community and avoid institutionalization:

(a) Behavioral and short-term interventions;

(b) Residential services;

(c) Supported living.

(2) Respite care services;

(3) Staff training to help the following personnel serve persons with mental retardation or a developmental disability in the community:

(a) Employees of, and personnel under contract with, county boards of developmental disabilities;

(b) Employees of providers of supported living;

(c) Employees of providers of residential services;

(d) Other personnel the director identifies.

(B) The director may establish priorities for using funds for the purposes specified in division (A) of this section. The director shall use the funds in a manner consistent with the appropriations that authorize the director to use the funds and all other state and federal laws governing the use of the funds.

Sec. 5123.0419. (A) The director of developmental disabilities may establish an interagency workgroup on autism. The purpose of the workgroup shall be to improve the coordination of the state's efforts to address the service needs of individuals with autism spectrum disorders and

the families of those individuals. In fulfilling this purpose, the director may enter into interagency agreements with the government entities represented by the members of the workgroup. The agreements may specify any or all of the following:

(1) The roles and responsibilities of government entities that enter into the agreements;

(2) Procedures regarding the receipt, transfer, and expenditure of funds necessary to achieve the goals of the workgroup;

(3) The projects to be undertaken and activities to be performed by the government entities that enter into the agreements.

(B) Money received from government entities represented by the members of the workgroup shall be deposited into the state treasury to the credit of the interagency workgroup on autism fund, which is hereby created in the state treasury. Money credited to the fund shall be used by the department of developmental disabilities solely to support the activities of the workgroup.

Sec. 5123.051. (A) If the department of developmental disabilities determines pursuant to an audit conducted under section 5123.05 of the Revised Code ~~or a reconciliation conducted under section 5123.18 of the Revised Code~~ that money is owed the state by a provider of a service or program, the department may enter into a payment agreement with the provider. The agreement shall include the following:

(1) A schedule of installment payments whereby the money owed the state is to be paid in full within a period not to exceed one year;

(2) A provision that the provider may pay the entire balance owed at any time during the term of the agreement;

(3) A provision that if any installment is not paid in full within forty-five days after it is due, the entire balance owed is immediately due and payable;

(4) Any other terms and conditions that are agreed to by the department and the provider.

(B) The department may include a provision in a payment agreement that requires the provider to pay interest on the money owed the state. The department, in its discretion, shall determine whether to require the payment of interest and, if it so requires, the rate of interest. Neither the obligation to pay interest nor the rate of interest is subject to negotiation between the department and the provider.

(C) If the provider fails to pay any installment in full within forty-five days after its due date, the department shall certify the entire balance owed to the attorney general for collection under section 131.02 of the Revised

Code. The department may withhold funds from payments made to a provider under section 5123.18 of the Revised Code to satisfy a judgment secured by the attorney general.

~~(D) The purchase of service fund is hereby created. Money credited to the fund shall be used solely for purposes of section 5123.05 of the Revised Code.~~

Sec. 5123.171. As used in this section, "respite care" means appropriate, short-term, temporary care provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

The department of developmental disabilities shall provide respite care services to persons with mental retardation or a developmental disability for the purpose of promoting self-sufficiency and normalization, preventing or reducing inappropriate institutional care, and furthering the unity of the family by enabling the family to meet the special needs of a mentally retarded or developmentally disabled person.

In order to be eligible for respite care services under this section, the mentally retarded or developmentally disabled person must be in need of habilitation services as defined in section 5126.01 of the Revised Code.

Respite care may be provided in a facility licensed under section 5123.19 of the Revised Code or certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended, or certified as a respite care home under section 5126.05 of the Revised Code.

The department shall develop a system for locating vacant beds that are available for respite care and for making information on vacant beds available to users of respite care services. Facilities certified as intermediate care facilities for the mentally retarded ~~and facilities holding contracts with the department for the provision of residential services under section 5123.18 of the Revised Code~~ shall report vacant beds to the department but shall not be required to accept respite care clients.

The director of developmental disabilities shall adopt, and may amend or rescind, rules in accordance with Chapter 119. of the Revised Code for both of the following:

(A) Certification by county boards of developmental disabilities of respite care homes;

(B) Provision of respite care services authorized by this section. Rules adopted under this division shall establish all of the following:

(1) A formula for distributing funds appropriated for respite care services;

(2) Standards for supervision, training and quality control in the provision of respite care services;

(3) Eligibility criteria for emergency respite care services.

Sec. 5123.18. (A) As used in this section:

~~(1) "Contractor" means a person or government agency that enters into a contract with the department of developmental disabilities under this section.~~

~~(2) "Government agency" means a state agency as defined in section 117.01 of the Revised Code or a similar agency of a political subdivision of the state.~~

~~(3) "Residential services" means the services necessary for an individual with mental retardation or a developmental disability to live in the community, including room and board, clothing, transportation, personal care, habilitation, supervision, and any other services the department considers necessary for the individual to live in the community.~~

~~(B)(1) The department of developmental disabilities may enter into a contract with a person or government agency to provide residential services to individuals with mental retardation or developmental disabilities in need of residential services. Contracts for residential services shall be of the following types:~~

~~(a) Companion home contracts — contracts under which the contractor is an individual, the individual is the primary caregiver, and the individual owns or leases and resides in the home in which the services are provided.~~

~~(b) Agency-operated companion home contracts — contracts under which the contractor subcontracts, for purposes of coordinating the provision of residential services, with one or more individuals who are primary caregivers and own or lease and reside in the homes in which the services are provided.~~

~~(c) Community home contracts — contracts for residential services under which the contractor owns or operates a home that is used solely to provide residential services.~~

~~(d) Combined agency-operated companion home and community home contracts.~~

~~(2) A companion home contract shall cover not more than one home. An agency-operated companion home contract or a community home contract may cover more than one home.~~

~~(C) Contracts shall be in writing and shall provide for payment to be made to the contractor at the times agreed to by the department and the contractor. Each contract shall specify the period during which it is valid, the amount to be paid for residential services, and the number of individuals~~

~~for whom payment will be made. Contracts may be renewed.~~

~~(D) services. To be eligible to enter into a contract with the department under this section, the a person or government agency entity and the home in which the residential services are provided must meet all applicable standards for licensing or certification by the appropriate government agency entity. In addition, if the residential facility is operated as a nonprofit entity, the members of the board of trustees or board of directors of the facility must not have a financial interest in or receive financial benefit from the facility, other than reimbursement for actual expenses incurred in attending board meetings.~~

~~(E)(1) The department shall determine the payment amount assigned to an initial contract. To the extent that the department determines sufficient funds are available, the payment amount assigned to an initial contract shall be equal to the average amount assigned to contracts for other homes that are of the same type and size and serve individuals with similar needs, except that if an initial contract is the result of a change of contractor or ownership, the payment amount assigned to the contract shall be the lesser of the amount assigned to the previous contract or the contract's total adjusted predicted funding need calculated under division (I) of this section.~~

~~(2) A renewed contract shall be assigned a payment amount in accordance with division (K) of this section.~~

~~(3) When a contractor relocates a home to another site at which residential services are provided to the same individuals, the payment amount assigned to the contract for the new home shall be the payment amount assigned to the contract at the previous location.~~

~~(F)(1) Annually, a contractor shall complete an assessment of each individual to whom the contractor provides residential services to predict the individual's need for routine direct services staff. The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the assessment instrument to be used by contractors to make assessments. Assessments shall be submitted to the department not later than the thirty first day of January of each year.~~

~~A contractor shall submit a revised assessment for an individual if there is a substantial, long-term change in the nature of the individual's needs. A contractor shall submit revised assessments for all individuals receiving residential services if there is a change in the composition of the home's residents.~~

~~(2) Annually, a contractor shall submit a cost report to the department specifying the costs incurred in providing residential services during the immediately preceding calendar year. Only costs actually incurred by a~~

~~contractor shall be reported on a cost report. Cost reports shall be prepared according to a uniform chart of accounts approved by the department and shall be submitted on forms prescribed by the department.~~

~~(3) The department shall not renew the contract held by a contractor who fails to submit the assessments or cost reports required under this division.~~

~~(4) The department shall adopt rules as necessary regarding the submission of assessments and cost reports under this division. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(G) Prior to renewing a contract entered into under this section, the department shall compute the contract's total predicted funding need and total adjusted predicted funding need. The department shall also compute the contract's unmet funding need if the payment amount assigned to the contract is less than the total adjusted predicted funding need. The results of these calculations shall be used to determine the payment amount assigned to the renewed contract.~~

~~(H)(1) A contract's total predicted funding need is an amount equal to the sum of the predicted funding needs for the following cost categories:~~

- ~~(a) Routine direct services staff;~~
- ~~(b) Dietary, program supplies, and specialized staff;~~
- ~~(c) Facility and general services;~~
- ~~(d) Administration.~~

~~(2) Based on the assessments submitted by the contractor, the department shall compute the contract's predicted funding need for the routine direct services staff cost category by multiplying the number of direct services staff predicted to be necessary for the home by the sum of the following:~~

~~(a) Entry level wages paid during the immediately preceding cost reporting period to comparable staff employed by the county board of developmental disabilities of the county in which the home is located;~~

~~(b) Fringe benefits and payroll taxes as determined by the department using state civil service statistics from the same period as the cost reporting period.~~

~~(3) The department shall establish by rule adopted in accordance with Chapter 119. of the Revised Code the method to be used to compute the predicted funding need for the dietary, program supplies, and specialized staff cost category; the facility and general services cost category; and the administration cost category. The rules shall not establish a maximum amount that may be attributed to the dietary, program supplies, and specialized staff cost category. The rules shall establish a process for~~

~~determining the combined maximum amount that may be attributed to the facility and general services cost category and the administration cost category.~~

~~(I)(1) A contract's total adjusted predicted funding need is the contract's total predicted funding need with adjustments made for the following:~~

~~(a) Inflation, as provided under division (I)(2) of this section;~~

~~(b) The predicted cost of complying with new requirements established under federal or state law that were not taken into consideration when the total predicted funding need was computed;~~

~~(c) Changes in needs based on revised assessments submitted by the contractor.~~

~~(2) In adjusting the total predicted funding need for inflation, the department shall use either the consumer price index compound annual inflation rate calculated by the United States department of labor for all items or another index or measurement of inflation designated in rules that the department shall adopt in accordance with Chapter 119. of the Revised Code.~~

~~When a contract is being renewed for the first time, and the contract is to begin on the first day of July, the inflation adjustment applied to the contract's total predicted funding need shall be the estimated rate of inflation for the calendar year in which the contract is renewed. If the consumer price index is being used, the department shall base its estimate on the rate of inflation calculated for the three month period ending the thirty first day of March of that calendar year. If another index or measurement is being used, the department shall base its estimate on the most recent calculations of the rate of inflation available under the index or measurement. Each year thereafter, the inflation adjustment shall be estimated in the same manner, except that if the estimated rate of inflation for a year is different from the actual rate of inflation for that year, the difference shall be added to or subtracted from the rate of inflation estimated for the next succeeding year.~~

~~If a contract begins at any time other than July first, the inflation adjustment applied to the contract's total predicted funding need shall be determined by a method comparable to that used for contracts beginning July first. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing the method to be used.~~

~~(J) A contract's unmet funding need is the difference between the payment amount assigned to the contract and the total adjusted predicted funding need, if the payment amount assigned is less than the total adjusted predicted funding need.~~

~~(K) The payment amount to be assigned to a contract being renewed~~

~~shall be determined by comparing the total adjusted predicted funding need with the payment amount assigned to the current contract.~~

~~(1) If the payment amount assigned to the current contract equals or exceeds the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be the same as that assigned to the current contract, unless a reduction is made pursuant to division (L) of this section.~~

~~(2) If the payment amount assigned to the current contract is less than the total adjusted predicted funding need, the payment amount assigned to the renewed contract shall be increased if the department determines that funds are available for such increases. The amount of a contract's increase shall be the same percentage of the available funds that the contract's unmet funding need is of the total of the unmet funding need for all contracts.~~

~~(L) When renewing a contract provided for in division (B) of this section other than a companion home contract, the department may reduce the payment amount assigned to a renewed contract if the sum of the contractor's allowable reported costs and the maximum efficiency incentive is less than ninety one and one half per cent of the amount received pursuant to this section during the immediately preceding contract year.~~

~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing a formula to be used in computing the maximum efficiency incentive, which shall be at least four per cent of the weighted average payment amount to be made to all contractors during the contract year. The maximum efficiency incentive shall be computed annually.~~

~~(M) The department may increase the payment amount assigned to a contract based on the contract's unmet funding need at times other than when the contract is renewed. The department may develop policies for determining priorities in making such increases.~~

~~(N)(1) In addition to the contracts provided for in division (B) of this section, the department may enter into the following contracts:~~

~~(a) A contract to pay the cost of beginning operation of a new home that is to be funded under a companion home contract, agency operated companion home contract, community home contract, or combined agency operated companion home and community home contract.~~

~~(b) A contract to pay the cost associated with increasing the number of individuals served by a home funded under a companion home contract, agency operated companion home contract, community home contract, or combined agency operated companion home and community home contract.~~

~~(2) The department shall adopt rules as necessary regarding contracts entered into under this division. The rules shall be adopted in accordance~~

~~with Chapter 119. of the Revised Code.~~

~~(O) Except for companion home contracts, the department shall conduct a reconciliation of the amount earned under a contract and the actual costs incurred by the contractor. An amount is considered to have been earned for delivering a service at the time the service is delivered. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting reconciliations.~~

~~A reconciliation shall be based on the annual cost report submitted by the contractor. If a reconciliation reveals that a contractor owes money to the state, the amount owed shall be collected in accordance with section 5123.051 of the Revised Code.~~

~~When conducting reconciliations, the department shall review all reported costs that may be affected by transactions required to be reported under division (B)(3) of section 5123.172 of the Revised Code. If the department determines that such transactions have increased the cost reported by a contractor, the department may disallow or adjust the cost allowable for payment. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for disallowances or adjustments.~~

~~(P) The department may audit the contracts it enters into under this section. Audits may be conducted by the department or an entity with which the department contracts to perform the audits. The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for conducting audits.~~

~~An audit may include the examination of a contractor's financial books and records, the costs incurred by a contractor in providing residential services, and any other relevant information specified by the department. An audit shall not be commenced more than four years after the expiration of the contract to be audited, except in cases where the department has reasonable cause to believe that a contractor has committed fraud.~~

~~If an audit reveals that a contractor owes money to the state, the amount owed, subject to an adjudication hearing under this division, shall be collected in accordance with section 5123.051 of the Revised Code. If an audit reveals that a reconciliation conducted under this section resulted in the contractor erroneously paying money to the state, the department shall refund the money to the contractor, or, in lieu of making a refund, the department may offset the erroneous payment against any money determined as a result of the audit to be owed by the contractor to the state. The department is not required to pay interest on any money refunded under this division.~~

~~In conducting audits or making determinations of amounts owed by a contractor and amounts to be refunded or offset, the department shall not be bound by the results of reconciliations conducted under this section, except with regard to cases involving claims that have been certified pursuant to section 5123.051 of the Revised Code to the attorney general for collection for which a full and final settlement has been reached or a final judgment has been made from which all rights of appeal have expired or been exhausted.~~

~~Not later than ninety days after an audit's completion, the department shall provide the contractor a copy of a report of the audit. The report shall state the findings of the audit, including the amount of any money the contractor is determined to owe the state.~~

~~(Q) The department shall adopt rules specifying the amount that will be allowed under a reconciliation or audit for the cost incurred by a contractor for compensation of owners, administrators, and other personnel. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(R) Each contractor shall, for at least seven years, maintain fiscal records related to payments received pursuant to this section.~~

~~(S) The department may enter into shared funding agreements with other government agencies to fund contracts entered into under this section. The amount of each agency's share of the cost shall be determined through negotiations with the department. The department's share shall not exceed the amount it would have paid without entering into the shared funding agreement, nor shall it be reduced by any amounts contributed by the other parties to the agreement.~~

~~(T) Except as provided in section 5123.194 of the Revised Code, an individual who receives residential services pursuant to divisions (A) through (U) of this section and the individual's liable relatives or guardians shall pay support charges in accordance with Chapter 5121. of the Revised Code.~~

~~(U) The department may make reimbursements or payments for any of the following pursuant to rules adopted under this division:~~

~~(1) Unanticipated, nonrecurring costs associated with the health or habilitation of a person who resides in a home funded under a contract provided for in division (B) of this section;~~

~~(2) The cost of staff development training for contractors if the director of developmental disabilities has given prior approval for the training;~~

~~(3) Fixed costs that the department, pursuant to the rules, determines relate to the continued operation of a home funded under a contract provided for in division (B) of this section when a short term vacancy occurs and the~~

~~contractor has diligently attempted to fill the vacancy.~~

~~The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing standards for use in determining which costs it may make payment or reimbursements for under this division.~~

~~(V) In addition to the rules required or authorized to be adopted under this section, the department may adopt any other rules necessary to implement divisions (A) through (U) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.~~

~~(W) The department may delegate to county boards of developmental disabilities its authority under this section to negotiate and enter into contracts or subcontracts for residential services. In the event that it elects to delegate its authority, the department shall adopt rules in accordance with Chapter 119. of the Revised Code for the boards' administration of the contracts or subcontracts. In administering the contracts or subcontracts, the boards shall be subject to all applicable provisions of Chapter 5126. of the Revised Code and shall not be subject to the provisions of divisions (A) to (V) of this section.~~

~~Subject to the department's rules, a board may require the following to contribute to the cost of the residential services an individual receives pursuant to this division: the individual or the individual's estate, the individual's spouse, the individual's guardian, and, if the individual is under age eighteen, either or both of the individual's parents. Chapter 5121. of the Revised Code shall not apply to individuals or entities that are subject to making contributions under this division. In calculating contributions to be made under this division, a board, subject to the department's rules, may allow an amount to be kept for meeting the personal needs of the individual who receives residential services.~~

~~Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.193, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:~~

~~(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.~~

~~(b) "Intermediate care facility for the mentally retarded" means a~~

residential facility that is considered an intermediate care facility for the mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, ~~3722.04~~ 5119.73, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the

rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules

adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

- (a) Each resident who receives services from the licensee;
- (b) The guardian of each resident who receives services from the licensee if the resident has a guardian;
- (c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a

substantially similar violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the

period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.193 or 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the

director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities, the legal rights service, and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director

mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal

corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing

that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.191. (A) The court of common pleas or a judge thereof in the judge's county, or the probate court, may appoint a receiver to take possession of and operate a residential facility licensed by the department of developmental disabilities, in causes pending in such courts respectively, when conditions existing at the facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents. Conditions at the facility that may present such risk of harm include, but are not limited to, instances when any of the following occur:

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the legal rights service, facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing

the facility into compliance with state or federal laws or regulations, the court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, a county board of developmental disabilities, or the legal rights service, petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and

operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the facility as a pattern or practice;

(5) The name and address of the person holding the license for the facility and the address of the department of developmental disabilities.

The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator.

(H) Except for the department of developmental disabilities or a county board of developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of developmental disabilities or the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(J) Under the control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property.

The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession

and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership;

~~(c) If the court determines that the cost of the lease, mortgage, or secured transaction was increased by a transaction required to be reported under division (B)(3) of section 5123.172 of the Revised Code, only to the extent determined by the court to be the fair market value for use of the property during the period of the receivership.~~

(3) If transfer of residents is necessary, provide for the orderly transfer of residents by doing the following:

(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(b) Providing for the transportation of residents' belongings and records;

(c) Helping to locate alternative placements and develop discharge plans;

(d) Preparing residents for the trauma of discharge;

(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.

(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of developmental disabilities, parents, guardians, and residents;

(5) Compromise demands or claims;

(6) Generally do such acts respecting the residential facility as the court authorizes.

(K) Neither the receiver nor the department of developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.

(L) The department of developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. ~~A condition may be the same as, similar to, or different from a condition established by section 5123.18 of the Revised Code and the rules adopted under that section for a contract entered into under that section.~~ Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.

(M) The department of developmental disabilities, the department of job and family services, and the department of health shall provide technical

assistance to any receiver appointed pursuant to this section.

Sec. 5123.194. In the case of an individual who resides in a residential facility and is preparing to move into an independent living arrangement and the individual's liable relative, the department of developmental disabilities may waive the support collection requirements of sections 5121.04; and 5123.122, and 5123.18 of the Revised Code for the purpose of allowing income or resources to be used to acquire items necessary for independent living. The department shall adopt rules in accordance with section 111.15 of the Revised Code to implement this section, including rules that establish the method the department shall use to determine when an individual is preparing to move into an independent living arrangement.

Sec. 5123.352. There is hereby created in the state treasury the community developmental disabilities trust fund. The director of developmental disabilities, not later than sixty days after the end of each fiscal year, shall certify to the director of budget and management the amount of all the unexpended, unencumbered balances of general revenue fund appropriations made to the department of developmental disabilities for the fiscal year, excluding appropriations for rental payments to the Ohio public facilities commission, and the amount of any other funds held by the department in excess of amounts necessary to meet the department's operating costs and obligations pursuant to this chapter and Chapter 5126. of the Revised Code. On receipt of the certification, the director of budget and management shall transfer cash to the trust fund in an amount up to, but not exceeding, the total of the amounts certified by the director of developmental disabilities, except in cases in which the transfer will involve more than twenty million dollars. In such cases, the director of budget and management shall notify the controlling board and must receive the board's approval of the transfer prior to making the transfer.

All moneys in the trust fund shall be ~~distributed~~ used for purposes specified in ~~accordance with section 5126.19~~ 5123.0418 of the Revised Code.

Sec. 5123.42. (A) Beginning nine months after March 31, 2003, MR/DD personnel who are not specifically authorized by other provisions of the Revised Code to administer prescribed medications, perform health-related activities, or perform tube feedings may do so pursuant to this section as part of the specialized services the MR/DD personnel provide to individuals with mental retardation and developmental disabilities in the following categories:

(1) Recipients of early intervention, preschool, and school-age services offered or provided pursuant to this chapter or Chapter 5126. of the Revised

Code;

(2) Recipients of adult services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(3) Recipients of family support services offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(4) Recipients of services from certified supported living providers, if the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(5) Recipients of residential support services from certified home and community-based services providers, if the services are received in a community living arrangement that includes not more than four individuals with mental retardation and developmental disabilities and the services are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(6) Recipients of services not included in divisions (A)(1) to (5) of this section that are offered or provided pursuant to this chapter or Chapter 5126. of the Revised Code;

(7) Residents of a residential facility with five or fewer resident beds;

(8) Residents of a residential facility with at least six but not more than sixteen resident beds;

(9) Residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, if all of the following are the case:

(a) The field trip is sponsored by the facility for purposes of complying with federal medicaid statutes and regulations, state medicaid statutes and rules, or other federal or state statutes, regulations, or rules that require the facility to provide habilitation, community integration, or normalization services to its residents.

(b) Not more than ~~five~~ ten field trip participants are residents who have health needs requiring the administration of prescribed medications, excluding participants who self-administer prescribed medications or receive assistance with self-administration of prescribed medications.

(c) The facility staffs the field trip with MR/DD personnel in such a manner that one person will administer prescribed medications, perform health-related activities, or perform tube feedings for not more than ~~two~~ four participants if one or ~~both~~ more of those participants have health needs requiring the person to administer prescribed medications through a gastrostomy or jejunostomy tube.

(d) According to the instructions of a health care professional acting within the scope of the professional's practice, the health needs of the

participants who require administration of prescribed medications by MR/DD personnel are such that the participants must receive the medications during the field trip to avoid jeopardizing their health and safety.

(B)(1) In the case of recipients of early intervention, preschool, and school-age services, as specified in division (A)(1) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(2) In the case of recipients of adult services, as specified in division (A)(2) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(3) In the case of recipients of family support services, as specified in division (A)(3) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are

stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(4) In the case of recipients of services from certified supported living providers, as specified in division (A)(4) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(5) In the case of recipients of residential support services from certified home and community-based services providers, as specified in division (A)(5) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(6) In the case of recipients of services not included in divisions (A)(1) to (5) of this section, as specified in division (A)(6) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(7) In the case of residents of a residential facility with five or fewer beds, as specified in division (A)(7) of this section, all of the following apply:

(a) Without nursing delegation, MR/DD personnel may perform health-related activities.

(b) Without nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(e) With nursing delegation, MR/DD personnel may administer routine doses of insulin through subcutaneous injections and insulin pumps.

(8) In the case of residents of a residential facility with at least six but not more than sixteen resident beds, as specified in division (A)(8) of this section, all of the following apply:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(9) In the case of residents of a residential facility with seventeen or more resident beds who are on a field trip from the facility, all of the following apply during the field trip, subject to the limitations specified in division (A)(9) of this section:

(a) With nursing delegation, MR/DD personnel may perform health-related activities.

(b) With nursing delegation, MR/DD personnel may administer oral and topical prescribed medications.

(c) With nursing delegation, MR/DD personnel may administer prescribed medications through gastrostomy and jejunostomy tubes, if the tubes being used are stable and labeled.

(d) With nursing delegation, MR/DD personnel may perform routine tube feedings, if the gastrostomy and jejunostomy tubes being used are stable and labeled.

(C) The authority of MR/DD personnel to administer prescribed medications, perform health-related activities, and perform tube feedings pursuant to this section is subject to all of the following:

(1) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the categories specified under divisions (A)(1) to (8) of this section, MR/DD personnel shall obtain the certificate or certificates required by the department of developmental disabilities and issued under section 5123.45 of the Revised Code. MR/DD personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the certificate or certificates held.

(2) To administer prescribed medications, perform health-related activities, or perform tube feedings for individuals in the category specified under division (A)(9) of this section, MR/DD personnel shall successfully complete the training course or courses developed under section 5123.43 of the Revised Code for the MR/DD personnel. MR/DD personnel shall administer prescribed medication, perform health-related activities, and perform tube feedings only as authorized by the training completed.

(3) If nursing delegation is required under division (B) of this section, MR/DD personnel shall not act without nursing delegation or in a manner that is inconsistent with the delegation.

(4) The employer of MR/DD personnel shall ensure that MR/DD personnel have been trained specifically with respect to each individual for whom they administer prescribed medications, perform health-related activities, or perform tube feedings. MR/DD personnel shall not administer prescribed medications, perform health-related activities, or perform tube feedings for any individual for whom they have not been specifically trained.

(5) If the employer of MR/DD personnel believes that MR/DD personnel have not or will not safely administer prescribed medications, perform health-related activities, or perform tube feedings, the employer shall prohibit the action from continuing or commencing. MR/DD personnel

shall not engage in the action or actions subject to an employer's prohibition.

(D) In accordance with section 5123.46 of the Revised Code, the department of developmental disabilities shall adopt rules governing its implementation of this section. The rules shall include the following:

(1) Requirements for documentation of the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(2) Procedures for reporting errors that occur in the administration of prescribed medications, performance of health-related activities, and performance of tube feedings by MR/DD personnel pursuant to the authority granted under this section;

(3) Other standards and procedures the department considers necessary for implementation of this section.

Sec. 5123.45. (A) The department of developmental disabilities shall establish a program under which the department issues certificates to the following:

(1) MR/DD personnel, for purposes of meeting the requirement of division (C)(1) of section 5123.42 of the Revised Code to obtain a certificate or certificates to administer prescribed medications, perform health-related activities, and perform tube feedings;

(2) Registered nurses, for purposes of meeting the requirement of division (B)(1) of section 5123.441 of the Revised Code to obtain a certificate or certificates to provide the MR/DD personnel training courses developed under section 5123.43 of the Revised Code.

(B)(1) Except as provided in division (B)(2) of this section, to receive a certificate issued under this section, MR/DD personnel and registered nurses shall successfully complete the applicable training course or courses and meet all other applicable requirements established in rules adopted pursuant to this section. The department shall issue the appropriate certificate or certificates to MR/DD personnel and registered nurses who meet the requirements for the certificate or certificates.

(2) The department shall include provisions in the program for issuing certificates to the following:

~~(a) MR/DD personnel and registered nurses who, on March 31, 2003, are authorized to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code were required to be included in the certificate program pursuant to division (B)(2) of this section as that division existed immediately before the effective date of this amendment. A~~

~~person~~ MR/DD personnel who ~~receives~~ receive a certificate under division (B)(2)(~~a~~) of this section shall not administer insulin until ~~the person has~~ they have been trained by a registered nurse who has received a certificate under this section that allows the registered nurse to provide training courses to MR/DD personnel in the administration of insulin:

~~(b) Registered nurses who, on March 31, 2003, are authorized to train MR/DD personnel to provide care to individuals with mental retardation and developmental disabilities pursuant to section 5123.193 or sections 5126.351 to 5126.354 of the Revised Code. A registered nurse who receives a certificate under division (B)(2)(~~b~~) of this section shall not provide training courses to MR/DD personnel in the administration of insulin unless the registered nurse completes a course developed under section 5123.44 of the Revised Code that enables the registered nurse to receive a certificate to provide training courses to MR/DD personnel in the administration of insulin.~~

(C) Certificates issued to MR/DD personnel are valid for one year and may be renewed. Certificates issued to registered nurses are valid for two years and may be renewed.

To be eligible for renewal, MR/DD personnel and registered nurses shall meet the applicable continued competency requirements and continuing education requirements specified in rules adopted under division (D) of this section. In the case of registered nurses, continuing nursing education completed in compliance with the license renewal requirements established under Chapter 4723. of the Revised Code may be counted toward meeting the continuing education requirements established in the rules adopted under division (D) of this section.

(D) In accordance with section 5123.46 of the Revised Code, the department shall adopt rules that establish all of the following:

(1) Requirements that MR/DD personnel and registered nurses must meet to be eligible to take a training course;

(2) Standards that must be met to receive a certificate, including requirements pertaining to an applicant's criminal background;

(3) Procedures to be followed in applying for a certificate and issuing a certificate;

(4) Standards and procedures for renewing a certificate, including requirements for continuing education and, in the case of MR/DD personnel who administer prescribed medications, standards that require successful demonstration of proficiency in administering prescribed medications;

(5) Standards and procedures for suspending or revoking a certificate;

(6) Standards and procedures for suspending a certificate without a

hearing pending the outcome of an investigation;

(7) Any other standards or procedures the department considers necessary to administer the certification program.

Sec. 5123.60. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division (L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.

(B)(1) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service.

(2) If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the person's case, such involvement shall cease.

(3) Persons described in divisions (A) and (B)(1) of this section who are represented by the legal rights service are clients of the legal rights service.

(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.

The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.

(D)(1) The legal rights service commission is hereby created for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.

(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.

(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.

All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.

(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.

(5) The administrator of the legal rights service shall serve at the pleasure of the commission.

The administrator shall be an attorney admitted to practice law in this state. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.

(E) The legal rights service shall be completely independent of the department of mental health and the department of developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall

also be independent of the office of the attorney general. The administrator of the legal rights service, staff, and attorneys designated by the administrator to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to the following:

(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the legal rights service, including those who may be represented pursuant to division (L) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing services to persons who may be represented by the service pursuant to division (L) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the service pursuant to division (L) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the service pursuant to division (L) of this section.

(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the

guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the legal rights service;

(ii) The legal rights service has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

(F) The administrator of the legal rights service shall do the following:

(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;

(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;

(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;

(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;

(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.

(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;

(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of developmental disabilities, and make the report available to the public;

(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.

(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.

(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to

division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.

(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:

(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;

(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.

(4) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.

(5) All records received or maintained by the legal rights service in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service or, subject to any privilege, a guardian of the person or parent of the minor. Subject to division (G)(~~5~~)(7) of this section, relationships between personnel and the agents of the legal rights service and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

(~~5~~)(6) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.

(H) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, may compel by subpoena the appearance and sworn testimony of any person the administrator reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or

authenticate any requested documents, the legal rights service may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(I) The legal rights service may conduct public hearings.

(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.

(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.

This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.

(L) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted pursuant to division (F)(4) of this section, the legal rights service and its ombudsperson section may provide advocacy or ombudsperson services to those other individuals and exercise any other authority granted by this section or sections 5123.601 to 5123.604 of the Revised Code on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the legal rights service.

Sec. 5126.01. As used in this chapter:

(A) As used in this division, "adult" means an individual who is eighteen years of age or over and not enrolled in a program or service under Chapter 3323. of the Revised Code and an individual sixteen or seventeen years of age who is eligible for adult services under rules adopted by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code.

(1) "Adult services" means services provided to an adult outside the home, except when they are provided within the home according to an individual's assessed needs and identified in an individual service plan, that support learning and assistance in the area of self-care, sensory and motor development, socialization, daily living skills, communication, community living, social skills, or vocational skills.

(2) "Adult services" includes all of the following:

- (a) Adult day habilitation services;
- (b) Adult day care;
- (c) Prevocational services;
- (d) Sheltered employment;
- (e) Educational experiences and training obtained through entities and activities that are not expressly intended for individuals with mental retardation and developmental disabilities, including trade schools, vocational or technical schools, adult education, job exploration and sampling, unpaid work experience in the community, volunteer activities, and spectator sports;
- (f) Community employment services and supported employment services.

(B)(1) "Adult day habilitation services" means adult services that do the following:

(a) Provide access to and participation in typical activities and functions of community life that are desired and chosen by the general population, including such activities and functions as opportunities to experience and participate in community exploration, companionship with friends and peers, leisure activities, hobbies, maintaining family contacts, community events, and activities where individuals without disabilities are involved;

(b) Provide supports or a combination of training and supports that afford an individual a wide variety of opportunities to facilitate and build relationships and social supports in the community.

(2) "Adult day habilitation services" includes all of the following:

(a) Personal care services needed to ensure an individual's ability to experience and participate in vocational services, educational services, community activities, and any other adult day habilitation services;

(b) Skilled services provided while receiving adult day habilitation services, including such skilled services as behavior management intervention, occupational therapy, speech and language therapy, physical therapy, and nursing services;

(c) Training and education in self-determination designed to help the individual do one or more of the following: develop self-advocacy skills,

exercise the individual's civil rights, acquire skills that enable the individual to exercise control and responsibility over the services received, and acquire skills that enable the individual to become more independent, integrated, or productive in the community;

(d) Recreational and leisure activities identified in the individual's service plan as therapeutic in nature or assistive in developing or maintaining social supports;

(e) Counseling and assistance provided to obtain housing, including such counseling as identifying options for either rental or purchase, identifying financial resources, assessing needs for environmental modifications, locating housing, and planning for ongoing management and maintenance of the housing selected;

(f) Transportation necessary to access adult day habilitation services;

(g) Habilitation management, as described in section 5126.14 of the Revised Code.

(3) "Adult day habilitation services" does not include activities that are components of the provision of residential services, family support services, or supported living services.

(C) "Appointing authority" means the following:

(1) In the case of a member of a county board of developmental disabilities appointed by, or to be appointed by, a board of county commissioners, the board of county commissioners;

(2) In the case of a member of a county board appointed by, or to be appointed by, a senior probate judge, the senior probate judge.

(D) "Community employment services" or "supported employment services" means job training and other services related to employment outside a sheltered workshop. "Community employment services" or "supported employment services" include all of the following:

(1) Job training resulting in the attainment of competitive work, supported work in a typical work environment, or self-employment;

(2) Supervised work experience through an employer paid to provide the supervised work experience;

(3) Ongoing work in a competitive work environment at a wage commensurate with workers without disabilities;

(4) Ongoing supervision by an employer paid to provide the supervision.

(E) As used in this division, "substantial functional limitation," "developmental delay," and "established risk" have the meanings established pursuant to section 5123.011 of the Revised Code.

"Developmental disability" means a severe, chronic disability that is

characterized by all of the following:

(1) It is attributable to a mental or physical impairment or a combination of mental and physical impairments, other than a mental or physical impairment solely caused by mental illness as defined in division (A) of section 5122.01 of the Revised Code;

(2) It is manifested before age twenty-two;

(3) It is likely to continue indefinitely;

(4) It results in one of the following:

(a) In the case of a person under age three, at least one developmental delay or an established risk;

(b) In the case of a person at least age three but under age six, at least two developmental delays or an established risk;

(c) In the case of a person age six or older, a substantial functional limitation in at least three of the following areas of major life activity, as appropriate for the person's age: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and, if the person is at least age sixteen, capacity for economic self-sufficiency.

(5) It causes the person to need a combination and sequence of special, interdisciplinary, or other type of care, treatment, or provision of services for an extended period of time that is individually planned and coordinated for the person.

(F) "Early childhood services" means a planned program of habilitation designed to meet the needs of individuals with mental retardation or other developmental disabilities who have not attained compulsory school age.

(G)(1) "Environmental modifications" means the physical adaptations to an individual's home, specified in the individual's service plan, that are necessary to ensure the individual's health, safety, and welfare or that enable the individual to function with greater independence in the home, and without which the individual would require institutionalization.

(2) "Environmental modifications" includes such adaptations as installation of ramps and grab-bars, widening of doorways, modification of bathroom facilities, and installation of specialized electric and plumbing systems necessary to accommodate the individual's medical equipment and supplies.

(3) "Environmental modifications" does not include physical adaptations or improvements to the home that are of general utility or not of direct medical or remedial benefit to the individual, including such adaptations or improvements as carpeting, roof repair, and central air conditioning.

(H) "Family support services" means the services provided under a family support services program operated under section 5126.11 of the Revised Code.

(I) "Habilitation" means the process by which the staff of the facility or agency assists an individual with mental retardation or other developmental disability in acquiring and maintaining those life skills that enable the individual to cope more effectively with the demands of the individual's own person and environment, and in raising the level of the individual's personal, physical, mental, social, and vocational efficiency. Habilitation includes, but is not limited to, programs of formal, structured education and training.

(J) "Home and community-based services" means medicaid-funded home and community-based services specified in division (B)(1) of section 5111.87 of the Revised Code and provided under the medicaid waiver components the department of developmental disabilities administers pursuant to section 5111.871 of the Revised Code. However, home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver are to be considered to be home and community-based services for the purposes of this chapter only to the extent, if any, provided by the contract required by section 5111.871 of the Revised Code regarding the waiver.

(K) "Immediate family" means parents, grandparents, brothers, sisters, spouses, sons, daughters, aunts, uncles, mothers-in-law, fathers-in-law, brothers-in-law, sisters-in-law, sons-in-law, and daughters-in-law.

(L) "Medicaid" has the same meaning as in section 5111.01 of the Revised Code.

(M) "Medicaid case management services" means case management services provided to an individual with mental retardation or other developmental disability that the state medicaid plan requires.

(N) "Mental retardation" means a mental impairment manifested during the developmental period characterized by significantly subaverage general intellectual functioning existing concurrently with deficiencies in the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of the individual's age and cultural group.

(O) "Residential services" means services to individuals with mental retardation or other developmental disabilities to provide housing, food, clothing, habilitation, staff support, and related support services necessary for the health, safety, and welfare of the individuals and the advancement of their quality of life. "Residential services" includes program management, as

described in section 5126.14 of the Revised Code.

(P) "Resources" means available capital and other assets, including moneys received from the federal, state, and local governments, private grants, and donations; appropriately qualified personnel; and appropriate capital facilities and equipment.

(Q) "Senior probate judge" means the current probate judge of a county who has served as probate judge of that county longer than any of the other current probate judges of that county. If a county has only one probate judge, "senior probate judge" means that probate judge.

(R) "Service and support administration" means the duties performed by a service and support administrator pursuant to section 5126.15 of the Revised Code.

(S)(1) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" means equipment, supplies, and supports that enable an individual to increase the ability to perform activities of daily living or to perceive, control, or communicate within the environment.

(2) "Specialized medical, adaptive, and assistive equipment, supplies, and supports" includes the following:

(a) Eating utensils, adaptive feeding dishes, plate guards, mylatex straps, hand splints, reaches, feeder seats, adjustable pointer sticks, interpreter services, telecommunication devices for the deaf, computerized communications boards, other communication devices, support animals, veterinary care for support animals, adaptive beds, supine boards, prone boards, wedges, sand bags, sidelayers, bolsters, adaptive electrical switches, hand-held shower heads, air conditioners, humidifiers, emergency response systems, folding shopping carts, vehicle lifts, vehicle hand controls, other adaptations of vehicles for accessibility, and repair of the equipment received.

(b) Nondisposable items not covered by medicaid that are intended to assist an individual in activities of daily living or instrumental activities of daily living.

(T) "Supportive home services" means a range of services to families of individuals with mental retardation or other developmental disabilities to develop and maintain increased acceptance and understanding of such persons, increased ability of family members to teach the person, better coordination between school and home, skills in performing specific therapeutic and management techniques, and ability to cope with specific situations.

(U)(1) "Supported living" means services provided for as long as twenty-four hours a day to an individual with mental retardation or other

developmental disability through any public or private resources, including moneys from the individual, that enhance the individual's reputation in community life and advance the individual's quality of life by doing the following:

(a) Providing the support necessary to enable an individual to live in a residence of the individual's choice, with any number of individuals who are not disabled, or with not more than three individuals with mental retardation and developmental disabilities unless the individuals are related by blood or marriage;

(b) Encouraging the individual's participation in the community;

(c) Promoting the individual's rights and autonomy;

(d) Assisting the individual in acquiring, retaining, and improving the skills and competence necessary to live successfully in the individual's residence.

(2) "Supported living" includes the provision of all of the following:

(a) Housing, food, clothing, habilitation, staff support, professional services, and any related support services necessary to ensure the health, safety, and welfare of the individual receiving the services;

(b) A combination of lifelong or extended-duration supervision, training, and other services essential to daily living, including assessment and evaluation and assistance with the cost of training materials, transportation, fees, and supplies;

(c) Personal care services and homemaker services;

(d) Household maintenance that does not include modifications to the physical structure of the residence;

(e) Respite care services;

(f) Program management, as described in section 5126.14 of the Revised Code.

Sec. 5126.029. (A) Each county board of developmental disabilities shall hold an organizational meeting no later than the thirty-first day of January of each year and shall elect its officers, which shall include a president, vice-president, and recording secretary. After its annual organizational meeting, the board shall meet in such manner and at such times as prescribed by rules adopted by the board, but the board shall meet at least ~~ten~~ the following number of times annually in regularly scheduled sessions in accordance with section 121.22 of the Revised Code, not including in-service training sessions;

(1) Unless division (A)(2) of this section applies to the board, ten;

(2) If the board shares a superintendent or other administrative staff with one or more other boards of developmental disabilities, eight. A

(B) A majority of the board constitutes a quorum. The board shall adopt rules for the conduct of its business and a record shall be kept of board proceedings, which shall be open for public inspection.

Sec. 5126.04. (A) Each county board of developmental disabilities shall plan and set priorities based on available resources for the provision of facilities, programs, and other services to meet the needs of county residents who are individuals with mental retardation and other developmental disabilities, former residents of the county residing in state institutions or, before the effective date of this amendment, placed under purchase of service agreements under section 5123.18 of the Revised Code, and children subject to a determination made pursuant to section 121.38 of the Revised Code.

Each county board shall assess the facility and service needs of the individuals with mental retardation and other developmental disabilities who are residents of the county or former residents of the county residing in state institutions or, before the effective date of this amendment, placed under purchase of service agreements under section 5123.18 of the Revised Code.

Each county board shall require individual habilitation or service plans for individuals with mental retardation and other developmental disabilities who are being served or who have been determined eligible for services and are awaiting the provision of services. Each board shall ensure that methods of having their service needs evaluated are available.

(B)(1) If a foster child is in need of assessment for eligible services or is receiving services from a county board of developmental disabilities and that child is placed in a different county, the agency that placed the child, immediately upon placement, shall inform the county board in the new county all of the following:

- (a) That a foster child has been placed in that county;
- (b) The name and other identifying information of the foster child;
- (c) The name of the foster child's previous county of residence;
- (d) That the foster child was in need of assessment for eligible services or was receiving services from the county board of developmental disabilities in the previous county.

(2) Upon receiving the notice described in division (B)(1) of this section or otherwise learning that the child was in need of assessment for eligible services or was receiving services from a county board of developmental disabilities in the previous county, the county board in the new county shall communicate with the county board of the previous county to determine how services for the foster child shall be provided in accordance with each board's plan and priorities as described in division (A) of this section.

If the two county boards are unable to reach an agreement within ten days of the child's placement, the county board in the new county shall send notice to the Ohio department of developmental disabilities of the failure to agree. The department shall decide how services shall be provided for the foster child within ten days of receiving notice that the county boards could not reach an agreement. The department may decide that one, or both, of the county boards shall provide services. The services shall be provided in accordance with the board's plan and priorities as described in division (A) of this section.

(C) The department of developmental disabilities may adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement this section. To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, the rules shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(D) The responsibility or authority of a county board to provide services under this chapter does not affect the responsibility of any other entity of state or local government to provide services to individuals with mental retardation and developmental disabilities.

(E) On or before the first day of February prior to a school year, a county board of developmental disabilities may elect not to participate during that school year in the provision of or contracting for educational services for children ages six through twenty-one years of age, provided that on or before that date the board gives notice of this election to the superintendent of public instruction, each school district in the county, and the educational service center serving the county. If a board makes this election, it shall not have any responsibility for or authority to provide educational services that school year for children ages six through twenty-one years of age. If a board does not make an election for a school year in accordance with this division, the board shall be deemed to have elected to participate during that school year in the provision of or contracting for educational services for children ages six through twenty-one years of age.

(F) If a county board of developmental disabilities elects to provide educational services during a school year to individuals six through twenty-one years of age who have multiple disabilities, the board may provide these services to individuals who are appropriately identified and determined eligible pursuant to Chapter 3323. of the Revised Code, and in accordance with applicable rules of the state board of education. The county

board may also provide related services to individuals six through twenty-one years of age who have one or more disabling conditions, in accordance with section 3317.20 and Chapter 3323. of the Revised Code and applicable rules of the state board of education.

Sec. 5126.042. (A) As used in this section:

~~(1) "Emergency, emergency status" means any situation~~ a status that ~~creates for~~ an individual with mental retardation or developmental disabilities a has when the individual is at risk of substantial self-harm or substantial harm to others if action is not taken within thirty days. An "emergency status" may include a status resulting from one or more of the following situations:

~~(a)~~(1) Loss of present residence for any reason, including legal action;

~~(b)~~(2) Loss of present caretaker for any reason, including serious illness of the caretaker, change in the caretaker's status, or inability of the caretaker to perform effectively for the individual;

~~(c)~~(3) Abuse, neglect, or exploitation of the individual;

~~(d)~~(4) Health and safety conditions that pose a serious risk to the individual or others of immediate harm or death;

~~(e)~~(5) Change in the emotional or physical condition of the individual that necessitates substantial accommodation that cannot be reasonably provided by the individual's existing caretaker.

~~(2) "Service substitution list" means a service substitution list established by a county board of developmental disabilities before September 1, 2008, pursuant to division (B) of this section as this section existed on the day immediately before September 1, 2008.~~

(B) If a county board of developmental disabilities determines that available resources are not sufficient to meet the needs of all individuals who request non-medicaid programs and or services and may be offered the programs and services, it shall establish one or more waiting lists for the non-medicaid programs or services in accordance with its plan developed under section 5126.04 of the Revised Code. The board may establish priorities for making placements on its waiting lists ~~according to an individual's emergency status and shall establish priorities in accordance with divisions (D) and (E) of established under this section division.~~ Any such priorities shall be consistent with the board's plan and applicable law.

~~The individuals who may be placed on a waiting list include individuals with a need for services on an emergency basis and individuals who have requested services for which resources are not available.~~

~~An individual placed on a county board's service substitution list before September 1, 2008, for the purpose of obtaining home and~~

~~community-based services shall be deemed to have been placed on the county board's waiting list for home and community-based services on the date the individual made a request to the county board that the individual receive home and community-based services instead of the services the individual received at the time the request for home and community-based services was made to the county board.~~

~~(C) A~~ ~~If a county board shall establish a separate waiting list for each of the following categories of services, and may establish separate waiting lists within the waiting lists:~~

- ~~(1) Early childhood services;~~
- ~~(2) Educational programs for preschool and school-age children;~~
- ~~(3) Adult services;~~
- ~~(4) Service and support administration;~~
- ~~(5) Residential services and supported living;~~
- ~~(6) Transportation services;~~
- ~~(7) Other services determined necessary and appropriate for persons with mental retardation or a developmental disability according to their individual habilitation or service plans;~~

~~(8) Family support services provided under section 5126.11 of the Revised Code determines that available resources are insufficient to meet the needs of all individuals who request home and community-based services, it shall establish a waiting list for the services. An individual's date of placement on the waiting list shall be the date a request is made to the board for the individual to receive the home and community-based services. The board shall provide for an individual who has an emergency status to receive priority status on the waiting list. The board shall also provide for an individual to whom any of the following apply to receive priority status on the waiting list in accordance with rules adopted under division (E) of this section:~~

~~(1) The individual is receiving supported living, family support services, or adult services for which no federal financial participation is received under the medicaid program;~~

~~(2) The individual's primary caregiver is at least sixty years of age;~~

~~(3) The individual has intensive needs as determined in accordance with rules adopted under division (E) of this section.~~

~~(D) Except as provided in division (G) of this section, a county board shall do, as priorities, all of the following in accordance with the assessment component, approved under section 5123.046 of the Revised Code, of the county board's plan developed under section 5126.054 of the Revised Code:~~

~~(1) For the purpose of obtaining additional federal medicaid funds for~~

~~home and community-based services and medicaid case management services, do both of the following:~~

~~(a) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include supported living, residential services, or family support services:~~

~~(i) Is twenty two years of age or older;~~

~~(ii) Receives supported living or family support services.~~

~~(b) Give an individual who is eligible for home and community-based services and meets both of the following requirements priority over any other individual on a waiting list established under division (C) of this section for home and community-based services that include adult services:~~

~~(i) Resides in the individual's own home or the home of the individual's family and will continue to reside in that home after enrollment in home and community-based services;~~

~~(ii) Receives adult services from the county board.~~

~~(2) As federal medicaid funds become available pursuant to division (D)(1) of this section, give an individual who is eligible for home and community-based services and meets any of the following requirements priority for such services over any other individual on a waiting list established under division (C) of this section:~~

~~(a) Does not receive residential services or supported living, either needs services in the individual's current living arrangement or will need services in a new living arrangement, and has a primary caregiver who is sixty years of age or older;~~

~~(b) Is less than twenty two years of age and has at least one of the following service needs that are unusual in scope or intensity:~~

~~(i) Severe behavior problems for which a behavior support plan is needed;~~

~~(ii) An emotional disorder for which anti-psychotic medication is needed;~~

~~(iii) A medical condition that leaves the individual dependent on life-support medical technology;~~

~~(iv) A condition affecting multiple body systems for which a combination of specialized medical, psychological, educational, or habilitation services are needed;~~

~~(v) A condition the county board determines to be comparable in severity to any condition described in divisions (D)(2)(b)(i) to (iv) of this section and places the individual at significant risk of institutionalization.~~

~~(c) Is twenty-two years of age or older, does not receive residential services or supported living, and is determined by the county board to have intensive needs for home and community based services on an in-home or out-of-home basis.~~

~~(E) Except as provided in division (G) of this section and for a number of years and beginning on a date specified in rules adopted under division (K) of this section, a county board shall give an individual who is eligible for home and community based services, resides in a nursing facility, and chooses to move to another setting with the help of home and community based services, priority over any other individual on a waiting list established under division (C) of this section for home and community based services who does not meet these criteria.~~

~~(F) If two or more individuals on a waiting list established under division (C) of this section for home and community-based services have priority for the services pursuant to division ~~(D)~~(C)(1) or (2), or ~~(E)~~(3) of this section, a county board ~~may~~ shall use criteria specified in rules adopted under division ~~(K)~~(2)(E) of this section in determining the order in which the individuals with priority will be offered the services. ~~Otherwise, the county board shall offer the home and community-based services to such individuals in the order they are placed on the waiting list.~~~~

~~(G) No individual may receive priority for services pursuant to division (D) or (E) of this section over an individual placed on a waiting list established under division (C) of this section on an emergency status services. An individual who has priority for home and community-based services because the individual has an emergency status has priority for the services over all other individuals on the waiting list who do not have emergency status.~~

~~(H) Prior to establishing any waiting list under this section, a county board shall develop and implement a policy for waiting lists that complies with this section and rules adopted under division (K) of this section.~~

~~Prior to placing an individual on a waiting list, the county board shall assess the service needs of the individual in accordance with all applicable state and federal laws. The county board shall place the individual on the appropriate waiting list and may place the individual on more than one waiting list. The county board shall notify the individual of the individual's placement and position on each waiting list on which the individual is placed.~~

~~At least annually, the county board shall reassess the service needs of each individual on a waiting list. If it determines that an individual no longer needs a program or service, the county board shall remove the individual~~

~~from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists.~~

~~When a program or service for which there is a waiting list becomes available, the county board shall reassess the service needs of the individual next scheduled on the waiting list to receive that program or service. If the reassessment demonstrates that the individual continues to need the program or service, the board shall offer the program or service to the individual. If it determines that an individual no longer needs a program or service, the county board shall remove the individual from the waiting list. If it determines that an individual needs a program or service other than the one for which the individual is on the waiting list, the county board shall provide the program or service to the individual or place the individual on a waiting list for the program or service in accordance with the board's policy for waiting lists. The county board shall notify the individual of the individual's placement and position on the waiting list on which the individual is placed.~~

~~(I) A child subject to a determination made pursuant to section 121.38 of the Revised Code who requires the home and community-based services provided through a medicaid component that the department of developmental disabilities administers under section 5111.871 of the Revised Code shall receive services through that medicaid component. For all other services, a child subject to a determination made pursuant to section 121.38 of the Revised Code shall be treated as an emergency by the county boards and shall not be subject to a waiting list.~~

~~(J) Not later than the fifteenth day of March of each even-numbered year, each county board shall prepare and submit to the director of developmental disabilities its recommendations for the funding of services for individuals with mental retardation and developmental disabilities and its proposals for reducing the waiting lists for services.~~

~~(K)(1)(E)~~ The department of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code governing waiting lists established under division (C) of this section. The rules shall include procedures to be followed to ensure that the due process rights of individuals placed on waiting lists are not violated. As

~~(2)~~ As part of the rules adopted under this division, the department shall adopt rules establishing criteria a county board ~~may~~ shall use under division ~~(F)~~(D) of this section in determining the order in which individuals with priority for home and community-based services pursuant to division (C)(1),

~~(2), or (3) of this section will be offered the services. The rules shall also specify conditions under which a county board, when there is no individual with priority for home and community-based services pursuant to division (D)(1) or (2) or (E) of this section available and appropriate for the services, may offer the services to an individual on a waiting list for the services but not given such priority for the services.~~

~~(3) As part of the rules adopted under this division, the department shall adopt rules specifying both of the following for the priority category established under division (E) of this section:~~

~~(a) The number of years, which shall not exceed five, that the priority category will be in effect;~~

~~(b) The date that the priority category is to go into effect.~~

~~(E)(F)~~ The following shall take precedence over the applicable provisions of this section:

(1) Medicaid rules and regulations;

(2) Any specific requirements that may be contained within a medicaid state plan amendment or waiver program that a county board has authority to administer or with respect to which it has authority to provide services, programs, or supports.

Sec. 5126.05. (A) Subject to the rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to this chapter, and subject to the rules established by the state board of education pursuant to Chapter 119. of the Revised Code for programs and services offered pursuant to Chapter 3323. of the Revised Code, the county board of developmental disabilities shall:

(1) Administer and operate facilities, programs, and services as provided by this chapter and Chapter 3323. of the Revised Code and establish policies for their administration and operation;

(2) Coordinate, monitor, and evaluate existing services and facilities available to individuals with mental retardation and developmental disabilities;

(3) Provide early childhood services, supportive home services, and adult services, according to the plan and priorities developed under section 5126.04 of the Revised Code;

(4) Provide or contract for special education services pursuant to Chapters ~~3306.~~, 3317. and 3323. of the Revised Code and ensure that related services, as defined in section 3323.01 of the Revised Code, are available according to the plan and priorities developed under section 5126.04 of the Revised Code;

(5) Adopt a budget, authorize expenditures for the purposes specified in this chapter and do so in accordance with section 319.16 of the Revised Code, approve attendance of board members and employees at professional meetings and approve expenditures for attendance, and exercise such powers and duties as are prescribed by the director;

(6) Submit annual reports of its work and expenditures, pursuant to sections 3323.09 and 5126.12 of the Revised Code, to the director, the superintendent of public instruction, and the board of county commissioners at the close of the fiscal year and at such other times as may reasonably be requested;

(7) Authorize all positions of employment, establish compensation, including but not limited to salary schedules and fringe benefits for all board employees, approve contracts of employment for management employees that are for a term of more than one year, employ legal counsel under section 309.10 of the Revised Code, and contract for employee benefits;

(8) Provide service and support administration in accordance with section 5126.15 of the Revised Code;

(9) Certify respite care homes pursuant to rules adopted under section 5123.171 of the Revised Code by the director of developmental disabilities.

(B) To the extent that rules adopted under this section apply to the identification and placement of children with disabilities under Chapter 3323. of the Revised Code, they shall be consistent with the standards and procedures established under sections 3323.03 to 3323.05 of the Revised Code.

(C) Any county board may enter into contracts with other such boards and with public or private, nonprofit, or profit-making agencies or organizations of the same or another county, to provide the facilities, programs, and services authorized or required, upon such terms as may be agreeable, and in accordance with this chapter and Chapter 3323. of the Revised Code and rules adopted thereunder and in accordance with sections 307.86 and 5126.071 of the Revised Code.

(D) A county board may combine transportation for children and adults enrolled in programs and services offered under ~~section 5126.12~~ Chapter 5126. of the Revised Code with transportation for children enrolled in classes funded under section 3317.20 or units approved under section 3317.05 of the Revised Code.

(E) A county board may purchase all necessary insurance policies, may purchase equipment and supplies through the department of administrative services or from other sources, and may enter into agreements with public agencies or nonprofit organizations for cooperative purchasing

arrangements.

(F) A county board may receive by gift, grant, devise, or bequest any moneys, lands, or property for the benefit of the purposes for which the board is established and hold, apply, and dispose of the moneys, lands, and property according to the terms of the gift, grant, devise, or bequest. All money received by gift, grant, bequest, or disposition of lands or property received by gift, grant, devise, or bequest shall be deposited in the county treasury to the credit of such board and shall be available for use by the board for purposes determined or stated by the donor or grantor, but may not be used for personal expenses of the board members. Any interest or earnings accruing from such gift, grant, devise, or bequest shall be treated in the same manner and subject to the same provisions as such gift, grant, devise, or bequest.

(G) The board of county commissioners shall levy taxes and make appropriations sufficient to enable the county board of developmental disabilities to perform its functions and duties, and may utilize any available local, state, and federal funds for such purpose.

Sec. 5126.054. (A) Each county board of developmental disabilities shall, by resolution, develop a three-calendar year plan that includes the following three components:

(1) An assessment component that includes all of the following:

(a) The number of individuals with mental retardation or other developmental disability residing in the county who need the level of care provided by an intermediate care facility for the mentally retarded, may seek home and community-based services, and are given priority on a waiting list established for the services pursuant to ~~division (D)~~ of section 5126.042 of the Revised Code; the service needs of those individuals; and the projected annualized cost for services;

(b) The source of funds available to the county board to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(c) Any other applicable information or conditions that the department of developmental disabilities requires as a condition of approving the component under section 5123.046 of the Revised Code.

(2) A preliminary implementation component that specifies the number of individuals to be provided, during the first year that the plan is in effect, home and community-based services pursuant to the waiting list priority given to them under ~~divisions (D)(1) and (2)~~ of section 5126.042 of the Revised Code and the types of home and community-based services the individuals are to receive;

(3) A component that provides for the implementation of medicaid case management services and home and community-based services for individuals who begin to receive the services on or after the date the plan is approved under section 5123.046 of the Revised Code. A county board shall include all of the following in the component:

(a) If the department of developmental disabilities or department of job and family services requires, an agreement to pay the nonfederal share of medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay;

(b) How the services are to be phased in over the period the plan covers, including how the county board will serve individuals who have priority on a waiting list established under ~~division (C) of section 5126.042 who are given priority status under division (D)(1) of that section~~ of the Revised Code;

(c) Any agreement or commitment regarding the county board's funding of home and community-based services that the county board has with the department at the time the county board develops the component;

(d) Assurances adequate to the department that the county board will comply with all of the following requirements:

(i) To provide the types of home and community-based services specified in the preliminary implementation component required by division (A)(2) of this section to at least the number of individuals specified in that component;

(ii) To use any additional funds the county board receives for the services to improve the county board's resource capabilities for supporting such services available in the county at the time the component is developed and to expand the services to accommodate the unmet need for those services in the county;

(iii) To employ or contract with a business manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a business manager to have the business manager serve both county boards. No superintendent of a county board may serve as the county board's business manager.

(iv) To employ or contract with a medicaid services manager or enter into an agreement with another county board of developmental disabilities that employs or contracts with a medicaid services manager to have the medicaid services manager serve both county boards. No superintendent of a county board may serve as the county board's medicaid services manager.

(e) Programmatic and financial accountability measures and projected outcomes expected from the implementation of the plan;

(f) Any other applicable information or conditions that the department requires as a condition of approving the component under section 5123.046 of the Revised Code.

(B) A county board whose plan developed under division (A) of this section is approved by the department under section 5123.046 of the Revised Code shall update and renew the plan in accordance with a schedule the department shall develop.

Sec. 5126.0510. (A) Except as otherwise provided in an agreement entered into under section 5123.048 of the Revised Code and subject to divisions (B), (C), and (D) of this section, a county board of developmental disabilities shall pay the nonfederal share of medicaid expenditures for the following home and community-based services provided to an individual with mental retardation or other developmental disability who the county board determines under section 5126.041 of the Revised Code is eligible for county board services:

(1) Home and community-based services provided by the county board to such an individual;

(2) Home and community-based services provided by a provider other than the county board to such an individual who is enrolled as of June 30, 2007, in the medicaid waiver component under which the services are provided;

(3) Home and community-based services provided by a provider other than the county board to such an individual who, pursuant to a request the county board makes, enrolls in the medicaid waiver component under which the services are provided after June 30, 2007;

(4) Home and community-based services provided by a provider other than the county board to such an individual for whom there is in effect an agreement entered into under division (E) of this section between the county board and director of developmental disabilities.

(B) In the case of medicaid expenditures for home and community-based services for which division (A)(2) of this section requires a county board to pay the nonfederal share, the following shall apply to such services provided during fiscal year 2008 under the individual options medicaid waiver component:

(1) The county board shall pay no less than the total amount the county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(2) The county board shall pay no more than the sum of the following:

(a) The total amount the county board paid as the nonfederal share for

home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component;

(b) An amount equal to one per cent of the total amount the department of developmental disabilities and county board paid as the nonfederal share for home and community-based services provided in fiscal year 2007 under the individual options medicaid waiver component to individuals the county board determined under section 5126.041 of the Revised Code are eligible for county board services.

(C) A county board is not required to pay the nonfederal share of home and community-based services provided after June 30, 2008, that the county board is otherwise required by division (A)(2) of this section to pay if the department of developmental disabilities fails to comply with division (A) of section 5123.0416 of the Revised Code.

(D) A county board is not required to pay the nonfederal share of home and community-based services that the county board is otherwise required by division (A)(3) of this section to pay if both of the following apply:

(1) The services are provided to an individual who enrolls in the medicaid waiver component under which the services are provided as the result of an order issued following a state hearing, administrative appeal, or appeal to a court of common pleas made under section 5101.35 of the Revised Code;

(2) There are more individuals who are eligible for services from the county board enrolled in ~~the medicaid waiver component~~ home and community-based services than is required by section 5126.0512 of the Revised Code.

(E) A county board may enter into an agreement with the director of developmental disabilities under which the county board agrees to pay the nonfederal share of medicaid expenditures for one or more home and community-based services that the county board is not otherwise required by division (A)(1), (2), or (3) of this section to pay and that are provided to an individual the county board determines under section 5126.041 of the Revised Code is eligible for county board services. The agreement shall specify which home and community-based services the agreement covers. The county board shall pay the nonfederal share of medicaid expenditures for the home and community-based services that the agreement covers as long as the agreement is in effect.

Sec. 5126.0511. (A) A county board of developmental disabilities may use the following funds to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay:

(1) To the extent consistent with the levy that generated the taxes, the following taxes:

(a) Taxes levied pursuant to division (L) of section 5705.19 of the Revised Code and section 5705.222 of the Revised Code;

(b) Taxes levied under section 5705.191 of the Revised Code that the board of county commissioners allocates to the county board.

(2) Funds that the department of developmental disabilities distributes to the county board under ~~sections 5126.11 and~~ section 5126.18 of the Revised Code and for purposes of the family support services program established under section 5126.11 of the Revised Code;

(3) Earned federal revenue funds the county board receives for medicaid services the county board provides pursuant to the county board's valid medicaid provider agreement;

(4) Funds that the department of developmental disabilities distributes to the county board as subsidy payments;

(5) In the case of medicaid expenditures for home and community-based services, funds allocated to or otherwise made available for the county board under section 5123.0416 of the Revised Code to pay the nonfederal share of such medicaid expenditures.

(B) Each year, each county board shall adopt a resolution specifying the amount of funds it will use in the next year to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The amount specified shall be adequate to assure that the services for which the medicaid expenditures are made will be available in the county in a manner that conforms to all applicable state and federal laws. A county board shall state in its resolution that the payment of the nonfederal share represents an ongoing financial commitment of the county board. A county board shall adopt the resolution in time for the county auditor to make the determination required by division (C) of this section.

(C) Each year, a county auditor shall determine whether the amount of funds a county board specifies in the resolution it adopts under division (B) of this section will be available in the following year for the county board to pay the nonfederal share of the medicaid expenditures that the county board is required by sections 5126.059 and 5126.0510 of the Revised Code to pay. The county auditor shall make the determination not later than the last day of the year before the year in which the funds are to be used.

Sec. 5126.0512. (A) ~~As used in this section, "medicaid waiver component" means a medicaid waiver component as defined in section 5111.85 of the Revised Code under which home and community-based~~

services are provided.

~~(B)~~ Effective July 1, 2007, and except Except as provided in rules adopted under section 5123.0413 of the Revised Code, each county board of developmental disabilities shall ensure, ~~for each medicaid waiver component,~~ that the number of individuals eligible under section 5126.041 of the Revised Code for services from the county board who are enrolled in a medicaid waiver component home and community-based services is no less than the sum of the following:

(1) The number of individuals eligible for services from the county board who are enrolled in the medicaid waiver component home and community-based services on June 30, 2007;

(2) The number of medicaid waiver component home and community-based services slots the county board requested before July 1, 2007, that were assigned to the county board before that date but in which no individual was enrolled before that date.

~~(C)~~(B) An individual enrolled in a medicaid waiver component home and community-based services after March 1, 2007, due to an emergency reserve capacity waiver assignment shall not be counted in determining the number of individuals a county board must ensure under division ~~(B)~~(A) of this section are enrolled in a medicaid waiver component home and community-based services.

~~(D)~~(C) An individual who is enrolled in a medicaid waiver component home and community-based services to comply with the terms of the consent order filed March 5, 2007, in *Martin v. Strickland*, Case No. 89-CV-00362, in the United States district court for the southern district of Ohio, eastern division, shall be excluded in determining whether a county board has complied with division ~~(B)~~(A) of this section.

~~(E)~~(D) A county board shall make as many requests for individuals to be enrolled in a medicaid waiver component home and community-based services as necessary for the county board to comply with division ~~(B)~~(A) of this section.

Sec. 5126.08. (A) The director of developmental disabilities shall adopt rules in accordance with Chapter 119. of the Revised Code for all programs and services offered by a county board of developmental disabilities. Such rules shall include, but are not limited to, the following:

(1) Determination of what constitutes a program or service;

(2) Standards to be followed by a board in administering, providing, arranging, or operating programs and services;

(3) Standards for determining the nature and degree of mental retardation, including mild mental retardation, or developmental disability;

(4) Standards for determining eligibility for programs and services under ~~sections 5126.042 and~~ section 5126.15 of the Revised Code;

(5) Procedures for obtaining consent for the arrangement of services under section 5126.31 of the Revised Code and for obtaining signatures on individual service plans under that section;

(6) Specification of the service and support administration to be provided by a county board and standards for resolving grievances in connection with service and support administration;

~~(7) Standards for the provision of environmental modifications, including standards that require adherence to all applicable state and local building codes;~~

~~(8) Standards for the provision of specialized medical, adaptive, and assistive equipment, supplies, and supports.~~

(B) The director shall be the final authority in determining the nature and degree of mental retardation or developmental disability.

Sec. 5126.11. (A) As used in this section, "respite care" means appropriate, short-term, temporary care that is provided to a mentally retarded or developmentally disabled person to sustain the family structure or to meet planned or emergency needs of the family.

(B) Subject to rules adopted by the director of developmental disabilities, and subject to the availability of money from state and federal sources, the county board of developmental disabilities shall establish a family support services program. Under such a program, the board shall make payments to an individual with mental retardation or other developmental disability or the family of an individual with mental retardation or other developmental disability who desires to remain in and be supported in the family home. Payments shall be made for all or part of costs incurred or estimated to be incurred for services that would promote self-sufficiency and normalization, prevent or reduce inappropriate institutional care, and further the unity of the family by enabling the family to meet the special needs of the individual and to live as much like other families as possible. Payments may be made in the form of reimbursement for expenditures or in the form of vouchers to be used to purchase services.

(C) Payment shall not be made under this section to an individual or the individual's family if the individual is living in a residential facility that is providing residential services under contract with the department of developmental disabilities or a county board.

(D) Payments may be made for the following services:

(1) Respite care, in or out of the home;

(2) Counseling, supervision, training, and education of the individual,

the individual's caregivers, and members of the individual's family that aid the family in providing proper care for the individual, provide for the special needs of the family, and assist in all aspects of the individual's daily living;

(3) Special diets, purchase or lease of special equipment, or modifications of the home, if such diets, equipment, or modifications are necessary to improve or facilitate the care and living environment of the individual;

(4) Providing support necessary for the individual's continued skill development, including such services as development of interventions to cope with unique problems that may occur within the complexity of the family, enrollment of the individual in special summer programs, provision of appropriate leisure activities, and other social skills development activities;

(5) Any other services that are consistent with the purposes specified in division (B) of this section and specified in the individual's service plan.

(E) In order to be eligible for payments under a family support services program, the individual or the individual's family must reside in the county served by the county board, and the individual must be in need of habilitation. Payments shall be adjusted for income in accordance with the payment schedule established in rules adopted under this section. Payments shall be made only after the county board has taken into account all other available assistance for which the individual or family is eligible.

(F) Before incurring expenses for a service for which payment will be sought under a family support services program, the individual or family shall apply to the county board for a determination of eligibility and approval of the service. The service need not be provided in the county served by the county board. After being determined eligible and receiving approval for the service, the individual or family may incur expenses for the service or use the vouchers received from the county board for the purchase of the service.

If the county board refuses to approve a service, an appeal may be made in accordance with rules adopted by the department under this section.

(G) To be reimbursed for expenses incurred for approved services, the individual or family shall submit to the county board a statement of the expenses incurred accompanied by any evidence required by the board. To redeem vouchers used to purchase approved services, the entity that provided the service shall submit to the county board evidence that the service was provided and a statement of the charges. The county board shall make reimbursements and redeem vouchers no later than forty-five days after it receives the statements and evidence required by this division.

(H) A county board shall consider the following objectives in carrying out a family support services program:

(1) Enabling individuals to return to their families from an institution under the jurisdiction of the department of developmental disabilities;

(2) Enabling individuals found to be subject to institutionalization by court order under section 5123.76 of the Revised Code to remain with their families with the aid of payments provided under this section;

(3) Providing services to eligible children and adults currently residing in the community;

(4) Providing services to individuals with developmental disabilities who are not receiving other services from the board.

(I) The director shall adopt, and may amend and rescind, rules for the implementation of family support services programs by county boards. Such rules shall include the following:

(1) A payment schedule adjusted for income;

~~(2) A formula for distributing to county boards the money appropriated for family support services;~~

~~(3) Standards for supervision, training, and quality control in the provision of respite care services;~~

~~(4)(3) Eligibility standards and procedures for providing temporary emergency respite care;~~

~~(5)(4) Procedures for hearing and deciding appeals made under division (F) of this section;~~

~~(6) Requirements to be followed by county boards regarding reports submitted under division (K) of this section.~~

Rules adopted under ~~divisions~~ division (I)(1) ~~and (2)~~ of this section shall be adopted in accordance with section 111.15 of the Revised Code. Rules adopted under divisions (I)~~(3)(2)~~ to ~~(6)(4)~~ of this section shall be adopted in accordance with Chapter 119. of the Revised Code.

(J) All individuals certified by the superintendent of the county board as eligible for temporary emergency respite care in accordance with rules adopted under this section shall be considered eligible for temporary emergency respite care for not more than five days to permit the determination of eligibility for family support services. The requirements of divisions (E) and (F) of this section do not apply to temporary emergency respite care.

~~(K) The department of developmental disabilities shall distribute to county boards money appropriated for family support services in quarterly installments of equal amounts. The installments shall be made not later than the thirtieth day of September, the thirty first day of December, the~~

~~thirty first day of March, and the thirtieth day of June. A county board shall use no more than seven per cent of the funds for administrative costs. Each county board shall submit reports to the department on payments made under this section. The reports shall be submitted at those times and in the manner specified in rules adopted under this section.~~

~~(L) The county board shall not be required to make payments for family support services at a level that exceeds available state and federal funds for such payments.~~

~~Sec. 5126.12. (A) As used in this section:~~

~~(1) "Approved school age class" means a class operated by a county board of developmental disabilities and funded by the department of education under section 3317.20 of the Revised Code.~~

~~(2) "Approved preschool unit" means a class or unit operated by a county board of developmental disabilities and approved under division (B) of section 3317.05 of the Revised Code.~~

~~(3) "Active treatment" means a continuous treatment program, which includes aggressive, consistent implementation of a program of specialized and generic training, treatment, health services, and related services, that is directed toward the acquisition of behaviors necessary for an individual with mental retardation or other developmental disability to function with as much self-determination and independence as possible and toward the prevention of deceleration, regression, or loss of current optimal functional status.~~

~~(4) "Eligible for active treatment" means that an individual with mental retardation or other developmental disability resides in an intermediate care facility for the mentally retarded certified under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396, as amended; resides in a state institution operated by the department of developmental disabilities; or is enrolled in home and community-based services.~~

~~(5) "Traditional adult services" means vocational and nonvocational activities conducted within a sheltered workshop or adult activity center or supportive home services.~~

~~(B) Each On or before the last day of each April, each county board of developmental disabilities shall certify to the director of developmental disabilities all of the following:~~

~~(1) On or before the fifteenth day of October, the average daily membership for the first full week of programs and services during October receiving:~~

~~(a) Early childhood services provided pursuant to section 5126.05 of the Revised Code for children who are less than three years of age on the~~

~~thirtieth day of September of the academic year;~~

~~(b) Special education for children with disabilities in approved school age classes;~~

~~(c) Adult services for persons sixteen years of age and older operated pursuant to section 5126.05 and division (B) of section 5126.051 of the Revised Code. Separate counts shall be made for the following:~~

~~(i) Persons enrolled in traditional adult services who are eligible for but not enrolled in active treatment;~~

~~(ii) Persons enrolled in traditional adult services who are eligible for and enrolled in active treatment;~~

~~(iii) Persons enrolled in traditional adult services but who are not eligible for active treatment;~~

~~(iv) Persons participating in community employment services. To be counted as participating in community employment services, a person must have spent an average of no less than ten hours per week in that employment during the preceding six months.~~

~~(d) Other programs in the county for individuals with mental retardation and developmental disabilities that have been approved for payment of subsidy by the department of developmental disabilities.~~

~~The membership in each such program and service in the county shall be reported on forms prescribed by the department of developmental disabilities.~~

~~The department of developmental disabilities shall adopt rules defining full-time equivalent enrollees and for determining the average daily membership therefrom, except that certification of average daily membership in approved school age classes shall be in accordance with rules adopted by the state board of education. The average daily membership figure shall be determined by dividing the amount representing the sum of the number of enrollees in each program or service in the week for which the certification is made by the number of days the program or service was offered in that week. No enrollee may be counted in average daily membership for more than one program or service.~~

~~(2) By the fifteenth day of December, the number of children enrolled in approved preschool units on the first day of December;~~

~~(3) On or before the thirtieth day of April, an itemized report of all of the county board's income and operating expenditures for the immediately preceding calendar year. The certification shall be provided in an itemized report prepared and submitted in the a format specified by the department of developmental disabilities;~~

~~(4) That each required certification and report is in accordance with~~

~~rules established by the department of developmental disabilities and the state board of education for the operation and subsidization of the programs and services.~~

Sec. 5126.18. (A) As used in this section:

(1) "Taxable value" means the taxable value of a county certified under division (B) of this section.

(2) "Per-mill yield" means the quotient obtained by dividing the taxable value of a county by one thousand.

(3) "Population" of a county means that shown by the federal census for a census year or, for a noncensus year, the population as estimated by the department of development.

(4) "Six-year moving average" means the average of the per-mill yields of a county for the most recent six years.

(5) "Yield per person" means the quotient obtained by dividing the six-year moving average of a county by the population of that county.

(6) "Tax equity payments" means payments to county boards of developmental disabilities under this section or a prior version of this section from money appropriated by the general assembly to the department of developmental disabilities for that purpose.

(7) "Eligible county" means a county determined under division (C) of this section to be eligible for tax equity payments for the two-year period for which that determination is made.

(8) "Threshold county" means the county with the lowest yield per person that is determined not to be eligible to receive tax equity payments.

(B) At the request of the director of developmental disabilities, the tax commissioner shall certify to the director the taxable value of property on each county's most recent tax list of real and public utility property. The director may request any other tax information necessary for the purposes of this section.

(C) Beginning in 2011, on or before the thirty-first day of May of that year and of every second year thereafter, the director of developmental disabilities shall determine whether a county is eligible to receive tax equity payments for the ensuing two fiscal years as follows:

(1) The director shall determine the six-year moving average, population, and yield per person of each county in the state, based on the most recent information available.

(2) The director shall calculate a tax equity funding threshold by adding the population of the county with the lowest yield per person and the populations of individual counties in order from lowest yield per person to highest yield per person until the addition of the population of another

county would increase the aggregate sum to over thirty per cent of the total state population. A county is eligible to receive tax equity payments for the two-year period if its population is included in the calculation of the threshold and the addition of its population does not increase such sum to over thirty per cent of the total state population.

(D)(1) Except as provided in divisions (D)(2) and (3) of this section, beginning in fiscal year 2012 and for each fiscal year thereafter, the director shall make tax equity payments to each eligible county equal to the population of the county multiplied by the difference between the yield per person of the threshold county and the yield per person of the eligible county. For purposes of this division, the population and yield per person of a county equal the population and yield per person most recently determined for that county under division (C)(1) of this section. The payments shall be made in quarterly installments of equal amounts not later than the thirtieth day of September, the thirty-first day of December, the thirty-first day of March, and the thirtieth day of June of each fiscal year.

(2) In fiscal year 2012, if the amount determined under division (D)(1) of this section for an eligible county is at least twenty thousand dollars greater than or twenty thousand dollars less than the amount of tax equity payments the county received in fiscal year 2011, the county's tax equity payments for fiscal years 2012 through 2014 shall equal the following:

(a) For fiscal year 2012, one-fourth of the amount calculated for the eligible county under division (D)(1) of this section plus three-fourths of the amount of tax equity payments the county received in fiscal year 2011;

(b) For fiscal year 2013, one-half of the amount calculated for the eligible county under division (D)(1) of this section plus one-half of the amount of tax equity payments the county received in fiscal year 2011;

(c) For fiscal year 2014, three-fourths of the amount calculated for the eligible county under division (D)(1) of this section plus one-fourth of the amount of tax equity payments the county received in fiscal year 2011.

(3) In any fiscal year, if the total amount of tax equity payments for all eligible counties as determined under divisions (D)(1) and (2) of this section is greater than the amount appropriated to the department of developmental disabilities for the purpose of making such payments in that fiscal year, the director shall reduce the payments to each eligible county board in equal proportion. If the total amount of tax equity payments as determined under that division is less than the amount appropriated to the department for that purpose, the director shall determine how to allocate the excess money after consultation with the Ohio association of county boards serving people with developmental disabilities.

(4) Tax equity payments shall be paid only to an eligible county board of developmental disabilities and not to a regional council established under section 5126.13 of the Revised Code or any other entity.

(E)(1) Except as provided in division (E)(2) of this section, a county board of developmental disabilities shall use tax equity payments solely to pay the nonfederal share of medicaid expenditures it is required to pay under sections 5126.059 and 5126.0510 of the Revised Code. Tax equity payments shall not be used to pay any salary or other compensation to county board personnel.

(2) Upon the written request of a county board, the director of developmental disabilities may authorize a county board to use tax equity payments for infrastructure improvements necessary to support medicaid waiver administration.

(3) The director may audit any county board receiving tax equity payments to ensure appropriate use of the payments in accordance with this section. If the director determines that a county board is using payments inappropriately, the director shall notify the county board in writing of the determination. Within thirty days after receiving the director's notification, the county board shall submit a written plan of correction to the director. The director may accept or reject the plan. If the director rejects the plan, the director may require the county board to repay all or a portion of the amount of tax equity payments used inappropriately. The director shall distribute any tax equity payments returned under this division to other eligible county boards in accordance with a plan developed by the director after consultation with the Ohio association of county boards serving people with developmental disabilities.

Sec. 5126.24. (A) As used in this section:

(1) "License" means an educator license issued by the state board of education under section 3319.22 of the Revised Code or a certificate issued by the department of developmental disabilities.

(2) "Teacher" means a person employed by a county board of developmental disabilities in a position that requires a license.

(3) "Nonteaching employee" means a person employed by a county board of developmental disabilities in a position that does not require a license.

(4) "Years of service" includes all service described in division (A) of section 3317.13 of the Revised Code.

(B) Subject to rules established by the director of developmental disabilities pursuant to Chapter 119. of the Revised Code, each county board of developmental disabilities shall annually adopt separate salary schedules

for teachers and nonteaching employees.

(C) The teachers' salary schedule shall provide for increments based on training and years of service. The board may establish its own service requirements provided no teacher receives less than the salary the teacher would be paid under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education and provided full credit for a minimum of five years of actual teaching and military experience as defined in division (A) of such section is given to each teacher.

Each teacher who has completed training that would qualify the teacher for a higher salary bracket pursuant to this section shall file by the fifteenth day of September with the fiscal officer of the board, satisfactory evidence of the completion of such additional training. The fiscal officer shall then immediately place the teacher, pursuant to this section, in the proper salary bracket in accordance with training and years of service. No teacher shall be paid less than the salary to which the teacher would be entitled under section 3317.13 of the Revised Code if the teacher were employed by a school district board of education.

The superintendent of each county board, on or before the fifteenth day of October of each year, shall certify to the state board of education the name of each teacher employed, on an annual salary, in each special education program operated pursuant to section 3323.09 of the Revised Code during the first full school week of October. The superintendent further shall certify, for each teacher, the number of years of training completed at a recognized college, the degrees earned from a college recognized by the state board, the type of license held, the number of months employed by the board, the annual salary, and other information that the state board may request.

(D) The nonteaching employees' salary schedule established by the board shall be based on training, experience, and qualifications with initial salaries no less than salaries in effect on July 1, 1985. Each board 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 employees shall be notified of the position classification to which they are assigned and the salary for the classification. The compensation of all nonteaching employees working for a particular 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 of each year the nonteaching employees'

salary schedule and list of job classifications and salaries in effect on that date shall be filed by each board 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 schedule and list forthwith. If this condition is not corrected within ten days after receipt of the order from the superintendent, no money shall be distributed to the ~~district board~~ under Chapter ~~3306~~ or 3317. of the Revised Code until the superintendent has satisfactory evidence of the board's full compliance with such order.

Sec. 5126.41. The county board of developmental disabilities shall identify residents of the county for whom supported living is to be provided. Identification of the residents shall be made in accordance with the priorities set under section 5126.04 of the Revised Code and the waiting ~~list policies developed~~ lists established under section 5126.042 of the Revised Code. The board shall assist the residents in identifying their individual service needs.

To arrange supported living for an individual, the board shall assist the individual in developing an individual service plan. In developing the plan, the individual shall choose a residence that is appropriate according to local standards; the individuals, if any, with whom the individual will live in the residence; the services the individual needs to live in the individual's residence of choice; and the providers from which the services will be received. The choices available to an individual shall be based on available resources.

The board shall obtain the consent of the individual or the individual's guardian and the signature of the individual or guardian on the individual service plan. The county board shall ensure that the individual receives from the provider the services contracted for under section 5126.45 of the Revised Code.

An individual service plan for supported living shall be effective for a period of time agreed to by the county board and the individual. In determining that period, the county board and the individual shall consider the nature of the services to be provided and the manner in which they are customarily provided.

Sec. 5126.42. (A) A county board of developmental disabilities shall establish an advisory council composed of board members or employees of the board, providers, individuals receiving supported living, and advocates for individuals receiving supported living to provide on-going communication among all persons concerned with supported living.

(B) The board shall develop procedures for the resolution of grievances between the board and providers or between the board and an entity with

which it has a shared funding agreement.

(C) The board shall develop and implement a provider selection system. Each system shall enable an individual to choose to continue receiving supported living from the same providers, to select additional providers, or to choose alternative providers. Annually, the board shall review its provider selection system to determine whether it has been implemented in a manner that allows individuals fair and equitable access to providers.

In developing a provider selection system, the county board shall create a pool of providers for individuals to use in choosing their providers of supported living. The pool shall be created by placing in the pool all providers on record with the board or by placing in the pool all providers approved by the board through soliciting requests for proposals for supported living contracts. In either case, only providers that are certified by the director of developmental disabilities may be placed in the pool.

If the board places all providers on record in the pool, the board shall review the pool at least annually to determine whether each provider has continued interest in being a provider and has maintained its certification by the department. At any time, an interested and certified provider may make a request to the board that it be added to the pool, and the board shall add the provider to the pool not later than seven days after receiving the request.

If the board solicits requests for proposals for inclusion of providers in the pool, the board shall develop standards for selecting the providers to be included. Requests for proposals shall be solicited at least annually. When requests are solicited, the board shall cause legal notices to be published ~~at least~~ once each week for two consecutive weeks in a newspaper ~~with~~ of general circulation within the county or as provided in section 7.16 of the Revised Code. The board's formal request for proposals shall include a description of any applicable contract terms, the standards that are used to select providers for inclusion in the pool, and the process the board uses to resolve disputes arising from the selection process. The board shall accept requests from any entity interested in being a provider of supported living for individuals served by the board. Requests shall be approved or denied according to the standards developed by the board. Providers that previously have been placed in the pool are not required to resubmit a request for proposal to be included in the pool, unless the board's standards have been changed.

In assisting an individual in choosing a provider, the county board shall provide the individual with uniform and consistent information pertaining to each provider in the pool. An individual may choose to receive supported living from a provider that is not included in the pool, if the provider is

certified by the director of developmental disabilities.

Sec. 5139.11. The department of youth services shall do all of the following:

(A) Through a program of education, promotion, and organization, form groups of local citizens and assist these groups in conducting activities aimed at the prevention and control of juvenile delinquency, making use of local people and resources for the following purposes:

(1) Combatting local conditions known to contribute to juvenile delinquency;

(2) Developing recreational and other programs for youth work;

(3) Providing adult sponsors for delinquent children cases;

(4) Dealing with other related problems of the locality.

(B) Advise local, state, and federal officials, public and private agencies, and lay groups on the needs for and possible methods of the reduction and prevention of juvenile delinquency and the treatment of delinquent children;

(C) Consult with the schools and courts of this state on the development of programs for the reduction and prevention of delinquency and the treatment of delinquents;

(D) Cooperate with other agencies whose services deal with the care and treatment of delinquent children to the end that delinquent children who are state wards may be assisted whenever possible to a successful adjustment outside of institutional care;

(E) Cooperate with other agencies in surveying, developing, and utilizing the recreational resources of a community as a means of combatting the problem of juvenile delinquency and effectuating rehabilitation;

(F) Hold district and state conferences from time to time in order to acquaint the public with current problems of juvenile delinquency and develop a sense of civic responsibility toward the prevention of juvenile delinquency;

(G) Assemble and distribute information relating to juvenile delinquency and report on studies relating to community conditions that affect the problem of juvenile delinquency;

(H) Assist any community within the state by conducting a comprehensive survey of the community's available public and private resources, and recommend methods of establishing a community program for combatting juvenile delinquency and crime, but no survey of that type shall be conducted unless local individuals and groups request it through their local authorities, and no request of that type shall be interpreted as

binding the community to following the recommendations made as a result of the request;

(I) Evaluate the rehabilitation of children committed to the department and prepare and submit periodic reports to the committing court for the following purposes:

(1) Evaluating the effectiveness of institutional treatment;

(2) Making recommendations for judicial release under section 2152.22 of the Revised Code if appropriate and recommending conditions for judicial release;

(3) Reviewing the placement of children and recommending alternative placements where appropriate.

(J) Coordinate dates for hearings to be conducted under section 2152.22 of the Revised Code and assist in the transfer and release of children from institutionalization to the custody of the committing court;

(K)(1) Coordinate and assist juvenile justice systems by doing the following:

(a) Performing juvenile justice system planning in the state, including any planning that is required by any federal law;

(b) Collecting, analyzing, and correlating information and data concerning the juvenile justice system in the state;

(c) Cooperating with and providing technical assistance to state departments, administrative planning districts, metropolitan county criminal justice services agencies, criminal justice coordinating councils, and agencies, offices, and departments of the juvenile justice system in the state, and other appropriate organizations and persons;

(d) Encouraging and assisting agencies, offices, and departments of the juvenile justice system in the state and other appropriate organizations and persons to solve problems that relate to the duties of the department;

(e) Administering within the state any juvenile justice acts and programs that the governor requires the department to administer;

(f) Implementing the state comprehensive plans;

(g) Visiting and inspecting jails, detention facilities, correctional facilities, facilities that may hold juveniles involuntarily, or any other facility that may temporarily house juveniles on a voluntary or involuntary basis for the purpose of compliance pursuant to the "Juvenile Justice and Delinquency Prevention Act of 1974," 88 Stat. 1109, as amended;

(h) Auditing grant activities of agencies, offices, organizations, and persons that are financed in whole or in part by funds granted through the department;

~~(h)~~(i) Monitoring or evaluating the performance of juvenile justice

system projects and programs in the state that are financed in whole or in part by funds granted through the department;

~~(i)~~(j) Applying for, allocating, disbursing, and accounting for grants that are made available pursuant to federal juvenile justice acts, or made available from other federal, state, or private sources, to improve the criminal and juvenile justice systems in the state. All money from federal juvenile justice act grants shall, if the terms under which the money is received require that the money be deposited into an interest bearing fund or account, be deposited in the state treasury to the credit of the federal juvenile justice program purposes fund, which is hereby created. All investment earnings shall be credited to the fund.

~~(j)~~(k) Contracting with federal, state, and local agencies, foundations, corporations, businesses, and persons when necessary to carry out the duties of the department;

~~(k)~~(l) Overseeing the activities of metropolitan county criminal justice services agencies, administrative planning districts, and juvenile justice coordinating councils in the state;

~~(l)~~(m) Advising the general assembly and governor on legislation and other significant matters that pertain to the improvement and reform of the juvenile justice system in the state;

~~(m)~~(n) Preparing and recommending legislation to the general assembly and governor for the improvement of the juvenile justice system in the state;

~~(n)~~(o) Assisting, advising, and making any reports that are required by the governor, attorney general, or general assembly;

~~(o)~~(p) Adopting rules pursuant to Chapter 119. of the Revised Code.

(2) Division (K)(1) of this section does not limit the discretion or authority of the attorney general with respect to crime victim assistance and criminal and juvenile justice programs.

(3) Nothing in division (K)(1) of this section is intended to diminish or alter the status of the office of the attorney general as a criminal justice services agency.

(4) The governor may appoint any advisory committees to assist the department that the governor considers appropriate or that are required under any state or federal law.

Sec. 5139.43. (A) The department of youth services shall operate a felony delinquent care and custody program that shall be operated in accordance with the formula developed pursuant to section 5139.41 of the Revised Code, subject to the conditions specified in this section.

(B)(1) Each juvenile court shall use the moneys disbursed to it by the department of youth services pursuant to division (B) of section 5139.41 of

the Revised Code in accordance with the applicable provisions of division (B)(2) of this section and shall transmit the moneys to the county treasurer for deposit in accordance with this division. The county treasurer shall create in the county treasury a fund that shall be known as the felony delinquent care and custody fund and shall deposit in that fund the moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code. The county treasurer also shall deposit into that fund the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall not be commingled with any other county funds except state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code; shall not be used for any capital construction projects; upon an order of the juvenile court and subject to appropriation by the board of county commissioners, shall be disbursed to the juvenile court for use in accordance with the applicable provisions of division (B)(2) of this section; shall not revert to the county general fund at the end of any fiscal year; and shall carry over in the felony delinquent care and custody fund from the end of any fiscal year to the next fiscal year. The maximum balance carry-over at the end of each respective fiscal year in the felony delinquent care and custody fund in any county from funds allocated to the county pursuant to sections 5139.34 and 5139.41 of the Revised Code in the previous fiscal year shall not exceed an amount to be calculated as provided in the formula set forth in this division, unless that county has applied for and been granted an exemption by the director of youth services. Beginning June 30, 2008, the maximum balance carry-over at the end of each respective fiscal year shall be determined by the following formula: for fiscal year 2008, the maximum balance carry-over shall be one hundred per cent of the allocation for fiscal year 2007, to be applied in determining the fiscal year 2009 allocation; for fiscal year 2009, it shall be fifty per cent of the allocation for fiscal year 2008, to be applied in determining the fiscal year 2010 allocation; for fiscal year 2010, it shall be twenty-five per cent of the allocation for fiscal year 2009, to be applied in determining the fiscal year 2011 allocation; and for each fiscal year subsequent to fiscal year 2010, it shall be twenty-five per cent of the allocation for the immediately preceding fiscal year, to be applied in determining the allocation for the next immediate fiscal year. The department shall withhold from future payments to a county an amount equal to any moneys in the felony delinquent care and custody fund of the county that exceed the total maximum balance carry-over that applies for

that county for the fiscal year in which the payments are being made and shall reallocate the withheld amount. The department shall adopt rules for the withholding and reallocation of moneys disbursed under sections 5139.34 and 5139.41 of the Revised Code and for the criteria and process for a county to obtain an exemption from the withholding requirement. The moneys disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to this division in the felony delinquent care and custody fund shall be in addition to, and shall not be used to reduce, any usual annual increase in county funding that the juvenile court is eligible to receive or the current level of county funding of the juvenile court and of any programs or services for delinquent children, unruly children, or juvenile traffic offenders.

(2)(a) A county and the juvenile court that serves the county shall use the moneys in its felony delinquent care and custody fund in accordance with rules that the department of youth services adopts pursuant to division (D) of section 5139.04 of the Revised Code and as follows:

(i) The moneys in the fund that represent state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code shall be used to aid in the support of prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children or delinquent children or for children who are at risk of becoming unruly children or delinquent children. The county shall not use for capital improvements more than fifteen per cent of the moneys in the fund that represent the applicable annual grant of those state subsidy funds.

(ii) The moneys in the fund that were disbursed to the juvenile court pursuant to division (B) of section 5139.41 of the Revised Code and deposited pursuant to division (B)(1) of this section in the fund shall be used to provide programs and services for the training, treatment, or rehabilitation of felony delinquents that are alternatives to their commitment to the department, including, but not limited to, community residential programs, day treatment centers, services within the home, and electronic monitoring, and shall be used in connection with training, treatment, rehabilitation, early intervention, or other programs or services for any delinquent child, unruly child, or juvenile traffic offender who is under the jurisdiction of the juvenile court.

The fund also may be used for prevention, early intervention, diversion, treatment, and rehabilitation programs that are provided for alleged or adjudicated unruly children, delinquent children, or juvenile traffic offenders or for children who are at risk of becoming unruly children, delinquent children, or juvenile traffic offenders. Consistent with division

(B)(1) of this section, a county and the juvenile court of a county shall not use any of those moneys for capital construction projects.

(iii) Moneys in the fund shall not be used to support programs or services that do not comply with federal juvenile justice and delinquency prevention core requirements or to support programs or services that research has shown to be ineffective. Moneys in the fund shall be prioritized to research-supported, outcome-based programs and services.

(iv) The county and the juvenile court that serves the county may use moneys in the fund to provide out-of-home placement of children only in detention centers, community rehabilitation centers, or community corrections facilities approved by the department pursuant to standards adopted by the department, licensed by an authorized state agency, or accredited by the American correctional association or another national organization recognized by the department.

(b) Each juvenile court shall comply with division (B)(3)(d) of this section as implemented by the department. If a juvenile court fails to comply with division (B)(3)(d) of this section, the department shall not be required to make any disbursements in accordance with division (C) or (D) of section 5139.41 or division (C)(2) of section 5139.34 of the Revised Code.

(3) In accordance with rules adopted by the department pursuant to division (D) of section 5139.04 of the Revised Code, each juvenile court and the county served by that juvenile court shall do all of the following that apply:

(a) The juvenile court shall prepare an annual grant agreement and application for funding that satisfies the requirements of this section and section 5139.34 of the Revised Code and that pertains to the use, upon an order of the juvenile court and subject to appropriation by the board of county commissioners, of the moneys in its felony delinquent care and custody fund for specified programs, care, and services as described in division (B)(2)(a) of this section, shall submit that agreement and application to the county family and children first council, the regional family and children first council, or the local intersystem services to children cluster as described in sections 121.37 and 121.38 of the Revised Code, whichever is applicable, and shall file that agreement and application with the department for its approval. The annual grant agreement and application for funding shall include a method of ensuring equal access for minority youth to the programs, care, and services specified in it.

The department may approve an annual grant agreement and application for funding only if the juvenile court involved has complied with the preparation, submission, and filing requirements described in division

(B)(3)(a) of this section. If the juvenile court complies with those requirements and the department approves that agreement and application, the juvenile court and the county served by the juvenile court may expend the state subsidy funds granted to the county pursuant to section 5139.34 of the Revised Code only in accordance with division (B)(2)(a) of this section, the rules pertaining to state subsidy funds that the department adopts pursuant to division (D) of section 5139.04 of the Revised Code, and the approved agreement and application.

(b) By the thirty-first day of August of each year, the juvenile court shall file with the department a report that contains all of the statistical and other information for each month of the prior state fiscal year. If the juvenile court fails to file the report required by division (B)(3)(b) of this section by the thirty-first day of August of any year, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(b) of this section.

(c) If the department requires the juvenile court to prepare monthly statistical reports and to submit the reports on forms provided by the department, the juvenile court shall file those reports with the department on the forms so provided. If the juvenile court fails to prepare and submit those monthly statistical reports within the department's timelines, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation until the juvenile court fully complies with division (B)(3)(c) of this section. If the juvenile court fails to prepare and submit those monthly statistical reports within one hundred eighty days of the date the department establishes for their submission, the department shall not disburse any payment of state subsidy funds to which the county otherwise is entitled pursuant to section 5139.34 of the Revised Code and shall not disburse pursuant to division (B) of section 5139.41 of the Revised Code the applicable allocation, and the state subsidy funds and the remainder of the applicable allocation shall revert to the department. If a juvenile court states in a monthly statistical report that the juvenile court adjudicated within a state fiscal year five hundred or more children to be delinquent children for committing acts that would be felonies if committed by adults and if the department determines that the data in the report may be inaccurate, the juvenile court shall have an independent auditor or other

qualified entity certify the accuracy of the data on a date determined by the department.

(d) If the department requires the juvenile court and the county to participate in a fiscal monitoring program or another monitoring program that is conducted by the department to ensure compliance by the juvenile court and the county with division (B) of this section, the juvenile court and the county shall participate in the program and fully comply with any guidelines for the performance of audits adopted by the department pursuant to that program and all requests made by the department pursuant to that program for information necessary to reconcile fiscal accounting. If an audit that is performed pursuant to a fiscal monitoring program or another monitoring program described in this division determines that the juvenile court or the county used moneys in the county's felony delinquent care and custody fund for expenses that are not authorized under division (B) of this section, within forty-five days after the department notifies the county of the unauthorized expenditures, the county either shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund or shall file a written appeal with the department. If an appeal is timely filed, the director of the department shall render a decision on the appeal and shall notify the appellant county or its juvenile court of that decision within forty-five days after the date that the appeal is filed. If the director denies an appeal, the county's fiscal agent shall repay the amount of the unauthorized expenditures from the county general revenue fund to the state's general revenue fund within thirty days after receiving the director's notification of the appeal decision.

(C) The determination of which county a reduction of the care and custody allocation will be charged against for a particular youth shall be made as outlined below for all youths who do not qualify as public safety beds. The determination of which county a reduction of the care and custody allocation will be charged against shall be made as follows until each youth is released:

(1) In the event of a commitment, the reduction shall be charged against the committing county.

(2) In the event of a recommitment, the reduction shall be charged against the original committing county until the expiration of the minimum period of institutionalization under the original order of commitment or until the date on which the youth is admitted to the department of youth services pursuant to the order of recommitment, whichever is later. Reductions of the allocation shall be charged against the county that recommitted the youth after the minimum expiration date of the original commitment.

(3) In the event of a revocation of a release on parole, the reduction shall be charged against the county that revokes the youth's parole.

(D) A juvenile court is not precluded by its allocation amount for the care and custody of felony delinquents from committing a felony delinquent to the department of youth services for care and custody in an institution or a community corrections facility when the juvenile court determines that the commitment is appropriate.

Sec. 5310.35. The board of county commissioners shall conduct the public hearing required by section 5310.33 of the Revised Code in accordance with this section.

(A)(1) The board shall prepare a notice of the hearing that includes each of the following:

(a) A statement that the board is considering abolishing land registration in the county, that abolition would require the deregistration of all registered land in the county, and that after abolition all land in the county would have to be dealt with as nonregistered land;

(b) A statement that the board seeks evidence with regard to the matters listed in section 5310.34 of the Revised Code;

(c) The date, time, and place of the hearing, which shall be not earlier than two nor later than three months after the resolution to consider the merits of abolishing land registration was adopted by the board;

(d) A statement that any person affected by the proposed abolition of land registration may appear at the hearing and present evidence as provided in division (B) of this section.

(2) The board shall serve the notice by both of the following means:

(a) Ordinary mail, evidenced by a certificate of mailing, addressed to each person from whom a receipt or signature card, giving residence and post-office address, has been taken by the county recorder under section 5309.30 or 5309.50 of the Revised Code, and to each person who has filed an affidavit with the county recorder under section 5309.72 of the Revised Code. The county recorder, within one month after the adoption of a resolution to consider the merits of abolishing land registration in the county, shall provide the board with the names and respective addresses of the persons who are entitled to notice under this division.

If a notice is returned with an endorsement showing failure of delivery, the board is under no further obligation to directly serve the notice upon the addressee. The board shall preserve the returned notice in the records pertaining to its consideration of the merits of abolishing land registration in the county.

(b) Publication twice 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. Publication of the notice shall be completed at least one month prior to the date set for the hearing.

(B) At the date, time, and place specified in the notice, the board shall conduct a hearing, which may be adjourned from day to day until complete, at which any person affected by the proposed abolition of land registration may appear in person, by ~~his~~ attorney, or both, and present evidence, orally or in writing, with regard to the costs and benefits of maintaining land registration in the county. Any person who presents evidence may also present evidence refuting any evidence offered in opposition to ~~his~~ the person's evidence.

The board shall cause a stenographic record to be made of the hearing. The president of the board, or a member ~~he~~ the president designates, shall preside at the hearing.

Sec. 5501.44. (A) ~~The~~ Notwithstanding section 5735.27 of the Revised Code, the director of transportation, when ~~he deems~~ the director determines it in the interest of the welfare and safety of the citizens of Ohio, may enter into agreements with other states or subdivisions thereof or the United States relative to the cooperation in the repair, maintenance, or construction of a ~~toll-free~~ bridge crossing a stream that forms a boundary line of this state, and may expend state highway funds for said purpose.

(1) No such agreement shall be made that obligates this state to expend more than the cost of the construction of such portion of said bridge as is located within the state, and not more than fifty per cent of the cost of maintenance of any such bridge, and no such agreement shall be made that obligates the state in excess of three hundred thousand dollars in any one year for maintenance.

(2) Notwithstanding division (A)(1) of this section, the director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches for the bridge that were transferred from the Ohio bridge commission to the control of the state of Ohio, department of transportation, as provided in Section 4 of Amended Substitute House Bill No. 98 of the 114th general assembly. Following the replacement of that bridge, the director may expend funds for the design, construction, inspection, maintenance, repair, and replacement of bridge and bridge approaches.

(3) Any such agreements shall be approved by the governor and attorney general of the state before they become effective.

(4) Each agreement entered into shall designate responsibility for inspection, provide for annual inspection, and require that a report of each

inspection be filed with the department of transportation. The director, with regard to all existing bridges or other bridges on a stream that forms a boundary line of this state, shall take all reasonable measures to obtain and to secure the filing of a copy of each inspection report for each bridge with the department of transportation.

(5) The department, upon hearing that a ~~toll-free~~ bridge across the Ohio river is scheduled to be closed by a contiguous state, shall make all reasonable efforts to notify the Ohio residents likely to be adversely affected by that closing. The department also shall cooperate and communicate with contiguous states in trying to resolve bridge closing problems.

(B)(1) The director, when ~~he~~ the director considers it in the interest of the welfare and safety of the citizens of Ohio, may enter into agreements with other states, subdivisions thereof, metropolitan planning organizations, or the United States, relative to the design, construction, operation, maintenance, and repair of a regional traffic management system, and may expend state and federal highway funds for such purposes, notwithstanding any other provision of the Revised Code.

(2) No such agreement shall be made that obligates this state to expend more than the cost of construction of such portion of a regional traffic management system as is located within the state, and not more than a proportional amount, based upon the system presence in this state, for costs of design, operation, maintenance, and repair.

(3) Any such agreements shall be approved by the governor and attorney general of the state before they become effective.

(4) As used in division (B) of this section, "regional traffic management system" means an integrated, high-technology system to provide remote control center surveillance and monitoring of the regional freeways and main arterial routes in order to reduce and eliminate major backups and delays to motorists in the area.

Sec. 5501.73. (A) After selecting a solicited or unsolicited proposal for a public-private initiative, the department of transportation shall enter into a public-private agreement for a transportation facility with the selected private entity or any configuration of private entities. An affected jurisdiction may be a party to a public-private agreement entered into by the department and a selected private entity or combination of private entities.

(B) A public-private agreement under this section shall provide for all of the following:

(1) Planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a transportation facility;

(2) Term of the public-private agreement, ~~subject to division (D) of this section;~~

(3) Type of property interest, if any, the private entity will have in the transportation facility;

(4) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;

(5) Whether user fees will be collected on the transportation facility and the basis by which such user fees shall be determined and modified;

(6) Compliance with applicable federal, state, and local laws;

(7) Grounds for termination of the public-private agreement by the department or operator;

(8) Disposition of the facility upon completion of the agreement;

(9) Procedures for amendment of the agreement.

(C) A public-private agreement under this section may provide for any of the following:

(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;

(2) Inspection by the department of construction of or improvements to the transportation facility;

(3) Maintenance by the operator of a policy of liability insurance or self-insurance;

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;

(6) Financing obligations of the operator and the department;

(7) Apportionment of expenses between the operator and the department;

(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;

(9) Rights and remedies available in the event of default or delay;

(10) Terms and conditions of indemnification of the operator by the department;

(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;

(12) Sale or lease to the operator of private property related to the transportation facility;

(13) Traffic enforcement and other policing issues, including any

reimbursement by the private entity for such services.

~~(D) Any public-private agreement entered into under this section may be for a period not to exceed the then current two-year period for which appropriations have been made by the general assembly to the department; provided, that any agreement may be renewed for succeeding two-year periods when the general assembly enacts sufficient appropriations to the department for each successive biennium. Any such agreement may include, without limitation, any agreement by the department with respect to any costs of transportation facilities to be included prior to acquisition and construction of such transportation facilities. Any such agreement shall not constitute a debt or pledge of the faith and credit of the state, or of any political subdivision of the state, and the operator shall have no right to have taxes or excises levied by the general assembly, or the taxing authority of any political subdivision of the state, for payments under the agreement. Any such agreement shall contain a statement to that effect.~~

~~(E) No public-private agreement entered into under this section shall be construed to transfer to a private entity the director's authority to appropriate property under Chapters 163., 5501., and 5519. of the Revised Code.~~

Sec. 5502.52. (A) There is hereby created the statewide emergency alert program to aid in the identification and location of children who are under eighteen years of age, who are abducted, and whose abduction, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to a child. The program shall be a coordinated effort among the governor's office, the department of public safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as deemed necessary by the governor.

(B) The statewide emergency alert program shall not be implemented unless all of the following activation criteria are met:

(1) The local investigating law enforcement agency confirms that an abduction has occurred.

(2) An abducted child is under eighteen years of age.

(3) The abduction poses a credible threat of immediate danger of serious bodily harm or death to a child.

(4) A law enforcement agency determines that the child is not a runaway and has not been abducted as a result of a child custody dispute, unless the dispute poses a credible threat of immediate danger of serious bodily harm or death to the child.

(5) There is sufficient descriptive information about the child, the abductor, and the circumstances surrounding the abduction to indicate that

activation of the alert will help locate the child.

(C) Nothing in division (B) of this section prevents the activation of a local or regional emergency alert program that may impose different criteria for the activation of a local or regional plan.

(D) Any radio broadcast station, television broadcast station, or cable television system participating in the statewide emergency alert program or in any local or regional emergency alert program, and any director, officer, employee, or agent of any such station or system, shall not be liable to any person for damages for any loss allegedly caused by or resulting from the station's or system's broadcast or cablecast of, or failure to broadcast or cablecast, any information pursuant to the statewide emergency alert program or the local or regional emergency alert program.

(E) No person shall knowingly make a false report that a child has been abducted and that leads to the implementation of the statewide emergency alert program created under this section or that leads to the implementation of a local or regional emergency alert program. Whoever violates this division is guilty of a felony of the fourth degree.

(F) As used in this section:

(1) "Abducted child" means a child for whom there is credible evidence to believe that the child has been abducted in violation of section 2905.01, 2905.02, 2905.03, or 2905.05 of the Revised Code.

(2) "Cable television system" means a cable system, as defined in section 2913.04 of the Revised Code.

(3) "Law enforcement agency" includes, but is not limited to, a county sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the state highway patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint township police district.

Sec. 5502.522. (A) There is hereby created the statewide emergency alert program to aid in the identification and location of any individual who has a mental impairment or is sixty-five years of age or older, who is or is believed to be a temporary or permanent resident of this state, is at a location that cannot be determined by an individual familiar with the missing individual, and is incapable of returning to the missing individual's residence without assistance, and whose disappearance, as determined by a law enforcement agency, poses a credible threat of immediate danger of serious bodily harm or death to the missing individual. The program shall be a coordinated effort among the governor's office, the department of public

safety, the attorney general, law enforcement agencies, the state's public and commercial television and radio broadcasters, and others as determined necessary by the governor. No name shall be given to the program created under this division that conflicts with any alert code standards that are required by federal law and that govern the naming of emergency alert programs.

(B) The statewide emergency alert program shall not be implemented unless all of the following activation criteria are met:

(1) The local investigating law enforcement agency confirms that the individual is missing.

(2) The individual is sixty-five years of age or older or has a mental impairment.

(3) The disappearance of the individual poses a credible threat of immediate danger of serious bodily harm or death to the individual.

(4) There is sufficient descriptive information about the individual and the circumstances surrounding the individual's disappearance to indicate that activation of the alert will help locate the individual.

(C) Nothing in division (B) of this section prevents the activation of a local or regional emergency alert program that may impose different criteria for the activation of a local or regional plan.

(D) Any radio broadcast station, television broadcast station, or cable system participating in the statewide emergency alert program or in any local or regional emergency alert program, and any director, officer, employee, or agent of any station or system participating in either type of alert program, shall not be liable to any person for damages for any loss allegedly caused by or resulting from the station's or system's broadcast or cablecast of, or failure to broadcast or cablecast, any information pursuant to the statewide emergency alert program or the local or regional emergency alert program.

(E) A local investigating law enforcement agency shall not be required to notify the statewide emergency alert program that the law enforcement agency has received information that meets the activation criteria set forth in division (B) of this section during the first twenty-four hours after the law enforcement agency receives the information.

(F) Nothing in this section shall be construed to authorize the use of the federal emergency alert system unless otherwise authorized by federal law.

(G) As used in this section:

(1) "Cable system" has the same meaning as in section 2913.04 of the Revised Code.

(2) "Law enforcement agency" includes, but is not limited to, a county

sheriff's office, the office of a village marshal, a police department of a municipal corporation, a police force of a regional transit authority, a police force of a metropolitan housing authority, the state highway patrol, a state university law enforcement agency, the office of a township police constable, and the police department of a township or joint ~~township~~ police district.

(3) "Mental impairment" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, or ability to live independently or provide self-care as certified by a licensed physician, psychiatrist, or psychologist.

Sec. 5502.61. As used in sections 5502.61 to 5502.66 of the Revised Code:

(A) "Federal criminal justice acts" means any federal law that authorizes financial assistance and other forms of assistance to be given by the federal government to the states to be used for the improvement of the criminal and juvenile justice systems of the states.

(B)(1) "Criminal justice system" includes all of the functions of the following:

(a) The state highway patrol, county sheriff offices, municipal and township police departments, and all other law enforcement agencies;

(b) The courts of appeals, courts of common pleas, municipal courts, county courts, and mayor's courts, when dealing with criminal cases;

(c) The prosecuting attorneys, city directors of law, village solicitors, and other prosecuting authorities when prosecuting or otherwise handling criminal cases, and the county and joint county public defenders and other public defender agencies or offices;

(d) The department of rehabilitation and correction, probation departments, county and municipal jails and workhouses, and any other department, agency, or facility that is concerned with the rehabilitation or correction of criminal offenders;

(e) Any public or private agency whose purposes include the prevention of crime or the diversion, adjudication, detention, or rehabilitation of criminal offenders;

(f) Any public or private agency, the purposes of which include assistance to crime victims or witnesses.

(2) The inclusion of any public or private agency, the purposes of which include assistance to crime victims or witnesses, as part of the criminal justice system pursuant to division (B)(1) of this section does not limit, and shall not be construed as limiting, the discretion or authority of the attorney general with respect to crime victim assistance and criminal justice

programs.

(C) "Juvenile justice system" includes all of the functions of the juvenile courts, the department of youth services, any public or private agency whose purposes include the prevention of delinquency or the diversion, adjudication, detention, or rehabilitation of delinquent children, and any of the functions of the criminal justice system that are applicable to children.

(D) "Comprehensive plan" means a document that coordinates, evaluates, and otherwise assists, on an annual or multi-year basis, any of the functions of the criminal and juvenile justice systems of the state or a specified area of the state, that conforms to the priorities of the state with respect to criminal and juvenile justice systems, and that conforms with the requirements of all federal criminal justice acts. These functions may include, but are not limited to, any of the following:

- (1) Crime and delinquency prevention;
- (2) Identification, detection, apprehension, and detention of persons charged with criminal offenses or delinquent acts;
- (3) Assistance to crime victims or witnesses, except that the comprehensive plan does not include the functions of the attorney general pursuant to sections 109.91 and 109.92 of the Revised Code;
- (4) Adjudication or diversion of persons charged with criminal offenses or delinquent acts;
- (5) Custodial treatment of criminal offenders, delinquent children, or both;
- (6) Institutional and noninstitutional rehabilitation of criminal offenders, delinquent children, or both.

(E) "Metropolitan county criminal justice services agency" means an agency that is established pursuant to division (A) of section 5502.64 of the Revised Code.

(F) "Administrative planning district" means a district that is established pursuant to division (A) or (B) of section 5502.66 of the Revised Code.

(G) "Criminal justice coordinating council" means a criminal justice services agency that is established pursuant to division (D) of section 5502.66 of the Revised Code.

(H) "Local elected official" means any person who is a member of a board of county commissioners or township trustees or of a city or village council, judge of the court of common pleas, a municipal court, or a county court, sheriff, county coroner, prosecuting attorney, city director of law, village solicitor, or mayor.

(I) "Juvenile justice coordinating council" means a juvenile justice services agency that is established pursuant to division (D) of section

5502.66 of the Revised Code.

(J) "Mcgruff house program" means a program in which individuals or families volunteer to have their homes or other buildings serve as places of temporary refuge for children and to display the mcgruff house symbol identifying the home or building as that type of place.

(K) "Mcgruff house symbol" means the symbol that is characterized by the image of "mcgruff," the crime dog, and the slogan "take a bite out of crime," and that has been adopted by the national crime prevention council as the symbol of its national citizens' crime prevention campaign.

(L) "Sponsoring agency" means any of the following:

- (1) The board of education of any city, local, or exempted village school district;
- (2) The governing board of any educational service center;
- (3) The governing authority of any chartered nonpublic school;
- (4) The police department of any municipal corporation, township, township police district, or joint ~~township~~ police district;
- (5) The office of any township constable or county sheriff.

Sec. 5502.68. (A) There is hereby created in the state treasury the drug law enforcement fund. Ninety-seven per cent of three dollars and fifty cents out of each ten-dollar court cost imposed pursuant to section 2949.094 of the Revised Code shall be credited to the fund. Money in the fund shall be used only in accordance with this section to award grants to counties, municipal corporations, townships, township police districts, and joint ~~township~~ police districts to defray the expenses that a drug task force organized in the county, or in the county in which the municipal corporation, township, or district is located, incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity.

The division of criminal justice services shall administer all money deposited into the drug law enforcement fund and, by rule adopted under Chapter 119. of the Revised Code, shall establish procedures for a county, municipal corporation, township, township police district, or joint ~~township~~ police district to apply for money from the fund to defray the expenses that a drug task force organized in the county, or in the county in which the municipal corporation, township, or district is located, incurs in performing its functions related to the enforcement of the state's drug laws and other state laws related to illegal drug activity, procedures and criteria for determining eligibility of applicants to be provided money from the fund, and procedures and criteria for determining the amount of money to be provided out of the fund to eligible applicants.

(B) The procedures and criteria established under division (A) of this section for applying for money from the fund shall include, but shall not be limited to, a provision requiring a county, municipal corporation, township, township police district, or joint ~~township~~ police district that applies for money from the fund to specify in its application the amount of money desired from the fund, provided that the cumulative amount requested in all applications submitted for any single drug task force may not exceed more than two hundred fifty thousand dollars in any calendar year for that task force.

(C) The procedures and criteria established under division (A) of this section for determining eligibility of applicants to be provided money from the fund and for determining the amount of money to be provided out of the fund to eligible applicants shall include, but not be limited to, all of the following:

(1) Provisions requiring that, in order to be eligible to be provided money from the fund, a drug task force that applies for money from the fund must provide evidence that the drug task force will receive a local funding match of at least twenty-five per cent of the task force's projected operating costs in the period of time covered by the grant;

(2) Provisions requiring that money from the fund be allocated and provided to drug task forces that apply for money from the fund in accordance with the following priorities:

(a) Drug task forces that apply, that are in existence on the date of the application, and that are determined to be eligible applicants, and to which either of the following applies shall be given first priority to be provided money from the fund:

(i) Drug task forces that received funding through the division of criminal justice services in calendar year 2007;

(ii) Drug task forces in a county that has a population that exceeds seven hundred fifty thousand.

(b) If any moneys remain in the fund after all drug task forces that apply, that are in existence on the date of the application, that are determined to be eligible applicants, and that satisfy the criteria set forth in division (C)(2)(a)(i) or (ii) of this section are provided money from the fund as described in division (C)(2)(a) of this section, the following categories of drug task forces that apply and that are determined to be eligible applicants shall be given priority to be provided money from the fund in the order in which they apply for money from the fund:

(i) Drug task forces that are not in existence on the date of the application;

(ii) Drug task forces that are in existence on the date of the application but that do not satisfy the criteria set forth in division (C)(2)(a)(i) or (ii) of this section.

(D) The procedures and criteria established under division (A) of this section for determining the amount of money to be provided out of the fund to eligible applicants shall include, but shall not be limited to, a provision specifying that the cumulative amount provided to any single drug task force may not exceed more than two hundred fifty thousand dollars in any calendar year.

(E) As used in this section, "drug task force" means a drug task force organized in any county by the sheriff of the county, the prosecuting attorney of the county, the chief of police of the organized police department of any municipal corporation or township in the county, and the chief of police of the police force of any township police district or joint township police district in the county to perform functions related to the enforcement of state drug laws and other state laws related to illegal drug activity.

Sec. 5505.04. (A)(1) The general administration and management of the state highway patrol retirement system and the making effective of this chapter are hereby vested in the state highway patrol retirement board. The board may sue and be sued, plead and be impleaded, contract and be contracted with, and do all things necessary to carry out this chapter.

The board shall consist of the following members:

- (a) The superintendent of the state highway patrol;
- (b) Two retirant members who reside in this state;
- (c) Five employee-members;
- (d) One member, known as the treasurer of state's investment designee, who shall be appointed by the treasurer of state for a term of four years and who shall have the following qualifications:

(i) The member is a resident of this state.

(ii) Within the three years immediately preceding the appointment, the member has not been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) The member has direct experience in the management, analysis, supervision, or investment of assets.

(iv) The member is not currently employed by the state or a political subdivision of the state.

(e) Two investment expert members, who shall be appointed to four-year terms. One investment expert member shall be appointed by the governor, and one investment expert member shall be jointly appointed by the speaker of the house of representatives and the president of the senate. Each investment expert member shall have the following qualifications:

(i) Each investment expert member shall be a resident of this state.

(ii) Within the three years immediately preceding the appointment, each investment expert member shall not have been employed by the public employees retirement system, police and fire pension fund, state teachers retirement system, school employees retirement system, or state highway patrol retirement system or by any person, partnership, or corporation that has provided to one of those retirement systems services of a financial or investment nature, including the management, analysis, supervision, or investment of assets.

(iii) Each investment expert member shall have direct experience in the management, analysis, supervision, or investment of assets.

(2) The board shall annually elect a chairperson and vice-chairperson from among its members. The vice-chairperson shall act as chairperson in the absence of the chairperson. A majority of the members of the board shall constitute a quorum and any action taken shall be approved by a majority of the members of the board. The board shall meet not less than once each year, upon sufficient notice to the members. All meetings of the board shall be open to the public except executive sessions as set forth in division (G) of section 121.22 of the Revised Code, and any portions of any sessions discussing medical records or the degree of disability of a member excluded from public inspection by this section.

(3) Any investment expert member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed holds office until the end of such term. The member continues in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(B) The attorney general shall prescribe procedures for the adoption of rules authorized under this chapter, consistent with the provision of section 111.15 of the Revised Code under which all rules shall be filed in order to be effective. Such procedures shall establish methods by which notice of proposed rules are given to interested parties and rules adopted by the board published and otherwise made available. When it files a rule with the joint committee on agency rule review pursuant to section 111.15 of the Revised Code, the board shall submit to the Ohio retirement study council a copy of

the full text of the rule, and if applicable, a copy of the rule summary and fiscal analysis required by division (B) of section 127.18 of the Revised Code.

(C)(1) As used in this division, "personal history record" means information maintained by the board on an individual who is a member, former member, 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: the member's, former member's, retirant's, or beneficiary's personal history record and the amount of a monthly allowance or benefit paid to a retirant, beneficiary, or survivor, except with the written authorization of the individual concerned.

(D) All medical reports and recommendations are privileged except as follows:

(1) Copies of such medical reports or recommendations shall be made available to the individual's personal physician, attorney, or authorized agent upon written release received from such individual or such 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.

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

(1) If a member, former member, 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 order issued under Chapters 3119., 3121., and 3123. of the Revised Code, the board shall furnish to a court or child support enforcement agency the information required under those chapters.

(3) At the written request of any nonprofit organization or association providing services to retirement system members, retirants, or beneficiaries, the board shall provide to the organization or association a list of the names and addresses of members, former members, retirants, or beneficiaries if the organization or association agrees to use such information solely in

accordance with its stated purpose of providing services to such individuals and not for the benefit of other persons, organizations, or associations. The costs of compiling, copying, and mailing the list shall be paid by such entity.

(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 those of a person whose name or social security number was submitted by the director. The board and its employees, except for purposes of furnishing the auditor of state with information required by this section, shall 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 5505.263 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 certified and 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. 5505.22. The right of any individual to a pension, or to the return of accumulated contributions, payable as provided under this chapter, and all moneys and investments of the state highway patrol retirement system 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, 5505.26, 5505.262, and 5505.263 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.

Sec. 5525.04. No bidder shall be given a certificate of qualification unless the bidder's financial statement and the investigation made by the director of transportation show that the bidder possesses net current assets or working capital sufficient, in the judgment of the director, to render it probable that the bidder can satisfactorily execute the bidder's contracts and meet all contractual obligations. Any applicant desiring a certificate of qualification in an amount of ~~two~~ five million dollars or more shall submit on forms prescribed by the director a financial audit prepared and attested as correct by an independent certified public accountant. Any applicant desiring a certificate of qualification in an amount that is less than ~~two~~ five million dollars shall submit a financial review on forms prescribed by the director. The aggregate amount of work set forth in either type of certificate of qualification shall not exceed ten times the applicant's net current assets or working capital. At the time of bidding, a bidder's qualification is determined by the bidder's qualification amount minus all of the bidder's pending work.

Applicants for qualification shall expressly authorize the director to obtain any information that the director considers pertinent, with respect to the financial worth, assets, and liabilities of the applicant, from banks or other financial institutions, surety companies, dealers in material, equipment, or supplies, or other persons having business transactions with the applicant. Applicants shall expressly authorize all such financial institutions or other persons to furnish any such information requested from them by the director. All information filed with or furnished to the director by applicants or other persons, in connection with the administration of sections 5525.02 to 5525.09 of the Revised Code, shall be kept in confidence by the director and not revealed to any person, except upon proper order of a court. Failure to submit the required information or to expressly grant the director authority to obtain the required information shall result in the denial of a certificate of qualification. The director or the director's subordinates shall have access to the books of account and financial records of all applicants, unless the financial statement furnished by any applicant is prepared and attested as correct by a certified public

accountant.

If an applicant for either type of certificate of qualification is or has been an employer in this state the application shall be accompanied by satisfactory evidence that the applicant has complied with Chapter 4123. of the Revised Code.

The director may require all qualified bidders to file financial statements at such intervals as the director prescribes. Sections 5525.02 to 5525.09 of the Revised Code shall be administered without reference to the residence of applicants, and the rules of the director shall apply equally to residents and nonresidents of this state. Sections 5525.02 to 5525.09 of the Revised Code, do not apply to the purchase of material, equipment, or supplies.

Sec. 5540.01. As used in this chapter:

(A) "Transportation improvement district" or "district" means a transportation improvement district designated pursuant to section 5540.02 of the Revised Code.

(B) "Governmental agency" means a department, division, or other unit of state government; a county, township, or municipal corporation or other political subdivision; a regional transit authority or regional transit commission created pursuant to Chapter 306. of the Revised Code; a port authority created pursuant to Chapter 4582. of the Revised Code; and the United States or any agency thereof.

(C) "Project" means a street, highway, parking facility, freight rail tracks and necessarily related freight rail facilities, or other transportation project constructed or improved under this chapter and includes all bridges, tunnels, overpasses, underpasses, interchanges, approaches, those portions of connecting streets or highways that serve interchanges and are determined by the district to be necessary for the safe merging of traffic between the project and those streets or highways, service facilities, and administration, storage, and other buildings, property, and facilities, that the district considers necessary for the operation of the project, together with all property and rights that must be acquired by the district for the construction, maintenance, or operation of the project.

(D) "Cost," as applied to the construction of a project, includes the cost of construction, including bridges over or under existing highways and railroads, acquisition of all property acquired by the district for such construction, demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, site clearance, improvement, and preparation, diverting streets or highways, interchanges with streets or highways, access roads to private property, including the cost of land or

easements therefor, all machinery, furnishings, and equipment, communications facilities, financing expenses, interest prior to and during construction and for one year after completion of construction, traffic estimates, indemnity and surety bonds and premiums on insurance, and guarantees, engineering, feasibility studies, and legal expenses, plans, specifications, surveys, estimates of cost and revenues, other expenses necessary or incidental to determining the feasibility or practicability of constructing a project, and such other expense as may be necessary or incident to the construction of the project and the financing of such construction. Any obligation or expense incurred by any governmental agency or person for surveys, borings, preparation of plans and specifications, and other engineering services, or any other cost described above, in connection with the construction of a project may be regarded as part of the cost of the project and reimbursed from revenues, taxes, or the proceeds of bonds as authorized by this chapter.

(E) "Owner" includes any person having any title or interest in any property authorized to be acquired by a district under this chapter.

(F) "Revenues" means all moneys received by a district with respect to the lease, sublease, or sale, including installment sale, conditional sale, or sale under a lease-purchase agreement, of a project, all moneys received by a district under an agreement pursuant to Section 515.03 of H.B. 66 of the 126th General Assembly, Section 555.10 of H.B. 67 of the 127th general assembly, or Section 755.20 of H.B. 153 of the 129th general assembly, any gift or grant received with respect to a project, tolls, special assessments levied by the district, proceeds of bonds to the extent the use thereof for payment of principal or of premium, if any, or interest on the bonds is authorized by the district, proceeds from any insurance, condemnation, or guaranty pertaining to a project or property mortgaged to secure bonds or pertaining to the financing of a project, and income and profit from the investment of the proceeds of bonds or of any revenues.

(G) "Street or highway" has the same meaning as in section 4511.01 of the Revised Code.

(H) "Financing expenses" means all costs and expenses relating to the authorization, issuance, sale, delivery, authentication, deposit, custody, clearing, registration, transfer, exchange, fractionalization, replacement, payment, and servicing of bonds including, without limitation, costs and expenses for or relating to publication and printing, postage, delivery, preliminary and final official statements, offering circulars, and informational statements, travel and transportation, underwriters, placement agents, investment bankers, paying agents, registrars, authenticating agents,

remarketing agents, custodians, clearing agencies or corporations, securities depositories, financial advisory services, certifications, audits, federal or state regulatory agencies, accounting and computation services, legal services and obtaining approving legal opinions and other legal opinions, credit ratings, redemption premiums, and credit enhancement facilities.

(I) "Bond proceedings" means the resolutions, trust agreements, certifications, notices, sale proceedings, leases, lease-purchase agreements, assignments, credit enhancement facility agreements, and other agreements, instruments, and documents, as amended and supplemented, or any one or more of combination thereof, authorizing, or authorizing or providing for the terms and conditions applicable to, or providing for the security or sale or award or liquidity of, bonds, and includes the provisions set forth or incorporated in those bonds and bond proceedings.

(J) "Bond service charges" means principal, including any mandatory sinking fund or mandatory redemption requirements for retirement of bonds, and interest and any redemption premium payable on bonds, as those payments come due and are payable to the bondholder or to a person making payment under a credit enhancement facility of those bond service charges to a bondholder.

(K) "Bond service fund" means the applicable fund created by the bond proceedings for and pledged to the payment of bond service charges on bonds provided for by those proceedings, including all moneys and investments, and earnings from investments, credited and to be credited to that fund as provided in the bond proceedings.

(L) "Bonds" means bonds, notes, including notes anticipating bonds or other notes, commercial paper, certificates of participation, or other evidences of obligation, including any interest coupons pertaining thereto, issued pursuant to this chapter.

(M) "Net revenues" means revenues lawfully available to pay both current operating expenses of a district and bond service charges in any fiscal year or other specified period, less current operating expenses of the district and any amount necessary to maintain a working capital reserve for that period.

(N) "Pledged revenues" means net revenues, moneys and investments, and earnings on those investments, in the applicable bond service fund and any other special funds, and the proceeds of any bonds issued for the purpose of refunding prior bonds, all as lawfully available and by resolution of the district committed for application as pledged revenues to the payment of bond service charges on particular issues of bonds.

(O) "Special funds" means the applicable bond service fund and any

accounts and subaccounts in that fund, any other funds or accounts permitted by and established under, and identified as a special fund or special account in, the bond proceedings, including any special fund or account established for purposes of rebate or other requirements under federal income tax laws.

(P) "Credit enhancement facilities" means letters of credit, lines of credit, standby, contingent, or firm securities purchase agreements, insurance, or surety arrangements, guarantees, and other arrangements that provide for direct or contingent payment of bond service charges, for security or additional security in the event of nonpayment or default in respect of bonds, or for making payment of bond service charges and at the option and on demand of bondholders or at the option of the district or upon certain conditions occurring under put or similar arrangements, or for otherwise supporting the credit or liquidity of the bonds, and includes credit, reimbursement, marketing, remarketing, indexing, carrying, interest rate hedge, and subrogation agreements, and other agreements and arrangements for payment and reimbursement of the person providing the credit enhancement facility and the security for that payment and reimbursement.

(Q) "Refund" means to fund and retire outstanding bonds, including advance refunding with or without payment or redemption prior to stated maturity.

(R) "Property" includes interests in property.

(S) "Administrative agent," "agent," "commercial paper," "floating rate interest structure," "indexing agent," "interest rate hedge," "interest rate period," "put arrangement," and "remarketing agent" have the same meanings as in section 9.98 of the Revised Code.

(T) "Outstanding" as applied to bonds means outstanding in accordance with the terms of the bonds and the applicable bond proceedings.

(U) "Interstate system" has the same meaning as in section 5516.01 of the Revised Code.

Sec. 5540.03. (A) A transportation improvement district may:

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

(2) Adopt an official seal;

(3) Sue and be sued in its own name, plead and be impleaded, provided any actions against the district shall be brought in the court of common pleas of the county in which the principal office of the district is located, or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices of every kind shall be served on the district by leaving a copy thereof at its principal office with the

secretary-treasurer;

(4) Purchase, construct, maintain, repair, sell, exchange, police, operate, or lease projects;

(5) Issue either or both of the following for the purpose of providing funds to pay the costs of any project or part thereof:

(a) Transportation improvement district revenue bonds;

(b) Bonds pursuant to Section 13 of Article VIII, Ohio Constitution;

(6) Maintain such funds as it considers necessary;

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

(8) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter;

(9) Employ or retain or contract for the services of consulting engineers, superintendents, managers, and such other engineers, construction and accounting experts, financial advisers, trustees, marketing, remarketing, and administrative agents, attorneys, and other employees, independent contractors, or agents as are necessary in its judgment and fix their compensation, provided all such expenses shall be payable solely from the proceeds of bonds or from revenues;

(10) Receive and accept from the federal or any state or local government, including, but not limited to, any agency, entity, or instrumentality of any of the foregoing, loans and grants for or in aid of the construction, maintenance, or repair of any project, and receive and accept aid or contributions from any source or person of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such loans, grants, and contributions are made. Nothing in division (A)(10) of this section shall be construed as imposing any liability on this state for any loan received by a transportation improvement district from a third party unless this state has entered into an agreement to accept such liability.

(11) Acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(12) Establish and collect tolls or user charges for its projects;

(13) Do all acts necessary and proper to carry out the powers expressly granted in this chapter.

(B) Chapters 123., 124., 125., 153., and 4115., and sections 9.331-

~~9.332, 9.333,~~ to 9.335 and 307.86 of the Revised Code do not apply to contracts or projects of a transportation improvement district.

Sec. 5540.031. (A) The board of trustees of a transportation improvement district may provide for the construction, reconstruction, improvement, alteration, or repair of any road, highway, public place, building, or other infrastructure and levy special assessments, if the board determines that the public improvement will benefit the area where it will be constructed, reconstructed, improved, altered, or repaired. However, if the improvement is proposed for territory in a political subdivision located outside the district's territory, the legislative authority of that political subdivision shall approve the undertaking of the improvement within the political subdivision.

(B) If any improvements are made under this section, contracts for the improvement may provide that the improvement may be owned by the district or by the person or corporation supplying it to the district under a lease.

(C) If the board of trustees of a district proposes an improvement described in division (A) of this section, the board shall conduct a hearing on the proposed improvement. The board shall indicate by metes and bounds the area in which the public improvement will be made and the area that will benefit from the improvement.

(D) The board of trustees shall fix a day for a hearing on the proposed improvement. The secretary-treasurer of the board shall deliver, to each owner of a parcel of land or a lot that the board identifies as benefiting from the proposed improvement, a notice that sets forth the substance of the proposed improvement and the time and place of the hearing on it. At least fifteen days before the date set for the hearing, a copy of the notice shall be served upon the owner or left at ~~his~~ the owner's usual place of residence, or, if the owner is a corporation, upon an officer or agent of the corporation. On or before the day of the hearing, the person serving notice of the hearing shall make return thereon, under oath, of the time and manner of service, and shall file the notice with the secretary-treasurer of the board.

At least fifteen days before the day set for the hearing on the proposed improvement, the secretary-treasurer shall give notice to each nonresident owner of a lot or parcel of land in the area to be benefited by the improvement, by publication once in a newspaper ~~published and~~ of general circulation in the one or more counties in which this area is located. The publication of the notice shall be verified by affidavit of the printer or other person having knowledge of the publication and shall be filed with the secretary-treasurer of the district on or before the date of the hearing.

(E) At the time and place specified in the notice for a hearing on the proposed improvement, the board of trustees of the district shall meet and hear any and all testimony provided by any of the parties affected by the proposed improvement and by any other persons competent to testify. The board or its representatives shall inspect, by an actual viewing, the area to be benefited by the proposed improvement. The board shall determine the necessity of the proposed improvement and may find that the proposed improvement will result in general as well as special benefits. The board may adjourn from time to time and to such places as it considers necessary.

(F)(1) The board may award contracts or enter into a lease agreement for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (A) of this section and may issue notes, bonds, revenue anticipatory instruments, or other obligations, as authorized by this chapter, to finance the improvements.

(2) All or a part of the costs and expenses of providing for the construction, reconstruction, improvement, alteration, or repair of any improvement described in division (F)(1) of this section may be paid from a fund into which may be paid special assessments levied under this section against the lots and parcels of land in the area to be benefited by the improvement, if the board finds that the improvement will result in general or special benefits to the benefited area. These special assessments shall be levied not more than one time on the same lot or parcel of land. Such costs and expenses may also be paid from the treasury of the district or from other available sources in amounts the board finds appropriate.

(3) The board shall levy special assessments at an amount not to exceed ten per cent of the assessable value of the lot or parcel of land being assessed. The board shall determine the assessable value of a lot or parcel of land in the following manner: the board shall first determine the fair market value of the lot or parcel being assessed in the calendar year in which the area to be benefited by the public improvement is first designated and then multiply this amount by the average rate of appreciation in value of the lot or parcel since that calendar year. The assessable value of the lot or parcel is the current fair market value of the lot or parcel minus the amount calculated in the manner described in the immediately preceding sentence. The board may adjust the assessable value of a lot or parcel of land to reflect a sale of the lot or parcel that indicates an appreciation in its value that exceeds its average rate of appreciation in value.

(4) Special assessments levied by the board may be paid in full in a lump sum or may be paid and collected in equal semiannual installments, equal in number to twice the number of years for which the lease of the

improvement is made or twice the number of years that the note, bond, instrument, or obligation that the assessments are pledged to pay requires. The assessments shall be paid and collected in the same manner and at the same time as real property taxes are paid and collected, and assessments in the amount of fifty dollars or less shall be paid in full, and not in installments, at the time the first or next installment would otherwise become due and payable. Complaints regarding assessments may be made to the county board of revision in the same manner as complaints relating to the valuation and assessment of real property.

Credits against assessments shall be granted equal to the value of any construction, reconstruction, improvement, alteration, or repair that an owner of a parcel of land or lot makes to an improvement pursuant to an agreement between the owner and the district.

(5) After the levy of a special assessment, the board, at any time during any year in which an installment of the assessment becomes due, may pay out of other available funds of the district, including any state or federal funds available to the district, the full amount of the price of the contract that the special assessments are pledged to pay for that year or any other portion of the remaining obligation. The board shall be the sole determiner of the definition, extent, and allocation of the benefit resulting from an improvement that the board authorizes under this section.

(G)(1) The board shall certify to the appropriate county auditor the boundaries of the area that is benefited by any public improvement the board authorizes under this section and, when the board so requests, the auditor shall apportion the valuation of any lot or parcel of land lying partly within and partly outside the area so benefited.

(2) The board by resolution shall assess against the lots and parcels of land located in the area that is benefited by a public improvement such portion of the costs of completing the public improvement as the board determines, for the period that may be necessary to pay the note, bond, instrument, or obligation issued to pay for the improvement and the proceedings in relation to it, and shall certify these costs to the appropriate county auditor.

(3) Except for assessments that have been paid in full in a lump sum, the county auditor shall annually place upon the tax duplicate, for collection in semiannual installments, the two installments of the assessment for that year, which shall be paid and collected at the same time and in the same manner as real property taxes. The collected assessments shall be paid to the treasury of the district and the board of the district shall use the assessments for any purpose authorized by this chapter.

Sec. 5540.05. The board of trustees of a district may acquire real property in fee simple in the name of the district in connection with, but in excess of that needed for, a project by any method other than appropriation and hold the property for such period of time as the board determines. All right, title, and interest of the district in the property may be sold at public auction or otherwise, as the board considers in the best interests of the district; but in no event shall the property be sold for less than two-thirds of its appraised value. Sale at public auction shall be undertaken only after the board advertises the sale in a newspaper of general circulation in the district for ~~at least~~ two weeks or as provided in section 7.16 of the Revised Code, prior to the date set for the sale.

Sec. 5543.10. (A) The county engineer, upon the order of the board of county commissioners or board of township trustees, shall construct sidewalks, curbs, or gutters of suitable materials, along or connecting the public highways, outside any municipal corporation, upon the petition of a majority of the abutting property owners. The expense of the construction of these improvements may be paid by the county or township, or by the county or township and abutting property owners in such proportion as determined by the board of county commissioners or board of township trustees. The board of county commissioners or board of township trustees may assess part or all of the cost of these improvements against the abutting property owners, in proportion to benefits accruing to their property.

The board of county commissioners or board of township trustees, by unanimous vote, may order the construction, repair, or maintenance of sidewalks, curbs, and gutters along or connecting the public highways, outside a municipal corporation, without a petition for that construction, repair, or maintenance, and may assess none, all, or any part of the cost against abutting property owners, provided that notice is given by publication for three successive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code, stating the intention of the board of county commissioners or board of township trustees to construct, repair, or maintain the specified improvements and fixing a date for a hearing on them. As part of a sidewalk improvement, the board may include the repair or reconstruction of a driveway within the sidewalk easement. As part of a curb improvement, the board may include construction or repair of a driveway apron.

Notice to all abutting property owners shall be given by two publications in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code, at least ten days prior to the date fixed in the notice for the making of assessments. The notice shall state

the time and place when abutting property owners will be given an opportunity to be heard with reference to assessments. The board of county commissioners or board of township trustees shall determine whether assessments shall be paid in one or more installments.

(B) The county engineer may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the easement of a public sidewalk along or connecting the public highways and maintained by the county, and the board of township trustees may trim or remove any and all trees, shrubs, and other vegetation growing in or encroaching onto the right-of-way of the easement of a public sidewalk along or connecting the public highways and maintained by the township, as is necessary in the engineer's or board's judgment to facilitate the right of the public to improvement and maintenance of, and uninterrupted travel on, public sidewalks in the county or township.

Sec. 5549.21. The board of township trustees may purchase or lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining, and repairing roads and culverts within the township, and shall provide suitable places for housing and storing machinery and tools owned by the township. It may purchase such material and employ such labor as is necessary for carrying into effect this section, or it may authorize the purchase or employment of such material and labor by one of its number, or by the township highway superintendent, at a price to be fixed by the board. All payments on account of machinery, tools, material, and labor shall be made from the township road fund. Except as otherwise provided in sections 505.08, 505.101, and 5513.01 of the Revised Code, all purchases of materials, machinery, and tools shall, if the amount involved exceeds ~~twenty-five~~ fifty thousand dollars, be made from the lowest responsible bidder after advertisement, as provided in section 5575.01 of the Revised Code.

If, in compliance with section 505.10 of the Revised Code, the board wishes to sell machinery, equipment, or tools owned by the township to the person from whom it is to purchase other machinery, equipment, or tools, the board may offer, if the amount of the purchase alone involved does not exceed ~~twenty-five~~ fifty thousand dollars, to sell such machinery, equipment, or tools and have the amount credited by the vendor against the purchase of the other machinery, equipment, or tools. If the purchase price of the other machinery, equipment, or tools alone exceeds ~~twenty-five~~ fifty thousand dollars, the board may give notice to the competitive bidders of its willingness to accept offers for the purchase of the old machinery, equipment, or tools, and those offers shall be subtracted from the selling

price of the other machinery, equipment, or tools as bid, in determining the lowest responsible bidder. Notice of the willingness of the board to accept offers for the purchase of the old machinery, equipment, or tools shall be made as a part of the advertisement for bids.

Sec. 5552.06. (A) A board of county commissioners or a board of township trustees may adopt access management regulations or any amendments to those regulations after holding at least two public hearings at regular or special sessions of the board. The board shall consider the county engineer's proposed regulations prepared under division (B) of section 5552.04 or 5552.05 of the Revised Code and all comments on those regulations. The board, in its discretion, may, but need not, adopt any or all of those proposed regulations. After the public hearings, the board may decide not to adopt any access management regulations.

The board shall publish notice of the public hearings in a newspaper of general circulation in the county or township, as applicable, once a week for ~~at least two weeks~~ or as provided in section 7.16 of the Revised Code, immediately preceding the hearings. The notice shall include the time, date, and place of each hearing. Copies of any proposed regulations or amendments shall be made available to the public at the board's office and, if the county engineer administers or is proposed to administer a point of access permit, in the engineer's office.

(B) In addition to the notice required by division (A) of this section, not less than thirty days before holding a public hearing, a board of county commissioners shall send a copy of the county engineer's proposed regulations, a copy of the advisory committee's recommendations, and a request for written comments to the board of township trustees of each township in the county, the department of transportation district deputy director for the district in which the county is located, a representative of the metropolitan planning organization, where applicable, and at least the local professional associations representing the following professions:

- (1) Homebuilders;
- (2) Realtors;
- (3) Professional surveyors;
- (4) Attorneys;
- (5) Professional engineers.

(C) In addition to the notice required by division (A) of this section, a board of township trustees shall send a copy of the county engineer's proposed regulations, a copy of the advisory committee's recommendations, and a request for written comments, not less than thirty days before holding a public hearing, to the department of transportation district deputy director

for the district in which the township is located, a representative of the metropolitan planning organization, where applicable, and at least the local professional associations representing the professions listed in division (B) of this section.

Sec. 5553.05. (A) In the resolution required by section 5553.04 of the Revised Code, the board of county commissioners shall fix a date when it will view the proposed improvement, and also a date for a final hearing thereon.

The board shall give notice of the time and place for both such view and hearing by publication once a week for two consecutive weeks in a newspaper ~~published and having~~ of general circulation in the county where such improvement is located, ~~but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county or~~ as provided in section 7.16 of the Revised Code. Such notice, in addition to the date and place of such view and place and time of the final hearing, shall state briefly the character of such improvement.

(B) If the board adopts a resolution to vacate a public road as provided in section 5553.04 of the Revised Code, or if a petition to vacate a public road is filed, the board shall, in addition to the notice of the time and place for hearing prescribed in division (A) of this section, send written notice of the hearing by first class mail at least twenty days before the date of the public hearing to owners of property abutting upon that portion of the road to be vacated, and to the director of natural resources. Such notice shall be mailed to the addresses of such owners appearing on the county auditor's current tax list or the treasurer's mailing list, and such other list or lists that may be specified by the board. The failure of the delivery of such notice does not invalidate any such vacating of the road authorized in the resolution.

Sec. 5553.19. The county engineer shall view and survey the road as provided in section 5553.18 of the Revised Code, and shall make a return of the survey and plat of the road to the board of county commissioners. Upon the filing of the report of the engineer, the board shall give notice of the filing of such report by publication as provided in section 7.16 of the Revised Code or once each week for three consecutive weeks in a newspaper ~~published and having~~ of general circulation in the county in which such road is situated, ~~but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county~~. Such notice shall state the date and time of the hearing upon the report of the engineer. If exceptions or objections are made, the board shall hear them, and it may approve or reject said report. If the report of the engineer is

approved, the board shall cause such report to be recorded together with the survey and plat of such road.

Sec. 5553.23. If a person through whose land a public road has been established, which is under the jurisdiction of the board of county commissioners, desires to turn or change or relocate such road or any part thereof through any part of ~~his~~ the person's land, ~~he~~ the person may file a petition with the board of county commissioners setting forth briefly the particular change ~~he desires~~ desired. Upon the receipt of such petition, the board shall give notice by publication once not later than two weeks prior to the date for the hearing on such petition in ~~some a newspaper published and~~ of general circulation in said county, ~~but if there is no such newspaper published in said county, then in a newspaper having general circulation in said county,~~ stating that such petition has been filed and setting forth the change desired in such road and the date and place for the hearing on said petition. If a public road was once established for public convenience through private lands, but has not been improved by public funds and for more than twenty-one years has not been used, the owner of such land may petition the board to vacate the road in accordance with proceedings under sections 5553.04 to 5553.11 of the Revised Code.

A person through whose land a trail right of way has been preserved under section 5553.044 of the Revised Code may file a petition to turn or change the route of the trail right of way in the manner provided in this section, and such petition shall be acted upon in the manner set forth in sections 5553.23 to 5553.31 of the Revised Code. Notice of the hearing in such case shall also be made by first class mail to the director of natural resources. If the board turns or changes the route of the trail right of way, it shall furnish the director with a full and accurate description or map of the change.

Sec. 5553.42. The board of county commissioners shall give notice to the owners of lands through which the proposed road will pass of the filing of the petition provided for in section 5553.41 of the Revised Code and the date and place of the hearing thereon. Such notice shall be served on such owners personally, or by leaving a copy of such notice at the usual place of residence of such owners at least five days before the date of the hearing on said petition. Proof of service of such notice shall be made by affidavit of the person serving such notice. If any of such owners are nonresidents of the county, the board shall give notice to such nonresidents by publication once each week for two consecutive weeks in a newspaper ~~published and having~~ of general circulation ~~within in~~ the county, ~~but if there is no such newspaper published in said county, then in a newspaper having general circulation in~~

~~said county~~ or as provided in section 7.16 of the Revised Code. A copy of the newspaper containing such notice shall be mailed by the county auditor to each nonresident whose post-office address is known to such auditor. Such notice shall state the time and place of the hearing on claims for compensation and damages.

Sec. 5555.07. The county engineer shall prepare and file with the board of county commissioners, by the time fixed therefor by the board, copies of the surveys, plans, profiles, cross sections, estimates of costs, and specifications for the improvement and estimated assessments upon lands benefited thereby. Thereupon such board shall file such copies in its office for the inspection and examination of all persons interested. Except in a case involving the improvement of a public road in which no land or property is taken or assessed, the board shall publish in a newspaper ~~published and~~ of general circulation in the county, ~~or if no newspaper is published in the county then in a newspaper having general circulation in the county,~~ for the period of two weeks or as provided in section 7.16 of the Revised Code, notice that a resolution has been adopted providing for said improvement, and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications, together with estimated assessments upon the lands benefited by such improvement for the proportion of the cost thereof to be assessed therefor, are on file in the office of the board for the inspection of persons interested therein. Such notice shall state the time and place for hearing objections to said improvement and to such estimated assessments. In a case involving the improvement of a public road in which no land or property is taken or assessed, the board shall publish the notice required by this section once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code.

At such hearing the board may order said surveys, plans, profiles, cross sections, estimates, and specifications to be changed or modified and shall make such adjustments of the estimated assessments as seem just to it. Thereupon the board may approve such surveys, plans, profiles, cross sections, specifications, and estimates and approve and confirm estimated assessments as made by the engineer or as modified and changed by the board. Such assessments when so approved and confirmed shall be certified to the county auditor of the county and shall thereupon become a lien upon the land charged therewith. The board may declare against said improvement.

Sec. 5555.27. As soon as the county engineer has transmitted to the several boards of county commissioners copies of ~~his~~ the engineer's surveys, plans, profiles, cross sections, estimates, and specifications for the

improvement, the joint board of county commissioners shall, except in cases of reconstruction or repair of roads where no lands or property are taken, fix a time and place for hearing objections to said improvement. The joint board shall thereupon, except in cases of reconstruction or repair of roads where no lands or property are taken, publish in a newspaper ~~published and~~ of general circulation within each interested county, ~~or if there is no such newspaper published in such county then in a newspaper having general circulation in such county,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications therefor are on file in the office of the board of each interested county for the inspection and examination of all persons interested therein. Such notice shall also state the time and place for hearing objections to said improvement. Proceedings for the appropriation of land needed for such improvement shall be maintained in accordance with sections 163.01 to 163.22, ~~inclusive~~, of the Revised Code.

Sec. 5555.42. A board of county commissioners desiring to construct a county road improvement, and finding that no equitable method of apportioning the compensation, damages, and expenses thereof is provided by section 5555.41 of the Revised Code, or finding that an equitable assessment cannot be made by the use of any of the several assessment areas authorized by said section, may order the county engineer to make a tentative plan for such improvement and an approximate estimate of the cost. Such board may thereupon file an application in the court of common pleas describing the improvement in question, and a copy of the tentative plan and approximate estimate of cost shall be attached to such application. The board shall set forth in such application that the compensation, damages, and expenses of the improvement cannot be equitably apportioned under any of the several plans provided by said section or that such compensation, damages, and expenses cannot be equitably assessed by the use of any one of the several assessment areas authorized by said section, or that both such conditions exist, and it shall set forth a method of apportioning the compensation, damages, and expenses and a definite description of the area against which it desires to assess any part of such compensation, damages, and expenses. The application shall contain a prayer requesting authority from such court to construct the improvement and apportion the compensation, damages, and expenses according to the plan suggested by such board and to assess the designated portion of the cost against the real estate within the area described in the petition.

Notice of the filing and pendency of such application shall be given

once a week for four consecutive weeks by publication in ~~two newspapers published and of general circulation in the county, or if there are no such newspapers then in two newspapers~~ a newspaper of general circulation in such county or as provided in section 7.16 of the Revised Code. Such notice shall describe the route and termini of the improvement and set forth the estimated cost and the proposed method of apportionment and assessment area. After such notice has been given, the court or a judge thereof shall fix a time for a hearing on such application, and, at the time fixed, the court or a judge thereof shall hear such application and all evidence offered by the board or any taxpayer of the county for or against the proposed plan of apportionment and for or against the use of the suggested assessment area. If the court finds that the suggested plan of apportionment and the area against which special assessments are to be made are fair and just, that the cost of the improvement will not be excessive in view of the benefits conferred, and that all the real estate within the suggested assessment area will be benefited by the construction of the improvement upon the plan suggested and by the use of the method of apportionment set forth in said application, such court may authorize the board to proceed upon the suggested plan and to apportion the compensation, damages, and expenses in the manner set forth in the application and to assess against the real estate within the assessment area designated in the application, according to the benefits, that portion of the cost to be specially assessed; otherwise the court shall dismiss the application and the board may not proceed with the improvement. The court may modify the suggested plan of apportionment or the suggested assessment area and grant the prayer of the application subject to such modifications as it determines are just and proper. The board in its application may set up any division of cost which it thinks proper among the county, the owners of lands to be specially assessed, and any municipal corporation within which such projected improvement is situated in whole or in part, but no portion of the cost may be apportioned to a municipal corporation without the consent of such municipal corporation evidenced by an ordinance or resolution of its legislative authority.

When the prayer of any such application is granted by the court or a judge thereof and the plan of apportionment and area of assessment is approved by such court, either as set forth in the application or as modified by the court, the board may proceed with the construction of the improvement and use the method of apportionment and the assessment area authorized by the court. In such event, the board may levy taxes and issue bonds in the manner provided by law with respect to improvements, the compensation, damages, and expenses of which are apportioned and paid as

provided in section 5555.41 of the Revised Code, and all proceedings in connection with such improvement shall be conducted in accordance with sections 5555.01 to 5555.83 of the Revised Code, except as provided in this section. The special assessments shall be made by the board against the real estate within the assessment area authorized by the court, but no assessment against any lot or parcel of real estate shall exceed the actual benefits conferred thereon by the construction of the improvement. This section also applies to improvements of sections of a state highway within counties having a tax duplicate of real and personal property in excess of three hundred million dollars, and with respect to which the board desires to co-operate with the department of transportation.

Sec. 5559.06. Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for an improvement under section 5559.02 of the Revised Code by the county engineer, ~~he~~ the engineer shall transmit to the board of county commissioners copies of such surveys, plans, profiles, cross sections, estimates, and specifications. The board shall then publish, in a newspaper ~~published and~~ of general circulation within the county, ~~and if there is no such newspaper published in the county then in one having general circulation in such county,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file in the office of the board for the inspection and examination of all persons interested. Such notice shall also state the time and place for hearing objections to the improvement.

In the event that land or property is to be taken for such improvement, such taking shall be in accordance with sections 163.01 to 163.22, ~~inclusive,~~ of the Revised Code.

Sec. 5559.10. As soon as all questions of compensation and damages have been determined in a road improvement case, the county engineer shall make, upon actual view, an estimated assessment upon the real estate to be charged therewith, of the compensation, damages, and costs of an improvement as provided by section 5559.02 of the Revised Code. Such estimated assessment shall be according to the benefit which will result to the real estate. In making such assessment the engineer may take into consideration any previous special assessments made upon the real estate for road improvements. The schedule of such assessments shall be filed in the office of the board of county commissioners for the inspection of the persons interested. Before adopting the assessment, the board shall publish, once each week for two consecutive weeks, in ~~some~~ a newspaper ~~published~~

~~and~~ of general circulation in the county or as provided in section 7.16 of the Revised Code, ~~but if there is no such newspaper then in one having general circulation in the county~~, notice that such assessment has been made, is on file in the office of the board, and the date when objections will be heard to such assessment. If any owner of property affected thereby desires, ~~he~~ the owner may file ~~his~~ objections to said assessments, in writing, with the board before the time for hearing. If any objections are filed the board shall hear them and act as an equalizing board. It may change such assessments if, in its opinion, any change is necessary to make them just and equitable, and the board shall approve and confirm such assessments as reported by the engineer or modified by it. Such assessments, when so approved and confirmed, shall be a lien on the land chargeable therewith.

Sec. 5559.12. After the board of county commissioners has decided to proceed with an improvement as provided by section 5559.02 of the Revised Code, it shall advertise for bids once, not later than two weeks prior to the date fixed for the letting of the contract, in a newspaper ~~published and of general circulation in the county, but if there is no such newspaper then in one having general circulation in such county~~. Such notice shall state that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for such improvement are on file in the office of the board, and the time within which bids will be received. The board shall award the contract to the lowest responsible bidder.

The contract shall be let upon the basis of lump sum bids, unless the board orders that it be let upon the basis of unit price bids, in which event it shall be let upon such basis. The bids received shall be opened at the time stated in the notice. The board may reject all bids.

Sec. 5561.04. The board of county commissioners, desiring to proceed under sections 4957.06 and 5561.01 to 5561.15 of the Revised Code, shall, after receipt of the certificate of necessity and expediency from the director of transportation, as provided in section 5561.03 of the Revised Code, hold a public hearing as to the expediency of constructing such improvement, notice of which shall be given by publication in ~~two newspapers published and a newspaper~~ of general circulation in the county, ~~if such there be, otherwise in two newspapers of general circulation in such county~~, for two weeks prior to the date set for such hearing or as provided in section 7.16 of the Revised Code, and shall be served upon the railroad or interurban railway companies in the manner for the service of summons in civil actions, not less than twenty days prior to the date of such hearing.

The board, after such hearing and for the purpose of making or causing such an improvement to be made, may, by resolution adopted by unanimous

vote, require the railroad company, in co-operation with the county engineer or any engineer designated by the board, to prepare and submit to the board within six months, unless longer time is mutually agreed upon in writing, plans and specifications for such improvements, specifying the number, character, and location of all piers and supports which are to be permanently placed in any road or highway, specifying the grades to be established for the roads and the height, character, and estimated cost of any viaduct or way above or below any railroad track, and the change of grade required to be made of such tracks including side tracks and switches. But in changing the grade of any railroad, no grade shall be required in excess of that adopted by the railroad company for its construction work on that division or part of the railroad on which the improvement is to be made, without the consent of the railroad company, nor shall the railroad company's tracks be required to be placed below high-water mark.

Such resolution shall be published in the same manner as resolutions of the legislative authority of a municipal corporation declaring the necessity of a contemplated public improvement, and shall be served by the sheriff upon the railroad or interurban railway companies in the manner provided for the service of summons in civil actions. If the proposed public improvement is to be made within a municipal corporation, notice of the passage of the same shall be served upon the municipal corporation by delivering to the clerk of the village or legislative authority of a city a true copy thereof.

If, at the expiration of six months from the passage of such resolution, the railroad company has refused or failed to co-operate in the preparation of such plans and specifications, or if the county engineer or engineer designated by the board and the railroad company fail to agree upon the plans and specification of such improvement, then either the railroad company or the county may submit the matter of determining the method by which the improvement shall be made to the court of common pleas of such county. Either the county or company, after the expiration of six months from the passage of the resolution, may apply to such court by petition, accompanied by the necessary plans prepared by the county or railroad company, covering the grade crossing proposed to be abolished. Such plans must show the grades to be established for such roads or highways, the changes to be made in the location of roads or highways, the height, character, and estimated cost of any viaduct or way above or below the railroad tracks, the number, character, and location of piers, abutments, or supports to be permanently located in the roads or highways, and the change of grade to be made in any railroad tracks, including sidetracks and

switches.

Sec. 5561.08. Notice of the passage of a resolution for a grade crossing improvement shall be served by the sheriff of the county, upon the owner of each piece of property which will be affected by any change of grade, in the manner provided for the service of summons in civil actions. If any of such owners are nonresidents of the county, or if it appears from the return that they cannot be found, the notice shall be published for at least two weeks in ~~an English language~~ a newspaper published of general circulation in such the county or as provided in section 7.16 of the Revised Code. Notice shall be completed at least twenty days before any work is done on such improvement, and the sheriff's return shall be prima-facie evidence of the facts recited therein.

Section 727.18 of the Revised Code shall apply to the notice provided for in this section, and to all claims for damages by reason of such improvement. Such claims shall be filed with the county auditor within the time, and rights thereunder shall pass to vendees, as provided in such section. After the expiration of the time provided for the filing of claims, the board of county commissioners, when claims have been filed within the time limited, shall determine, by resolution, whether such claims are to be judicially inquired into before commencing or after the completion of the proposed improvement. Thereupon, the county prosecutor shall make application for a jury, to the court of common pleas, or probate court of the county, before commencing or after the completion of the improvement, as the board determines, and all proceedings upon such application shall be governed by the laws relating to similar applications provided for in cases of city improvements.

Sec. 5571.011. If a person through whose land a public road has been established which is under the jurisdiction of a board of township trustees, desires to turn or change or relocate such road or any part thereof through any part of ~~his~~ the person's land, ~~he~~ the person may file a petition with such board of township trustees setting forth briefly the particular change ~~he desires~~ desired. Upon receipt of such petition, the board of township trustees shall give notice by publication once, not later than two weeks prior to the date which such board shall fix for a hearing on such petition, ~~in a newspaper published or~~ of general circulation in said township, stating that such petition has been filed and setting forth the change desired in such road and the date and place of such hearing.

Upon receipt of such a petition the board of township trustees shall cause a competent engineer to make a survey of the ground over which the road is proposed to be changed, and to make a report in writing, together

with a plat and survey of the proposed change and ~~his~~ the engineer's opinion as to its advantage or disadvantage. The report of such engineer shall be filed with the board prior to the hearing of such petition.

At the hearing had on the petition the board of township trustees may hear evidence for or against changing the road, and if the board is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

Upon receiving satisfactory evidence that the road has been changed as authorized by it, and opened to the legal width and improved as required by it, the board of township trustees shall declare such new road a public highway and cause a record thereof to be made and at the same time vacate so much of the old road as is rendered unnecessary by the new road. The person petitioning for such change shall in all cases pay all costs and expenses in connection with the proceeding, as found and determined by the board, and the expense of making such change, including the cost of relocation of any conduits, cables, wires, towers, poles or other equipment or appliances of any public utility, located on, over or under such road. The petitioner shall, on the filing of the petition for such change, give bond to the satisfaction of the board in such amount as it determines to secure payment of the costs of the proceeding and to cover the expense of making the change asked for by the petition.

Sec. 5573.02. Upon the completion of the surveys, plans, profiles, cross sections, estimates, and specifications for a road improvement by the county engineer, ~~he~~ the engineer shall transmit to the board of township trustees copies of the same. Except in cases of reconstruction or repair of roads, where no land or property is taken, the board shall then cause to be published in a newspaper, ~~published in the county and~~ of general circulation within the township, ~~but if no such paper is published in the county then in one having general circulation in such township,~~ once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, a notice that such improvement is to be made and that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for it are on file with the board for the inspection and examination of all persons interested.

In the event that land or property is to be taken for such improvement, proceedings shall be had in accordance with sections 163.01 to 163.22; ~~inclusive~~, of the Revised Code.

Sec. 5573.10. As soon as all questions of compensation and damages have been determined for any road improvement, the county engineer shall make, upon actual view, an estimated assessment, upon the real estate to be charged, of such part of the compensation, damages, and costs of such improvement as is to be specially assessed. Such assessment shall be according to the benefits which will result to the real estate. In making such assessment the engineer may take into consideration any previous special assessment made upon such real estate for road improvements.

The schedule for such assessments shall be filed with the board of township trustees for the inspection of the persons interested. Before adopting the estimated assessment, the board shall publish once each week for two consecutive weeks, in ~~some a newspaper published in the county~~ and of general circulation within such township, ~~but if there is no such paper published in said county then in one having general circulation in such township~~ or as provided in section 7.16 of the Revised Code, notice that such assessment has been made and is on file with the board, and the date when objections will be heard to such assessment.

If any owner of property affected desires to make objections, ~~he~~ the owner may file ~~his~~ objections to such assessments, in writing, with the board, before the time of such hearing. If any objections are filed the board shall hear them and act as an equalizing board, and may change assessments if, in its opinion, any changes are necessary to make them just and equitable. The board shall approve and confirm assessments as reported by the engineer or modified by the board. Such assessments, when approved and confirmed, shall be a lien on the land chargeable therewith.

Sec. 5575.01. (A) In the maintenance and repair of roads, the board of township trustees may proceed either by contract or force account, but, unless the exemption specified in division (C) of this section applies, if the board wishes to proceed by force account, it first shall cause the county engineer to complete the force account assessment form developed by the auditor of state under section 117.16 of the Revised Code. Except as otherwise provided in sections 505.08 and 505.101 of the Revised Code, when the board proceeds by contract, the contract shall, if the amount involved exceeds forty-five thousand dollars, be let by the board to the lowest responsible bidder after advertisement for bids once, not later than two weeks, prior to the date fixed for the letting of the contract, in a newspaper ~~published in the county~~ and of general circulation within the township or, ~~if no newspaper is published in the county, in a newspaper having general circulation in the township~~. If the amount involved is forty-five thousand dollars or less, a contract may be let without competitive

bidding, or the work may be done by force account. Such a contract shall be performed under the supervision of a member of the board or the township road superintendent.

(B) Before undertaking the construction or reconstruction of a township road, the board shall cause to be made by the county engineer an estimate of the cost of the work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost. If the board finds it in the best interest of the public, it may, in lieu of constructing the road by contract, proceed to construct the road by force account. Except as otherwise provided under sections 505.08 and 505.101 of the Revised Code, where the total ~~estimate~~ estimated cost of the work exceeds fifteen thousand dollars per mile, the board shall invite and receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, as provided in section 5575.02 of the Revised Code, and shall consider and reject them before ordering the work done by force account. When such bids are received, considered, and rejected, and the work is done by force account, the work shall be performed in compliance with the plans and specifications upon which the bids were based.

(C) Force account assessment forms are not required under division (A) of this section for road maintenance or repair projects of less than fifteen thousand dollars, or under division (B) of this section for road construction or reconstruction projects of less than five thousand dollars per mile.

(D) All force account work under this section shall be done under the direction of a member of the board or the township road superintendent.

Sec. 5575.02. After the board of township trustees has decided to proceed with a road improvement, it shall advertise for bids once, not later than two weeks prior to the date fixed for the letting of contracts, in a newspaper ~~published in the county and~~ of general circulation within ~~such the~~ township, ~~but if there is no such paper published in the county then in one having general circulation in the township~~. Such notice shall state that copies of the surveys, plans, profiles, cross sections, estimates, and specifications for such improvement are on file with the board, and the time within which bids will be received. The board may let the work as a whole or in convenient sections, as it determines. The contract shall be awarded to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code, and shall be let upon the basis of lump sum bids, unless the board orders that it be let upon the basis of unit price bids, in which event it shall be let upon such basis.

Sec. 5591.15. All resolutions and notices provided for in sections 5591.03 to 5591.17 of the Revised Code; shall be published in a newspaper

~~published in and~~ of general circulation in the county where the improvement provided in such sections is to be made, and such publication shall be complete when published once a week, on the same day of the week, for two consecutive weeks or as provided in section 7.16 of the Revised Code.

Sec. 5593.08. The bridge commission of any county or city may:

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

(B) Adopt an official seal, which shall not be the seal of Ohio;

(C) Maintain a principal office and suboffices at such places within the county or city as it designates;

(D) Sue and be sued in its own name, and plead and be impleaded. Any actions against a bridge commission shall be brought in the court of common pleas of the county in which the principal office of the commission is located, or in the court of common pleas of the county in which the cause of action arose, when such county is located within this state. All summonses, exceptions, and notices of every kind shall be served on the commission by leaving a copy thereof at the principal office with the secretary-treasurer or the person in charge.

(E) Construct, acquire by purchase or condemnation, improve, maintain, repair, police, and operate any bridge, and establish rules for the use of any such bridge;

(F) Issue bridge revenue bonds of the county or city, payable solely from revenues, as provided in sections 5593.10 and 5593.16 of the Revised Code, for the purpose of paying any part of the cost of any bridge or bridges;

(G) Fix and revise from time to time and charge and collect tolls for transit over each bridge constructed or acquired by it;

(H) Acquire, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter;

(I) Acquire, in the name of the county or city, as the case may be, by purchase or otherwise, on such terms and in such manner as it determines proper, or by the exercise of the right of condemnation in the manner provided by sections 163.01 to 163.22 of the Revised Code, any bridge, land, rights, easements, franchises, and other property necessary or convenient for the construction of a bridge or the improvement or efficient operation of any property acquired or constructed under this chapter, or for securing right-of-way leading to any such bridge or its approach facilities;

(J) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter:

(1) When the cost under any such contract or agreement, other than compensation for personal services, involves an expenditure of more than ten thousand dollars, the commission shall make a written contract with the lowest and best bidder after advertisement for not less than two consecutive weeks, or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in Franklin county, and in such other publications as the commission determines, which notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and place of receiving bids.

(2) Each bid for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement shall contain the full name of every person interested in it and meets the requirements of section 153.54 of the Revised Code.

(3) Each bid for a contract except as provided in division (J)(2) of this section shall contain the full name of every person or company interested in it and shall be accompanied by a bond or certified check on a solvent bank, in such amount as the commission determines sufficient, that if the bid is accepted a contract will be entered into and the performance of its proposal secured.

(4) The commission may reject any and all bids.

(5) A bond with good and sufficient surety, approved by the commission, shall be required of every contractor awarded a contract except as provided in division (J)(2) of this section, in an amount equal to at least fifty per cent of the contract price, conditioned upon the faithful performance of the contract.

(K) Employ consulting engineers, superintendents, managers, engineers, construction and accounting experts, attorneys, and other employees and agents as are necessary in its judgment, and fix their compensation. All such expenses are payable solely from the proceeds of bridge revenue bonds issued under this chapter, or from revenues.

(L) Receive and accept from any federal agency, subject to the approval of the board of county commissioners or the legislative authority of the city, as the case may be, grants for or in aid of the construction, acquisition, improvement, or operation of any bridge, and receive and accept aid or contributions from any source of money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions are made;

(M) Provide coverage for its employees under sections 4123.01 to 4123.94 and 4141.01 to 4141.46 of the Revised Code;

(N) Do all acts necessary or proper to carry out the powers expressly granted in this chapter.

Sec. 5701.13. (A) As used in this section:

(1) "Nursing home" means a nursing home or a home for the aging, as those terms are defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(2) "Residential care facility" means a residential care facility, as defined in section 3721.01 of the Revised Code, that is issued a license pursuant to section 3721.02 of the Revised Code.

(3) "Adult care facility" means an adult care facility as defined in section ~~3722.04~~ 5119.70 of the Revised Code that is issued a license pursuant to section ~~3722.04~~ 5119.73 of the Revised Code.

(B) As used in Title LVII of the Revised Code, and for the purpose of other sections of the Revised Code that refer specifically to Chapter 5701. or section 5701.13 of the Revised Code, a "home for the aged" means either of the following:

(1) A place of residence for aged and infirm persons that satisfies divisions (B)(1)(a) to (e) of this section:

(a) It is a nursing home, residential care facility, or adult care facility.

(b) It is owned by a corporation, unincorporated association, or trust of a charitable, religious, or fraternal nature, which is organized and operated not for profit, which is not formed for the pecuniary gain or profit of, and whose net earnings or any part of whose net earnings is not distributable to, its members, trustees, officers, or other private persons, and which is exempt from federal income taxation under section 501 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1.

(c) It is open to the public without regard to race, color, or national origin.

(d) It does not pay, directly or indirectly, compensation for services rendered, interest on debts incurred, or purchase price for land, building, equipment, supplies, or other goods or chattels, which compensation, interest, or purchase price is unreasonably high.

(e) It provides services for the life of each resident without regard to the resident's ability to continue payment for the full cost of the services.

(2) A place of residence that satisfies divisions (B)(1)(b), (d), and (e) of this section; that satisfies the definition of "nursing home;" or "residential care facility;" or "adult care facility" under section 3721.01 of the Revised Code or ~~3722.04~~ the definition of "adult care facility" under section 5119.70 of the Revised Code regardless of whether it is licensed as such a home or facility; and that is provided at no charge to individuals on account of their

service without compensation to a charitable, religious, fraternal, or educational institution, which individuals are aged or infirm and are members of the corporation, association, or trust that owns the place of residence. For the purposes of division (B)(2) of this section, "compensation" does not include furnishing room and board, clothing, health care, or other necessities, or stipends or other de minimis payments to defray the cost thereof.

Exemption from taxation shall be accorded, on proper application, only to those homes or parts of homes which meet the standards and provide the services specified in this section.

Nothing in this section shall be construed as preventing a home from requiring a resident with financial need to apply for any applicable financial assistance or requiring a home to retain a resident who willfully refuses to pay for services for which the resident has contracted even though the resident has sufficient resources to do so.

(C)(1) If a corporation, unincorporated association, or trust described in division (B)(1)(b) of this section is granted a certificate of need pursuant to section 3702.52 of the Revised Code to construct, add to, or otherwise modify a nursing home, or is given approval pursuant to section 3791.04 of the Revised Code to construct, add to, or otherwise modify a residential care facility or adult care facility and if the corporation, association, or trust submits an affidavit to the tax commissioner stating that, commencing on the date of licensure and continuing thereafter, the home or facility will be operated in accordance with the requirements of divisions (B)(1)(a) to (e) of this section, the corporation, association, or trust shall be considered to be operating a "home for the aged" within the meaning of division (B)(1) of this section, beginning on the first day of January of the year in which such certificate is granted or approval is given.

(2) If a corporation, association, or trust is considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, the corporation, association, or trust shall notify the tax commissioner in writing upon the occurrence of any of the following events:

(a) The corporation, association, or trust no longer intends to complete the construction of, addition to, or modification of the home or facility, to obtain the appropriate license for the home or facility, or to commence operation of the home or facility in accordance with the requirements of divisions (B)(1)(a) to (e) of this section;

(b) The certificate of approval referred to in division (C)(1) of this section expires, is revoked, or is otherwise terminated prior to the completion of the construction of, addition to, or modification of the home

or facility;

(c) The license to operate the home or facility is not granted by the director of health within one year following completion of the construction of, addition to, or modification of the home or facility;

(d) The license to operate the home or facility is not granted by the director of health within four years following the date upon which the certificate or approval referred to in division (C)(1) of this section was granted or given;

(e) The home or facility is granted a license to operate as a nursing home, residential care facility, or adult care facility.

(3) Upon the occurrence of any of the events referred to in divisions (C)(2)(a), (b), (c), (d), and (e) of this section, the corporation, association, or trust shall no longer be considered to be operating a "home for the aged" pursuant to division (C)(1) of this section, except that the tax commissioner, for good cause shown and to the extent the commissioner considers appropriate, may extend the time period specified in division (C)(2)(c) or (d) of this section, or both. Nothing in division (C)(3) of this section shall be construed to prevent a nursing home, residential care facility, or adult care facility from qualifying as a "home for the aged" if, upon proper application made pursuant to division (B) of this section, it is found to meet the requirements of divisions (A) and (B) of this section.

Sec. 5703.05. All powers, duties, and functions of the department of taxation are vested in and shall be performed by the tax commissioner, which powers, duties, and functions shall include, but shall not be limited to, the following:

(A) Prescribing all blank forms which the department is authorized to prescribe, and to provide such forms and distribute the same as required by law and the rules of the department. ~~The tax commissioner shall include a mail-in registration form prescribed in section 3503.14 of the Revised Code within the return and instructions for the tax levied in odd-numbered years under section 5747.02 of the Revised Code, beginning with the tax levied for 1995. The secretary of state shall bear all costs for the inclusion of the mail-in registration form. That form shall be addressed for return to the office of the secretary of state.~~

(B) Exercising the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes or assessments, including penalties and interest thereon, illegally or erroneously assessed or collected, or for any other reason overpaid, and in addition, the commissioner may on written application of any person, firm, or corporation claiming to have overpaid to the treasurer of state at any time within five

years prior to the making of such application any tax payable under any law which the department of taxation is required to administer which does not contain any provision for refund, or on the commissioner's own motion investigate the facts and make in triplicate a written statement of the commissioner's findings, and, if the commissioner finds that there has been an overpayment, issue in triplicate a certificate of abatement payable to the taxpayer, the taxpayer's assigns, or legal representative which shows the amount of the overpayment and the kind of tax overpaid. One copy of such statement shall be entered on the journal of the commissioner, one shall be certified to the attorney general, and one certified copy shall be delivered to the taxpayer. All copies of the certificate of abatement shall be transmitted to the attorney general, and if the attorney general finds it to be correct the attorney general shall so certify on each copy, and deliver one copy to the taxpayer, one copy to the commissioner, and the third copy to the treasurer of state. Except as provided in sections 5725.08 and 5725.16 of the Revised Code the taxpayer's copy of any certificates of abatement may be tendered by the payee or transferee thereof to the treasurer of state as payment, to the extent of the amount thereof, of any tax payable to the treasurer of state.

(C) Exercising the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(D) Exercising the authority provided by law relative to the use of alternative tax bases by taxpayers in the making of personal property tax returns;

(E) Exercising the authority provided by law relative to authorizing the prepayment of taxes on retail sales of tangible personal property or on the storage, use, or consumption of personal property, and waiving the collection of such taxes from the consumers;

(F) Exercising the authority provided by law to revoke licenses;

(G) Maintaining a continuous study of the practical operation of all taxation and revenue laws of the state, the manner in which and extent to which such laws provide revenues for the support of the state and its political subdivisions, the probable effect upon such revenue of possible changes in existing laws, and the possible enactment of measures providing for other forms of taxation. For this purpose the commissioner may establish and maintain a division of research and statistics, and may appoint necessary employees who shall be in the unclassified civil service; the results of such study shall be available to the members of the general assembly and the public.

(H) Making all tax assessments, valuations, findings, determinations, computations, and orders the department of taxation is by law authorized

and required to make and, pursuant to time limitations provided by law, on the commissioner's own motion, reviewing, redetermining, or correcting any tax assessments, valuations, findings, determinations, computations, or orders the commissioner has made, but the commissioner shall not review, redetermine, or correct any tax assessment, valuation, finding, determination, computation, or order which the commissioner has made as to which an appeal or application for rehearing, review, redetermination, or correction has been filed with the board of tax appeals, unless such appeal or application is withdrawn by the appellant or applicant or dismissed;

(I) Appointing not more than five deputy tax commissioners, who, under such regulations as the rules of the department of taxation prescribe, may act for the commissioner in the performance of such duties as the commissioner prescribes in the administration of the laws which the commissioner is authorized and required to administer, and who shall serve in the unclassified civil service at the pleasure of the commissioner, but if a person who holds a position in the classified service is appointed, it shall not affect the civil service status of such person. The commissioner may designate not more than two of the deputy commissioners to act as commissioner in case of the absence, disability, or recusal of the commissioner or vacancy in the office of commissioner. The commissioner may adopt rules relating to the order of precedence of such designated deputy commissioners and to their assumption and administration of the office of commissioner.

(J) Appointing and prescribing the duties of all other employees of the department of taxation necessary in the performance of the work of the department which the tax commissioner is by law authorized and required to perform, and creating such divisions or sections of employees as, in the commissioner's judgment, is proper;

(K) Organizing the work of the department, which the commissioner is by law authorized and required to perform, so that, in the commissioner's judgment, an efficient and economical administration of the laws will result;

(L) Maintaining a journal, which is open to public inspection, in which the tax commissioner shall keep a record of all final determinations of the commissioner;

(M) Adopting and promulgating, in the manner provided by section 5703.14 of the Revised Code, all rules of the department, including rules for the administration of sections 3517.16, 3517.17, and 5747.081 of the Revised Code;

(N) Destroying any or all returns or assessment certificates in the manner authorized by law;

(O) Adopting rules, in accordance with division (B) of section 325.31 of the Revised Code, governing the expenditure of moneys from the real estate assessment fund under that division.

Sec. 5703.056. (A) As used in any section of the Revised Code that requires the tax commissioner to use certified mail or personal service or that requires or permits a payment to be made or a document to be submitted to the tax commissioner or the board of tax appeals by mail and as used in any section of Chapter 3734., 3769., 4303., or 4305. or Title LVII of the Revised Code that requires or permits a payment to be made or a document to be submitted to the treasurer of state by mail:

(1) "Certified mail," "express mail," "United States mail," "United States postal service," and similar terms include any delivery service authorized pursuant to division (B) of this section.

(2) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of this section.

~~(b)~~(B) The tax commissioner may authorize the use of a delivery service for the delivery of any payment or document described in division (A) of this section if the commissioner finds that the delivery service:

(1) Is available to the general public;

(2) Is at least as timely and reliable on a regular basis as the United States postal service;

(3) Records electronically to a database kept in the regular course of its business, and marks on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery;

(4) Records electronically to a database kept in the regular course of its business the date on which the payment or document was given by the delivery service to the person who signed the receipt of delivery and the name of the person who signed the receipt; and

(5) Meets any other criteria that the tax commissioner may by rule prescribe.

Sec. 5703.059. (A) The tax commissioner may adopt rules requiring returns, including any accompanying schedule or statement, for any of the following taxes to be filed electronically using the Ohio business gateway as defined in section 718.051 of the Revised Code, filed telephonically using the system known as the Ohio telefile system, or filed by any other electronic means prescribed by the commissioner:

(1) Employer income tax withholding under Chapter 5747. of the Revised Code;

(2) Motor fuel tax under Chapter 5735. of the Revised Code;

(3) Cigarette and tobacco product tax under Chapter 5743. of the Revised Code;

(4) Severance tax under Chapter 5749. of the Revised Code;

(5) Use tax under Chapter 5741. of the Revised Code.

(B) The tax commissioner may adopt rules requiring any payment of tax shown on such a return to be due to be made electronically in a manner approved by the commissioner.

(C) A rule adopted under this section does not apply to returns or reports filed or payments made before six months after the effective date of the rule. The commissioner shall publicize any new electronic filing requirement on the department's web site. The commissioner shall educate the public of the requirement through seminars, workshops, conferences, or other outreach activities.

(D) Any person required to file returns and make payments electronically under rules adopted under this section may apply to the commissioner, on a form prescribed by the commissioner, to be excused from that requirement. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or reports or make the payments required under this section by nonelectronic means.

Sec. 5703.37. (A)(1) Except as provided in division (B) of this section, whenever service of a notice or order is required in the manner provided in this section, a copy of the notice or order shall be served upon the person affected thereby either by personal service ~~or~~, by certified mail, or by a delivery service authorized under section 5703.056 of the Revised Code that notifies the tax commissioner of the date of delivery.

(2) With the permission of the person affected by the notice or order, the commissioner may enter into a written agreement to deliver a notice or order by alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Delivery by such means satisfies the requirements for delivery under this section.

(B)(1)(a) If certified mail is returned because of an undeliverable address, the commissioner shall first utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code. If, after using reasonable means, the commissioner is unable to ascertain a new last known address, the assessment is final for purposes of section 131.02 of the Revised Code sixty days after the notice or order sent by certified mail is first returned to

the commissioner, and the commissioner shall certify the notice or order, if applicable, to the attorney general for collection under section 131.02 of the Revised Code.

(b) Notwithstanding certification to the attorney general under division (B)(1)(a) of this section, once the commissioner or attorney general, or the designee of either, makes an initial contact with the person to whom the notice or order is directed, the person may protest an assessment by filing a petition for reassessment within sixty days after the initial contact. The certification of an assessment under division (B)(1)(a) of this section is prima-facie evidence that delivery is complete and that the notice or order is served.

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address, the tax commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or order and include the following statement:

"This notice or order is deemed to be served on the addressee under applicable law ten days from the date this notice or order was mailed by the commissioner as shown on the notice or order, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of

this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the tax commissioner.

(D) Nothing in this section prohibits the tax commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

(F) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code.

(2) "Undeliverable address" means an address to which the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.57. (A) As used in this section, "Ohio business gateway" has the same meaning as in section 718.051 of the Revised Code.

(B) There is hereby created the Ohio business gateway steering committee to direct the continuing development of the Ohio business gateway and to oversee its operations. The committee shall provide general oversight regarding operation of the Ohio business gateway and shall recommend to the department of administrative services enhancements that will improve the Ohio business gateway. The committee shall consider all banking, technological, administrative, and other issues associated with the Ohio business gateway and shall make recommendations regarding the type of reporting forms or other tax documents to be filed through the Ohio

business gateway.

(C) The committee shall consist of:

(1) The following members, appointed by the governor with the advice and consent of the senate:

(a) Not more than ~~two~~ four representatives of the business community;

(b) Not more than ~~three representatives~~ one representative of municipal tax administrators; and

(c) Not more than two tax practitioners.

(2) The following ex officio members:

(a) The director or other highest officer of each state agency that has tax reporting forms or other tax documents filed with it through the Ohio business gateway or the director's designee;

(b) The secretary of state or the secretary of state's designee;

(c) The treasurer of state or the treasurer of state's designee;

(d) The director of budget and management or the director's designee;

(e) The state chief information officer or the officer's designee;

(f) The tax commissioner or the tax commissioner's designee; and

(g) The director of development or the director's designee.

An appointed member shall serve until the member resigns or is removed by the governor. Vacancies shall be filled in the same manner as original appointments.

(D) A vacancy on the committee does not impair the right of the other members to exercise all the functions of the committee. The presence of a majority of the members of the committee constitutes a quorum for the conduct of business of the committee. The concurrence of at least a majority of the members of the committee is necessary for any action to be taken by the committee. On request, each member of the committee shall be reimbursed for the actual and necessary expenses incurred in the discharge of the member's duties.

(E) The committee is a part of the department of taxation for administrative purposes.

(F) Each year, the governor shall select a member of the committee to serve as chairperson. The chairperson shall appoint an official or employee of the department of taxation to act as the committee's secretary. The secretary shall keep minutes of the committee's meetings and a journal of all meetings, proceedings, findings, and determinations of the committee.

(G) The committee ~~shall~~ may hire professional, technical, and clerical staff needed to support its activities.

(H) The committee shall meet as often as necessary to perform its duties.

Sec. 5703.58. (A) Subject to ~~division (C)~~ divisions (B) and (D) of this section, the tax commissioner shall not make or issue an assessment for any tax payable to the state that is administered by the tax commissioner, or any penalty, interest, or additional charge on such tax, after the expiration of ten years, including any extension, from the date the tax return or report was due when such amount was not reported and paid, provided that the ten-year period shall be extended by the period of any lawful stay to such assessment. As used in this section, "assessment" has the same meaning as in section 5703.50 of the Revised Code.

(B) Subject to division (D) of this section, the tax commissioner shall not make or issue an assessment against any person for any tax due under Chapter 5741. of the Revised Code, or any penalty, interest, or additional charge on such tax, after the expiration of seven years, including any extension, from the date the tax return or report was due if the amount of tax due was not reported and paid, provided that the seven-year period shall be extended by the period of any lawful stay to the assessment. The commissioner shall not make or issue an assessment against a consumer for any tax due under Chapter 5741. of the Revised Code, or for any penalty, interest, or additional charge on such tax, if the tax was due before January 1, 2008.

(C) This section does not apply to either of the following:

(1) Any amount collected for the state by a vendor or seller under Chapter 5739. or 5741. of the Revised Code or withheld by an employer under Chapter 5747. of the Revised Code.

(2) Any person who fraudulently attempts to avoid such tax.

~~(C)(D)~~ This section does not authorize the assessment or collection of a tax for which the applicable period of limitation prescribed by law has expired and for which no valid assessment has been made and served as prescribed by law.

Sec. 5705.01. As used in this chapter:

(A) "Subdivision" means any county; municipal corporation; township; township police district; joint police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a union cemetery district; a

county school financing district; a city, local, exempted village, cooperative education, or joint vocational school district; or a regional student education district created under section 3313.83 of the Revised Code.

(B) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio Constitution.

(C) "Taxing authority" or "bond issuing authority" means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint police district, the joint police district board; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction, and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. "Taxing authority" also means the educational service center governing board that serves as the taxing authority of a county school financing district as provided in section 3311.50 of the Revised Code, and the board of directors of a regional student education district created under section 3313.83 of the Revised Code.

(D) "Fiscal officer" in the case of a county, means the county auditor; in the case of a municipal corporation, the city auditor or village clerk, or an

officer who, by virtue of the charter, has the duties and functions of the city auditor or village clerk, except that in the case of a municipal university the board of directors of which have assumed, in the manner provided by law, the custody and control of the funds of the university, the chief accounting officer of the university shall perform, with respect to the funds, the duties vested in the fiscal officer of the subdivision by sections 5705.41 and 5705.44 of the Revised Code; in the case of a school district, the treasurer of the board of education; in the case of a county school financing district, the treasurer of the educational service center governing board that serves as the taxing authority; in the case of a township, the township fiscal officer; in the case of a joint police district, the treasurer of the district; in the case of a joint fire district, the clerk of the board of fire district trustees; in the case of a joint ambulance district, the clerk of the board of trustees of the district; in the case of a joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code; in the case of a fire and ambulance district, the person appointed as fiscal officer pursuant to division (B) of section 505.375 of the Revised Code; in the case of a joint recreation district, the person designated pursuant to section 755.15 of the Revised Code; in the case of a union cemetery district, the clerk of the municipal corporation designated in section 759.34 of the Revised Code; in the case of a children's home district, educational service center, general health district, joint-county alcohol, drug addiction, and mental health service district, county library district, detention facility district, district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a metropolitan park district for which no treasurer has been appointed pursuant to section 1545.07 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district; in the case of a metropolitan park district which has appointed a treasurer pursuant to section 1545.07 of the Revised Code, that treasurer; in the case of a drainage improvement district, the auditor of the county in which the drainage improvement district is located; in the case of a regional student education district, the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness

of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) "District authority" means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health services, detention facility districts, a joint recreation district board of trustees, districts organized under section 2151.65 of the Revised Code, combined districts organized under sections 2152.41 and 2151.65 of the Revised Code, and other such boards.

(J) "Tax list" and "tax duplicate" mean the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(K) "Property" as applied to a tax levy means taxable property listed on general tax lists and duplicates.

(L) "School library district" means a school district in which a free public library has been established that is under the control and management of a board of library trustees as provided in section 3375.15 of the Revised Code.

Sec. 5705.14. No transfer shall be made from one fund of a subdivision to any other fund, by order of the court or otherwise, except as follows:

(A) The unexpended balance in a bond fund that is no longer needed for the purpose for which such fund was created shall be transferred to the sinking fund or bond retirement fund from which such bonds are payable.

(B) The unexpended balance in any specific permanent improvement fund, other than a bond fund, after the payment of all obligations incurred in the acquisition of such improvement, shall be transferred to the sinking fund or bond retirement fund of the subdivision; provided that if such money is

not required to meet the obligations payable from such funds, it may be transferred to a special fund for the acquisition of permanent improvements, or, with the approval of the court of common pleas of the county in which such subdivision is located, to the general fund of the subdivision.

(C) ~~The~~ (1) Except as provided in division (C)(2) of this section, the unexpended balance in the sinking fund or bond retirement fund of a subdivision, after all indebtedness, interest, and other obligations for the payment of which such fund exists have been paid and retired, shall be transferred, in the case of the sinking fund, to the bond retirement fund, and in the case of the bond retirement fund, to the sinking fund; provided that if such transfer is impossible by reason of the nonexistence of the fund to receive the transfer, such unexpended balance, with the approval of the court of common pleas of the county in which such division is located, may be transferred to any other fund of the subdivision.

(2) Money in a bond fund or bond retirement fund of a city, local, exempted village, cooperative education, or joint vocational school district may be transferred to a specific permanent improvement fund provided that the county budget commission of the county in which the school district is located approves the transfer upon its determination that the money transferred will not be required to meet the obligations payable from the bond fund or bond retirement fund. In arriving at such a determination, the county budget commission shall consider the balance of the bond fund or bond retirement fund, the outstanding obligations payable from the fund, and the sources and timing of the fund's revenue.

(D) The unexpended balance in any special fund, other than an improvement fund, existing in accordance with division (D), (F), or (G) of section 5705.09 or section 5705.12 of the Revised Code, may be transferred to the general fund or to the sinking fund or bond retirement fund after the termination of the activity, service, or other undertaking for which such special fund existed, but only after the payment of all obligations incurred and payable from such special fund.

(E) Money may be transferred from the general fund to any other fund of the subdivision.

(F) Moneys retained or received by a county under section 4501.04 or division (A)(3) of section 5735.27 of the Revised Code may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable.

(G) Moneys retained or received by a municipal corporation under section 4501.04 or division (A)(1) or (2) of section 5735.27 of the Revised

Code may be transferred from the fund into which they were deposited to the sinking fund or bond retirement fund from which any principal, interest, or charges for which such moneys may be used is payable.

(H)(1) Money may be transferred from the county developmental disabilities general fund to the county developmental disabilities capital fund established under section 5705.091 of the Revised Code or to any other fund created for the purposes of the county board of developmental disabilities, so long as money in the fund to which the money is transferred can be spent for the particular purpose of the transferred money. The county board of developmental disabilities may request, by resolution, that the board of county commissioners make the transfer. The county board of developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners may make the transfer. Money transferred to a fund shall be credited to an account appropriate to its particular purpose.

(2) An unexpended balance in an account in the county developmental disabilities capital fund or any other fund created for the purposes of the county board of developmental disabilities may be transferred back to the county developmental disabilities general fund. The transfer may be made if the unexpended balance is no longer needed for its particular purpose and all outstanding obligations have been paid. Money transferred back to the county developmental disabilities general fund shall be credited to an account for current expenses within that fund. The county board of developmental disabilities may request, by resolution, that the board of county commissioners make the transfer. The county board of developmental disabilities shall transmit a certified copy of the resolution to the board of county commissioners. Upon receiving the resolution, the board of county commissioners may make the transfer.

(I) Money may be transferred from the public assistance fund established under section 5101.161 of the Revised Code to either of the following funds, so long as the money to be transferred from the public assistance fund may be spent for the purposes for which money in the receiving fund may be used:

(1) The children services fund established under section 5101.144 of the Revised Code;

(2) The child support enforcement administrative fund established, as authorized under rules adopted by the director of job and family services, in the county treasury for use by any county family services agency.

Except in the case of transfer pursuant to division (E) of this section, transfers authorized by this section shall only be made by resolution of the

taxing authority passed with the affirmative vote of two-thirds of the members.

Sec. 5705.16. A resolution of the taxing authority of any political subdivision shall be passed by a majority of all the members thereof, declaring the necessity for the transfer of funds authorized by section 5705.15 of the Revised Code, and such taxing authority shall prepare a petition addressed to the court of common pleas of the county in which the funds are held. The petition shall set forth the name and amount of the fund, the fund to which it is desired to be transferred, a copy of such resolution with a full statement of the proceedings pertaining to its passage, and the reason or necessity for the transfer. A duplicate copy of said petition shall be forwarded to the tax commissioner for ~~his~~ the commissioner's examination and approval.

If the petition is disapproved by the commissioner, it shall be returned within ten days of its receipt to the officers who submitted it, with a memorandum of the commissioner's objections. This disapproval shall not prejudice a later application for approval. If the petition is approved by the commissioner, it shall be forwarded within ten days of its receipt to the clerk of the court of common pleas of the county to whose court of common pleas the petition is addressed, marked with the approval of the commissioner. If the commissioner approves the petition, ~~he~~ the commissioner shall notify immediately the officers who submitted the petition, who then may file the petition in the court to which it is addressed.

The petitioner shall give notice of the filing, object, and prayer of the petition, and of the time when it will be heard. The notice shall be given by one publication in ~~two newspapers having~~ a newspaper of general circulation in the territory to be affected by such transfer of funds; ~~preference being given to newspapers published within the territory.~~ If there ~~are~~ is no such ~~newspapers~~ newspaper, the notice shall be posted in ten conspicuous places within the territory for ~~the~~ a period of four weeks.

The petition may be heard at the time stated in the notice, or as soon thereafter as convenient for the court. Any person who objects to the prayer of such petition shall file ~~his~~ the person's objections in such cause on or before the time fixed in the notice for hearing, and ~~he~~ that person shall be entitled to be heard.

If, upon hearing, the court finds that the notice has been given as required by this section, that the petition states sufficient facts, that there are good reasons, or that a necessity exists, for the transfer, and that no injury will result therefrom, it shall grant the prayer of the petition and order the petitioners to make such transfer.

A copy of the findings, orders, and judgments of the court shall be certified by the clerk and entered on the records of the petitioning officers or board, and thereupon the petitioners may make the transfer of funds as directed by the court. All costs of such proceedings shall be paid by the petitioners, except that if objections are filed the court may order such objectors to pay all or a portion of the costs.

Sec. 5705.19. This section does not apply to school districts or county school financing districts.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;

(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;

(H) For parks and recreational purposes;

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and

materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of ~~firefighting companies or~~ permanent, part-time, or volunteer ~~firefighters or firefighting companies,~~ emergency medical service, administrative, or communications personnel to operate the same, including the payment of ~~the firefighter employers' contribution~~ any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;

(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of ~~the police officer employers' contribution~~ any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance or emergency medical services operated by a police department;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;

(P) For maintaining and operating sewage disposal plants and facilities;

(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(S) For the prevention, control, and abatement of air pollution;

(T) For maintaining and operating cemeteries;

(U) For providing ambulance service, emergency medical service, or both;

(V) For providing for the collection and disposal of garbage or refuse, including yard waste;

(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;

(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;

(AA) For the maintenance and operation of a free public museum of art, science, or history;

(BB) For the establishment and operation of a 9-1-1 system, as defined in section 4931.40 of the Revised Code;

(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.

(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving,

equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the board of township trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than thirty-eight thousand within a county that had a population, at that time, of at least eight hundred sixty thousand.

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code;

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township.

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;

(NN) For purchasing, maintaining, or improving, or any combination of

the foregoing, real estate on which to hold agricultural fairs. This division applies only to a county.

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.

(RR) For the legislative authority of a municipal corporation, board of county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;

(WW) For the Ohio cooperative extension service fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of

years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district.

(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution.

(5) When the additional rate is for the purpose described in division (Z) of this section, the increased rate shall be for any number of years not exceeding ten.

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election.

When the electors of a subdivision have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.191. The taxing authority of any subdivision, other than the board of education of a school district or the taxing authority of a county school financing district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the subdivision, and that it is necessary to levy a tax in excess of such limitation for any of the purposes in section 5705.19 of the Revised Code, or to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals, and that the question of such additional tax levy shall be submitted to the electors of the subdivision at a general, primary, or special election to be held at a time therein specified. Such resolution shall not include a levy on the current tax list and duplicate unless such election is to be held at or prior to the general election day of the current tax year. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except that a levy to supplement the general fund for the purposes of public assistance, human or social services, relief, welfare, hospitalization, health, or the support of general or tuberculosis hospitals may not be for a longer period than ten years. All other levies under this section may not be for a longer period than five years unless a longer period is permitted by section

5705.19 of the Revised Code, and the resolution shall specify the date of holding such election, which shall not be earlier than ninety days after the adoption and certification of such resolution. The resolution shall go into immediate effect upon its passage and no publication of the same is necessary other than that provided for in the notice of election. A copy of such resolution, immediately after its passage, shall be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election, to which section 5705.25 of the Revised Code refers, excepting that such election shall be held on the date specified in the resolution, which shall be consistent with the requirements of section 3501.01 of the Revised Code, provided that only one special election for the submission of such question may be held in any one calendar year and provided that a special election may be held upon the same day a primary election is held. Publication of notice of that election shall be made 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, ~~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.

If a majority of the electors voting on the question vote in favor thereof, the taxing authority of the subdivision may make the necessary levy within such subdivision at the additional rate or at any lesser rate outside the ten-mill limitation on the tax list and duplicate for the purpose stated in the resolution. Such tax levy shall be included in the next annual tax budget that is certified to the county budget commission.

After the approval of such a levy by the electors, the taxing authority of the subdivision may anticipate a fraction of the proceeds of such levy and issue anticipation notes. In the case of a continuing levy that is not levied for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy for the succeeding ten years, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a levy for a fixed period that is not for the purpose of current expenses, notes may be issued at any time after approval of the levy in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the remaining life of the levy, less an amount equal to the fraction of the proceeds of the levy previously anticipated by the issuance of anticipation notes. In the case of a

levy for current expenses, notes may be issued after the approval of the levy by the electors and prior to the time when the first tax collection from the levy can be made. Such notes may be issued in an amount not more than fifty per cent of the total estimated proceeds of the levy throughout the term of the levy in the case of a levy for a fixed period, or fifty per cent of the total estimated proceeds for the first ten years of the levy in the case of a continuing levy.

No anticipation notes that increase the net indebtedness of a county may be issued without the prior consent of the board of county commissioners of that county. The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not exceeding the life of the levy anticipated, and may have a principal payment in the year of their issuance.

"Taxing authority" and "subdivision" have the same meanings as in section 5705.01 of the Revised Code.

This section is supplemental to and not in derogation of sections 5705.20, 5705.21, and 5705.22 of the Revised Code.

Sec. 5705.194. The board of education of any city, local, exempted village, cooperative education, or joint vocational school district at any time may declare by resolution that the revenue that will be raised by all tax levies which the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide for the emergency requirements of the school district or to avoid an operating deficit, and that it is therefore necessary to levy an additional tax in excess of the ten-mill limitation. The resolution shall be confined to a single purpose and shall specify that purpose. If the levy is proposed to renew all or a portion of the proceeds derived from one or more existing levies imposed pursuant to this section, it shall be called a renewal levy and shall be so designated on the ballot. If two or more existing levies are to be included in a single renewal levy but are not scheduled to expire in the same year, the resolution shall specify that the existing levies to be renewed shall not be levied after the year preceding the year in which the renewal levy is first imposed. Notwithstanding the original purpose of any one or more existing levies that are to be in any single renewal levy, the purpose of the renewal levy may be either to avoid an operating deficit or to provide for the emergency requirements of the school district. The resolution shall further specify the amount of money it is necessary to raise for the specified purpose for each calendar year the millage is to be imposed; if a renewal levy, whether the levy is to renew all, or a portion of, the proceeds derived from one or more existing levies; and the number of years in which the millage is to be in

effect, which may include a levy upon the current year's tax list. The number of years may be any number not exceeding ten.

The question shall be submitted at a special election on a date specified in the resolution. The date shall not be earlier than eighty days after the adoption and certification of the resolution to the county auditor and shall be consistent with the requirements of section 3501.01 of the Revised Code. A resolution for a renewal levy shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under division (D) of section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year, except that if the resolution proposes renewing two or more existing levies, the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on that list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the county auditor of the proper county. Section 5705.195 of the Revised Code shall govern the arrangements for the submission of questions to the electors under this section and other matters concerning the election. Publication of notice of the election shall be made in one ~~or more newspapers~~ 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, ~~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. If a majority of the electors voting on the question submitted in an election vote in favor of the levy, the board of education of the school district may make the additional levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

After the approval of the levy and prior to the time when the first tax

collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have principal payment in the year of their issuance.

Sec. 5705.196. The election provided for in section 5705.194 of the Revised Code shall be held at the regular places for voting in the district, and 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 ~~one or more newspapers~~ newspaper of general circulation in the 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. Such notice shall state the annual proceeds of the proposed levy, the purpose for which such proceeds are to be used, the number of years during which the levy shall run, and the estimated average additional tax rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, as certified by the county auditor.

Sec. 5705.21. (A) At any time, the board of education of any city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes which may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the school district, that it is necessary to levy a tax in excess of such limitation for one of the purposes specified in division (A), (D), (F), (H), or (DD) of section 5705.19 of the Revised Code, for general permanent improvements, for the purpose of operating a cultural center, or for the purpose of providing education technology, and that the question of such additional tax levy shall be submitted to the electors of the school district at a special election on a day

to be specified in the resolution. If the resolution states that the levy is for the purpose of operating a cultural center, the ballot shall state that the levy is "for the purpose of operating the (name of cultural center)."

As used in this section, "cultural center" means a freestanding building, separate from a public school building, that is open to the public for educational, musical, artistic, and cultural purposes; "education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software; and "general permanent improvements" means permanent improvements without regard to the limitation of division (F) of section 5705.19 of the Revised Code that the improvements be a specific improvement or a class of improvements that may be included in a single bond issue.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(B) Such resolution shall be confined to a single purpose and shall specify the amount of the increase in rate that it is necessary to levy, the purpose of the levy, and the number of years during which the increase in rate shall be in effect. The number of years may be any number not exceeding five or, if the levy is for current expenses of the district or for general permanent improvements, for a continuing period of time. The resolution shall specify the date of holding such election, which shall not be earlier than ninety days after the adoption and certification of the resolution and which shall be consistent with the requirements of section 3501.01 of the Revised Code.

The resolution may propose to renew one or more existing levies imposed under this section or to increase or decrease a single levy imposed under this section. If the board of education imposes one or more existing levies for the purpose specified in division (F) of section 5705.19 of the Revised Code, the resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements. If the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which those levies originally were authorized to be levied.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for

in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code, and that section shall govern the arrangements for the submission of such question and other matters concerning such election, to which that section refers, except that such election shall be held on the date specified in the resolution. Publication of notice of that election shall be made 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, ~~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. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(C)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years, or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction

of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

Sec. 5705.211. (A) As used in this section:

(1) "Adjusted charge-off increase" for a tax year means two and two-tenths per cent of the cumulative carryover property value increase. ~~If the cumulative carryover property value increase is computed on the basis of a school district's recognized valuation for a fiscal year before fiscal year 2014, the adjusted charge-off increase shall be adjusted to account for the greater charge-off rates prescribed for such fiscal years under sections 3317.022 and 3306.13 of the Revised Code.~~

(2) "Cumulative carryover property value increase" means the sum of the increases in carryover value certified under division (B)(2) of section 3317.015 of the Revised Code and included in a school district's total taxable value in the computation of recognized valuation under division (B) of that section for all fiscal years from the fiscal year that ends in the first tax year a levy under this section is extended on the tax list of real and public utility property until and including the fiscal year that ends in the current tax year.

(3) "Taxes charged and payable" means the taxes charged and payable from a tax levy extended on the real and public utility property tax list and the general list of personal property before any reduction under section 319.302, 323.152, or 323.158 of the Revised Code.

(B) The board of education of a city, local, or exempted village school district may adopt a resolution proposing the levy of a tax in excess of the ten-mill limitation for the purpose of paying the current operating expenses of the district. If the resolution is approved as provided in division (D) of this section, the tax may be levied at such a rate each tax year that the total taxes charged and payable from the levy equals the adjusted charge-off increase for the tax year or equals a lesser amount as prescribed under division (C) of this section. The tax may be levied for a continuing period of time or for a specific number of years, but not fewer than five years, as provided in the resolution. The tax may not be placed on the tax list for a tax year beginning before the first day of January following adoption of the resolution. A board of education may not adopt a resolution under this

section proposing to levy a tax under this section concurrently with any other tax levied by the board under this section.

(C) After the first year a tax is levied under this section, the rate of the tax in any year shall not exceed the rate, estimated by the county auditor, that would cause the sums levied from the tax against carryover property to exceed one hundred four per cent of the sums levied from the tax against carryover property in the preceding year. A board of education imposing a tax under this section may specify in the resolution imposing the tax that the percentage shall be less than one hundred four per cent, but the percentage shall not be less than one hundred per cent. At any time after a resolution adopted under this section is approved by a majority of electors as provided in division (D) of this section, the board of education, by resolution, may decrease the percentage specified in the resolution levying the tax.

(D) A resolution adopted under this section shall state that the purpose of the tax is to pay current operating expenses of the district, and shall specify the first year in which the tax is to be levied, the number of years the tax will be levied or that it will be levied for a continuing period of time, and the election at which the question of the tax is to appear on the ballot, which shall be a general or special election consistent with the requirements of section 3501.01 of the Revised Code. If the board of education specifies a percentage less than one hundred four per cent pursuant to division (C) of this section, the percentage shall be specified in the resolution.

Upon adoption of the resolution, the board of education may certify a copy of the resolution to the proper county board of elections. The copy of the resolution shall be certified to the board of elections not later than ninety days before the day of the election at which the question of the tax is to appear on the ballot. Upon receiving a timely certified copy of such a resolution, the board of elections shall make the necessary arrangements for the submission of the question to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of members of the board of education. Notice of the election shall be published in ~~one or more newspapers~~ a newspaper of general circulation in the school district once per week for four consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall state that the purpose of the tax is for the current operating expenses of the school district, the first year the tax is to be levied, the number of years the tax is to be levied or that it is to be levied for a continuing period of time, that the tax is to be levied each year in an amount estimated to offset decreases in state base cost funding caused by appreciation in real estate values, and that the estimated additional tax in any

year shall not exceed the previous year's by more than four per cent, or a lesser percentage specified in the resolution levying the tax, except for increases caused by the addition of new taxable property.

The question shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election other than the election of officers.

The form of the ballot shall be substantially as follows:

"An additional tax for the benefit of (name of school district) for the purpose of paying the current operating expenses of the district, for (number of years or for continuing period of time), at a rate sufficient to offset any reduction in basic state funding caused by appreciation in real estate values? This levy will permit variable annual growth in revenue up to (amount specified by school district) per cent for the duration of the levy.

	For the tax levy
	Against the tax levy

If a majority of the electors of the school district voting on the question vote in favor of the question, the board of elections shall certify the results of the election to the board of education and to the tax commissioner immediately after the canvass.

(E) When preparing any estimate of the contemplated receipts from a tax levied pursuant to this section for the purposes of sections 5705.28 to 5705.40 of the Revised Code, and in preparing to certify the tax under section 5705.34 of the Revised Code, a board of education authorized to levy such a tax shall use information supplied by the department of education to determine the adjusted charge-off increase for the tax year for which that certification is made. If the board levied a tax under this section in the preceding tax year, the sum to be certified for collection from the tax shall not exceed the sum that would exceed the limitation imposed under division (C) of this section. At the request of the board of education or the treasurer of the school district, the county auditor shall assist the board of education in determining the rate or sum that may be levied under this section.

The board of education shall certify the sum authorized to be levied to the county auditor, and, for the purpose of the county auditor determining the rate at which the tax is to be levied in the tax year, the sum so certified shall be the sum to be raised by the tax unless the sum exceeds the limitation imposed by division (C) of this section. A tax levied pursuant to this section

shall not be levied at a rate in excess of the rate estimated by the county auditor to produce the sum certified by the board of education before the reductions under sections 319.302, 323.152, and 323.158 of the Revised Code. Notwithstanding section 5705.34 of the Revised Code, a board of education authorized to levy a tax under this section shall certify the tax to the county auditor before the first day of October of the tax year in which the tax is to be levied, or at a later date as approved by the tax commissioner.

Sec. 5705.214. Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.217, 5705.218, ~~and~~ 5705.219, and 5748.09 of the Revised Code.

Sec. 5705.218. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to issue general obligation bonds for permanent improvements. The resolution shall state all of the following:

- (1) The necessity and purpose of the bond issue;
- (2) The date of the special election at which the question shall be submitted to the electors;
- (3) The amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;
- (4) The necessity of levying a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities.

On adoption of the resolution, the board shall certify a copy of it to the county auditor. The county auditor promptly shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) After receiving the county auditor's certification under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities; that it is necessary for

a specified number of years or for a continuing period of time to levy additional taxes in excess of the ten-mill limitation to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements or to pay for current operating expenses, or both; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds;

(2) The proposed rate of the tax, if any, for current operating expenses, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time;

(3) The proposed rate of the tax, if any, for permanent improvements, the first year the tax will be levied, and the number of years it will be levied, or that it will be levied for a continuing period of time.

The resolution shall apportion the annual rate of the tax between current operating expenses and permanent improvements, if both taxes are proposed. The apportionment may but need not be the same for each year of the tax, but the respective portions of the rate actually levied each year for current operating expenses and permanent improvements shall be limited by the apportionment. The resolution shall go into immediate effect upon its passage, and no publication of it is necessary other than that provided in the notice of election. The board of education shall certify a copy of the resolution, along with copies of the auditor's estimate and its resolution under division (A) of this section, to the board of elections immediately after its adoption.

(C) The board of elections shall make the arrangements for the submission of the question to the electors of the school district, 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. The resolution shall be put before the electors as one ballot question, with a favorable vote indicating approval of the bond issue, the levy to pay debt charges on the bonds and any anticipatory securities, the current operating expenses levy, and the permanent improvements levy, if either or both levies are proposed. The board of elections shall publish notice of the election in ~~one or more newspapers~~ 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 a board of elections operates and maintains a web site, that board also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

- (1) The principal amount of the proposed bond issue;
 - (2) The permanent improvements for which the bonds are to be issued;
 - (3) The maximum number of years over which the principal of the bonds may be paid;
 - (4) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;
 - (5) The proposed rate of the additional tax, if any, for current operating expenses;
 - (6) The number of years the current operating expenses tax will be in effect, or that it will be in effect for a continuing period of time;
 - (7) The proposed rate of the additional tax, if any, for permanent improvements;
 - (8) The number of years the permanent improvements tax will be in effect, or that it will be in effect for a continuing period of time;
 - (9) The time and place of the special election.
- (D) The form of the ballot for an election under this section is as follows:

"Shall the school district be authorized to do the following:

(1) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation, estimated by the county auditor to average over the bond repayment period mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?"

If either a levy for permanent improvements or a levy for current operating expenses is proposed, or both are proposed, the ballot also shall contain the following language, as appropriate:

"(2) Levy an additional property tax to provide funds for the acquisition, construction, enlargement, renovation, and financing of permanent improvements at a rate not exceeding mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents) for each \$100 of tax valuation, for (number of years of the levy, or a continuing period of time)?

(3) Levy an additional property tax to pay current operating expenses at

a rate not exceeding mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents) for each \$100 of tax valuation, for (number of years of the levy, or a continuing period of time)?

	FOR THE BOND ISSUE AND LEVY (OR LEVIES)	"
	AGAINST THE BOND ISSUE AND LEVY (OR LEVIES)	

(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote for it, the board of education may proceed with issuance of the bonds and with the levy and collection of the property tax or taxes at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

(F)(1) After the approval of a tax for current operating expenses under this section and prior to the time the first collection and distribution from the levy can be made, the board of education may anticipate a fraction of the proceeds of such levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected during the first year of the levy.

(2) After the approval of a tax under this section for permanent improvements having a specific purpose, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax remaining to be collected in each year over a period of five years after issuance of the notes.

(3) After the approval of a tax for general, on-going permanent improvements under this section, the board of education may anticipate a fraction of the proceeds of such tax and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected in each year over a specified period of years, not exceeding ten, after issuance of the notes.

Anticipation notes under this section shall be issued as provided in section 133.24 of the Revised Code. Notes issued under division (F)(1) or (2) of this section shall have principal payments during each year after the

year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance. Notes issued under division (F)(3) of this section shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(G) A tax for current operating expenses or for permanent improvements levied under this section for a specified number of years may be renewed or replaced in the same manner as a tax for current operating expenses or for permanent improvements levied under section 5705.21 of the Revised Code. A tax for current operating expenses or for permanent improvements levied under this section for a continuing period of time may be decreased in accordance with section 5705.261 of the Revised Code.

(H) The submission of a question to the electors under this section is subject to the limitation on the number of elections that can be held in a year under section 5705.214 of the Revised Code.

(I) A school district board of education proposing a ballot measure under this section to generate local resources for a project under the school building assistance expedited local partnership program under section 3318.36 of the Revised Code may combine the questions under division (D) of this section with a question for the levy of a property tax to generate moneys for maintenance of the classroom facilities acquired under that project as prescribed in section 3318.361 of the Revised Code.

Sec. 5705.25. (A) A copy of any resolution adopted as provided in section 5705.19 or 5705.2111 of the Revised Code shall be certified by the taxing authority to the board of elections of the proper county not less than ninety days before the general election in any year, and the board shall submit the proposal to the electors of the subdivision at the succeeding November election. Except as otherwise provided in this division, a resolution to renew an existing levy, regardless of the section of the Revised Code under which the tax was imposed, shall not be placed on the ballot unless the question is submitted at the general election held during the last year the tax to be renewed or replaced may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year. The limitation of the foregoing sentence does not apply to a resolution to renew and increase or to renew part of an existing levy that was imposed under section 5705.191 of the Revised Code to supplement the general fund for the purpose of making appropriations for one or more of the following purposes: for public assistance, human or social services, relief, welfare, hospitalization, health, and support of general hospitals. The limitation of the second preceding sentence also does not apply to a

resolution that proposes to renew two or more existing levies imposed under section 5705.21 of the Revised Code, in which case the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on that tax list and duplicate.

The board shall make the necessary arrangements for the submission of such questions to the electors of such subdivision, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision 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 purpose, the proposed increase in rate expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, the number of years during which the increase will be in effect, the first month and year in which the tax will be levied, and the time and place of the election.

(B) The form of the ballots cast at an election held pursuant to division (A) of this section shall be as follows:

"An additional tax for the benefit of (name of subdivision or public library) for the purpose of (purpose stated in the resolution) at a rate not exceeding mills for each one dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (life of indebtedness or number of years the levy is to run).

	For the Tax Levy
	Against the Tax Levy

"

(C) If the levy is to be in effect for a continuing period of time, the notice of election and the form of ballot shall so state instead of setting forth a specified number of years for the levy.

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to run, the phrase ", commencing in (first year the tax is to be

levied), first due in calendar year (first calendar year in which the tax shall be due)."

If the levy submitted is a proposal to renew, increase, or decrease an existing levy, the form of the ballot specified in division (B) of this section may be changed by substituting for the words "An additional" at the beginning of the form, the words "A renewal of a" in case of a proposal to renew an existing levy in the same amount; the words "A renewal of mills and an increase of mills to constitute a" in the case of an increase; or the words "A renewal of part of an existing levy, being a reduction of mills, to constitute a" in the case of a decrease in the proposed levy.

If the levy submitted is a proposal to renew two or more existing levies imposed under section 5705.21 of the Revised Code, the form of the ballot specified in division (B) of this section shall be modified by substituting for the words "an additional tax" the words "a renewal of ...(insert the number of levies to be renewed) existing taxes."

The question covered by such resolution shall be submitted as a separate proposition but may be printed on the same ballot with any other proposition submitted at the same election, other than the election of officers. More than one such question may be submitted at the same election.

(D) A levy voted in excess of the ten-mill limitation under this section shall be certified to the tax commissioner. In the first year of the levy, it shall be extended on the tax lists after the February settlement succeeding the election. If the additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the taxing authority, who shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax lists for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.251. (A) A copy of a resolution adopted under section 5705.212 or 5705.213 of the Revised Code shall be certified by the board of education to the board of elections of the proper county not less than ninety days before the date of the election specified in the resolution, and the board of elections shall submit the proposal to the electors of the school district at a special election to be held on that date. The board of elections shall make the necessary arrangements for the submission of the question or questions to the electors of the school district, and the election shall be conducted, canvassed, and certified in the same manner as regular elections in the school district for the election of county officers. Notice of the election shall be published in a newspaper of general circulation in the subdivision 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.

(1) In the case of a resolution adopted under section 5705.212 of the Revised Code, the notice shall state separately, for each tax being proposed, the purpose; the proposed increase in rate, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation; the number of years during which the increase will be in effect; and the first calendar year in which the tax will be due. For an election on the question of a renewal levy, the notice shall state the purpose; the proposed rate, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation; and the number of years the tax will be in effect.

(2) In the case of a resolution adopted under section 5705.213 of the Revised Code, the notice shall state the purpose; the amount proposed to be raised by the tax in the first year it is levied; the estimated average additional tax rate for the first year it is proposed to be levied, expressed in mills for each one dollar of valuation and in dollars and cents for each one hundred dollars of valuation; the number of years during which the increase will be in effect; and the first calendar year in which the tax will be due. The notice also shall state the amount by which the amount to be raised by the tax may be increased in each year after the first year. The amount of the allowable increase may be expressed in terms of a dollar increase over, or a percentage of, the amount raised by the tax in the immediately preceding year. For an election on the question of a renewal levy, the notice shall state the purpose; the amount proposed to be raised by the tax; the estimated tax rate, expressed in mills for each one dollar of valuation and in dollars and cents for each one hundred dollars of valuation; and the number of years the tax will be in effect.

In any case, the notice also shall state the time and place of the election.

(B) The form of the ballot in an election on taxes proposed under section 5705.212 of the Revised Code shall be as follows:

"Shall the school district be authorized to levy taxes for current expenses, the aggregate rate of which may increase in (number) increment(s) of not more than mill(s) for each dollar of valuation, from an original rate of mill(s) for each dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, to a maximum rate of mill(s) for each dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one

hundred dollars of valuation? The original tax is first proposed to be levied in (the first year of the tax), and the incremental tax in (the first year of the increment) (if more than one incremental tax is proposed in the resolution, the first year that each incremental tax is proposed to be levied shall be stated in the preceding format, and the increments shall be referred to as the first, second, third, or fourth increment, depending on their number). The aggregate rate of tax so authorized will (insert either, "expire with the original rate of tax which shall be in effect for years" or "be in effect for a continuing period of time").

	FOR THE TAX LEVIES	"
	AGAINST THE TAX LEVIES	

The form of the ballot in an election on the question of a renewal levy under section 5705.212 of the Revised Code shall be as follows:

"Shall the school district be authorized to renew a tax for current expenses at a rate not exceeding mills for each dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation, for (number of years the levy shall be in effect, or a continuing period of time)?

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to be in effect, the phrase ", commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

(C) The form of the ballot in an election on a tax proposed under section 5705.213 of the Revised Code shall be as follows:

"Shall the school district be authorized to levy the following tax for current expenses? The tax will first be levied in (year) to raise (dollars). In the (number of years) following years, the tax will increase by not more than (per cent or dollar amount of increase) each year, so that, during (last year of the tax), the tax will raise approximately (dollars). The county auditor estimates that the rate of the tax per dollar of valuation will be mill(s), which amounts to \$..... per one hundred dollars of valuation, both during (first year of the tax) and mill(s), which

amounts to \$..... per one hundred dollars of valuation, during (last year of the tax). The tax will not be levied after (year).

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

The form of the ballot in an election on the question of a renewal levy under section 5705.213 of the Revised Code shall be as follows:

"Shall the school district be authorized to renew a tax for current expenses which will raise (dollars), estimated by the county auditor to be mills for each dollar of valuation, which amounts to (rate expressed in dollars and cents) for each one hundred dollars of valuation? The tax shall be in effect for (the number of years the levy shall be in effect, or a continuing period of time).

	FOR THE TAX LEVY	"
	AGAINST THE TAX LEVY	

If the tax is to be placed on the current tax list, the form of the ballot shall be modified by adding, after the statement of the number of years the levy is to be in effect, the phrase ", commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)."

(D) The question covered by a resolution adopted under section 5705.212 or 5705.213 of the Revised Code shall be submitted as a separate question, but may be printed on the same ballot with any other question submitted at the same election, other than the election of officers. More than one question may be submitted at the same election.

(E) Taxes voted in excess of the ten-mill limitation under division (B) or (C) of this section shall be certified to the tax commissioner. If an additional tax is to be placed upon the tax list of the current year, as specified in the resolution providing for its submission, the result of the election shall be certified immediately after the canvass by the board of elections to the board of education. The board of education immediately shall make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5705.261. The question of decrease of an increased rate of levy

approved for a continuing period of time by the voters of a subdivision may be initiated by the filing of a petition with the board of elections of the proper county not less than ninety days before the general election in any year requesting that an election be held on such question. Such petition shall state the amount of the proposed decrease in the rate of levy and shall be signed by qualified electors residing in the subdivision equal in number to at least ten per cent of the total number of votes cast in the subdivision for the office of governor at the most recent general election for that office. Only one such petition may be filed during each five-year period following the election at which the voters approved the increased rate for a continuing period of time.

After determination by it that such petition is valid, the board of elections shall submit the question to the electors of the district at the succeeding general election. The election shall be conducted, canvassed, and certified in the same manner as regular elections in such subdivision for county offices. Notice of the election shall be published in a newspaper of general circulation in the 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 purpose, the amount of the proposed decrease in rate, and the 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 propositions submitted at the same election other than the election of officers. If a majority of the qualified electors voting on the question of a decrease at such election approve the proposed decrease in rate, the result of the election shall be certified immediately after the canvass by the board of elections to the subdivision's taxing authority, which shall thereupon, after the current year, cease to levy such increased rate or levy such tax at such reduced rate upon the duplicate of the subdivision. If notes have been issued in anticipation of the collection of such levy, the taxing authority shall continue to levy and collect under authority of the election authorizing the original levy such amounts as will be sufficient to pay the principal of and interest on such anticipation notes as the same fall due.

Sec. 5705.29. This section does not apply to a subdivision or taxing unit for which the county budget commission has waived the requirement to adopt a tax budget pursuant to section 5705.281 of the Revised Code. The tax budget shall present the following information in such detail as is

prescribed by the auditor of state:

(A)(1) A statement of the necessary current operating expenses for the ensuing fiscal year for each department and division of the subdivision, classified as to personal services and other expenses, and the fund from which such expenditures are to be made. Except in the case of a school district, this estimate may include a contingent expense not designated for any particular purpose, and not to exceed three per cent of the total amount of appropriations for current expenses. In the case of a school district, this estimate may include a contingent expense not designated for any particular purpose and not to exceed thirteen per cent of the total amount of appropriations for current expenses.

(2) A statement of the expenditures for the ensuing fiscal year necessary for permanent improvements, exclusive of any expense to be paid from bond issues, classified as to the improvements contemplated by the subdivision and the fund from which such expenditures are to be made;

(3) The amounts required for the payment of final judgments;

(4) A statement of expenditures for the ensuing fiscal year necessary for any purpose for which a special levy is authorized, and the fund from which such expenditures are to be made;

(5) Comparative statements, so far as possible, in parallel columns of corresponding items of expenditures for the current fiscal year and the two preceding fiscal years.

(B)(1) An estimate of receipts from other sources than the general property tax during the ensuing fiscal year, which shall include an estimate of unencumbered balances at the end of the current fiscal year, and the funds to which such estimated receipts are credited;

(2) The amount each fund requires from the general property tax, which shall be the difference between the contemplated expenditure from the fund and the estimated receipts, as provided in this section. The section of the Revised Code under which the tax is authorized shall be set forth.

(3) Comparative statements, so far as possible, in parallel columns of taxes and other revenues for the current fiscal year and the two preceding fiscal years.

(C)(1) The amount required for debt charges;

(2) The estimated receipts from sources other than the tax levy for payment of such debt charges, including the proceeds of refunding bonds to be issued to refund bonds maturing in the next succeeding fiscal year;

(3) The net amount for which a tax levy shall be made, classified as to bonds authorized and issued prior to January 1, 1922, and those authorized and issued subsequent to such date, and as to what portion of the levy will

be within and what in excess of the ten-mill limitation.

(D) An estimate of amounts from taxes authorized to be levied in excess of the ten-mill limitation on the tax rate, and the fund to which such amounts will be credited, together with the sections of the Revised Code under which each such tax is exempted from all limitations on the tax rate.

(E)(1) A board of education may include in its budget for the fiscal year in which a levy proposed under section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy proposed under section 5748.09, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty-five per cent of the total amount of the levy estimated to be available for appropriation in such year.

(2) A board of education may include in its budget for the fiscal year following the year in which a levy proposed under section 5705.194, 5705.199, 5705.21, 5705.213, or 5705.219, a property tax levy proposed under section 5748.09, or the original levy under section 5705.212 of the Revised Code is first extended on the tax list and duplicate an estimate of expenditures to be known as a voluntary contingency reserve balance, which shall not be greater than twenty per cent of the amount of the levy estimated to be available for appropriation in such year.

(3) Except as provided in division (E)(4) of this section, the full amount of any reserve balance the board includes in its budget shall be retained by the county auditor and county treasurer out of the first semiannual settlement of taxes until the beginning of the next succeeding fiscal year, and thereupon, with the depository interest apportioned thereto, it shall be turned over to the board of education, to be used for the purposes of such fiscal year.

(4) A board of education, by a two-thirds vote of all members of the board, may appropriate any amount withheld as a voluntary contingency reserve balance during the fiscal year for any lawful purpose, provided that prior to such appropriation the board of education has authorized the expenditure of all amounts appropriated for contingencies under section 5705.40 of the Revised Code. Upon request by the board of education, the county auditor shall draw a warrant on the district's account in the county treasury payable to the district in the amount requested.

(F)(1) A board of education may include a spending reserve in its budget for fiscal years ending on or before June 30, 2002. The spending reserve shall consist of an estimate of expenditures not to exceed the district's spending reserve balance. A district's spending reserve balance is

the amount by which the designated percentage of the district's estimated personal property taxes to be settled during the calendar year in which the fiscal year ends exceeds the estimated amount of personal property taxes to be so settled and received by the district during that fiscal year. Moneys from a spending reserve shall be appropriated in accordance with section 133.301 of the Revised Code.

(2) For the purposes of computing a school district's spending reserve balance for a fiscal year, the designated percentage shall be as follows:

Fiscal year ending in:	Designated percentage
1998	50%
1999	40%
2000	30%
2001	20%
2002	10%

(G) Except as otherwise provided in this division, the county budget commission shall not reduce the taxing authority of a subdivision as a result of the creation of a reserve balance account. Except as otherwise provided in this division, the county budget commission shall not consider the amount in a reserve balance account of a township, county, or municipal corporation as an unencumbered balance or as revenue for the purposes of division (E)(3) or (4) of section 5747.51 of the Revised Code. The county budget commission may require documentation of the reasonableness of the reserve balance held in any reserve balance account. The commission shall consider any amount in a reserve balance account that it determines to be unreasonable as unencumbered and as revenue for the purposes of section 5747.51 of the Revised Code and may take such amounts into consideration when determining whether to reduce the taxing authority of a subdivision.

Sec. 5705.314. If the board of education of a city, local, or exempted village school district proposes to change its levy within the ten-mill limitation in a manner that will result in an increase in the amount of real property taxes levied by the board in the tax year the change takes effect, the board shall hold a public hearing solely on the proposal before adopting a resolution to implement the proposal. The board shall publish notice of the hearing 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. The second publication shall be not less than ten nor more than thirty days before the date of the hearing. ~~The, and the~~ notice shall include the date, time, place, and subject of the hearing, and a statement that the change proposed by the board may result in an increase in the amount of real property taxes levied by the board. At the time the board submits the

notice for publication, the board shall send a copy of the notice to the auditor of the county where the school district is located or, if the school district is located in more than one county, to the auditor of each of those counties.

Sec. 5705.392. (A) A board of county commissioners may adopt as a part of its annual appropriation measure a spending plan, or in the case of an amended appropriation measure, an amended spending plan, setting forth a quarterly schedule of expenses and expenditures of all appropriations for the fiscal year from the county general fund. The spending plan shall be classified to set forth separately a quarterly schedule of expenses and expenditures for each office, department, and division, and within each, the amount appropriated for personal services. Each office, department, and division shall be limited in its expenses and expenditures of moneys appropriated from the general fund during any quarter by the schedule established in the spending plan. The schedule established in the spending plan shall serve as a limitation during a quarter on the making of contracts and giving of orders involving the expenditure of money during that quarter for purposes of division (D) of section 5705.41 of the Revised Code.

(B)(1) A board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for the second half of a fiscal year and any subsequent fiscal year, for any county office, department, or division that has spent or encumbered more than six-tenths of the amount appropriated for personal services and payrolls during the first half of any fiscal year.

(2) During any fiscal year, a board of county commissioners, by resolution, may adopt a spending plan or an amended spending plan setting forth separately a quarterly schedule of expenses and expenditures of appropriations from any county fund, for any county office, department, or division that, during the previous fiscal year, spent one hundred ten per cent or more of the total amount appropriated for personal services and payrolls by the board in its annual appropriation measure required by section 5705.38 of the Revised Code. The spending plan or amended spending plan shall remain in effect two fiscal years, or until the county officer of the office for which the plan was adopted is no longer in office, including terms of office to which the county officer is re-elected, whichever is later.

(3) At least thirty days before adopting a resolution under division (B)(1) or (2) of this section, the board of county commissioners shall provide written notice to each county office, department, or division for which it intends to adopt a spending plan or an amended spending plan. The

notice shall be sent by regular first class mail or provided by personal service, and shall include a copy of the proposed spending plan or proposed amended spending plan. The county office, department, or division may meet with the board at any regular session of the board to comment on the notice, or to express concerns or ask questions about the proposed spending plan or proposed amended spending plan.

Sec. 5705.412. (A) As used in this section, "qualifying contract" means any agreement for the expenditure of money under which aggregate payments from the funds included in the school district's five-year forecast under section 5705.391 of the Revised Code will exceed the lesser of the following amounts:

(1) Five hundred thousand dollars;

(2) One per cent of the total revenue to be credited in the current fiscal year to the district's general fund, as specified in the district's most recent certificate of estimated resources certified under section 5705.36 of the Revised Code.

(B)(1) Notwithstanding section 5705.41 of the Revised Code, no school district shall adopt any appropriation measure, make any qualifying contract, or increase during any school year any wage or salary schedule unless there is attached thereto a certificate, signed as required by this section, that the school district has in effect the authorization to levy taxes including the renewal or replacement of existing levies which, when combined with the estimated revenue from all other sources available to the district at the time of certification, are sufficient to provide the operating revenues necessary to enable the district to maintain all personnel and programs for all the days set forth in its adopted school calendars for the current fiscal year and for a number of days in succeeding fiscal years equal to the number of days instruction was held or is scheduled for the current fiscal year, as follows:

(1)(a) A certificate attached to an appropriation measure under this section shall cover only the fiscal year in which the appropriation measure is effective and shall not consider the renewal or replacement of an existing levy as the authority to levy taxes that are subject to appropriation in the current fiscal year unless the renewal or replacement levy has been approved by the electors and is subject to appropriation in the current fiscal year.

(2)(b) A certificate attached, in accordance with this section, to any qualifying contract shall cover the term of the contract.

(3)(c) A certificate attached under this section to a wage or salary schedule shall cover the term of the schedule.

If the board of education has not adopted a school calendar for the school year beginning on the first day of the fiscal year in which a certificate

is required, the certificate attached to an appropriation measure shall include the number of days on which instruction was held in the preceding fiscal year and other certificates required under this section shall include that number of days for the fiscal year in which the certificate is required and any succeeding fiscal years that the certificate must cover.

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose.

(2) In lieu of the certificate required under division (B) of this section, an alternative certificate stating the following may be attached:

(a) The contract is a multi-year contract for materials, equipment, or nonpayroll services essential to the education program of the district;

(b) The multi-year contract demonstrates savings over the duration of the contract as compared to costs that otherwise would have been demonstrated in a single year contract, and the terms will allow the district to reduce the deficit it is currently facing in future years as demonstrated in its five-year forecast adopted in accordance with section 5705.391 of the Revised Code.

The certificate shall be signed by the treasurer and president of the board of education and the superintendent of the school district, unless the district is in a state of fiscal emergency declared under Chapter 3316. of the Revised Code. In that case, the certificate shall be signed by a member of the district's financial planning and supervision commission who is designated by the commission for this purpose.

(C) Every qualifying contract made or wage or salary schedule adopted or put into effect without such a certificate shall be void, and no payment of any amount due thereon shall be made.

(D) The department of education and the auditor of state jointly shall adopt rules governing the methods by which treasurers, presidents of boards of education, superintendents, and members of financial planning and supervision commissions shall estimate revenue and determine whether such revenue is sufficient to provide necessary operating revenue for the purpose of making certifications required by this section.

(E) The auditor of state shall be responsible for determining whether school districts are in compliance with this section. At the time a school district is audited pursuant to section 117.11 of the Revised Code, the auditor of state shall review each certificate issued under this section since

the district's last audit, and the appropriation measure, contract, or wage and salary schedule to which such certificate was attached. If the auditor of state determines that a school district has not complied with this section with respect to any qualifying contract or wage or salary schedule, the auditor of state shall notify the prosecuting attorney for the county, the city director of law, or other chief law officer of the school district. That officer may file a civil action in any court of appropriate jurisdiction to seek a declaration that the contract or wage or salary schedule is void, to recover for the school district from the payee the amount of payments already made under it, or both, except that the officer shall not seek to recover payments made under any collective bargaining agreement entered into under Chapter 4117. of the Revised Code. If the officer does not file such an action within one hundred twenty days after receiving notice of noncompliance from the auditor of state, any taxpayer may institute the action in the taxpayer's own name on behalf of the school district.

(F) This section does not apply to any contract or increase in any wage or salary schedule that is necessary in order to enable a board of education to comply with division (B) of section 3317.13 of the Revised Code, provided the contract or increase does not exceed the amount required to be paid to be in compliance with such division.

(G) Any officer, employee, or other person who expends or authorizes the expenditure of any public funds or authorizes or executes any contract or schedule contrary to this section, expends or authorizes the expenditure of any public funds on the void contract or schedule, or issues a certificate under this section which contains any false statements is liable to the school district for the full amount paid from the district's funds on the contract or schedule. The officer, employee, or other person is jointly and severally liable in person and upon any official bond that the officer, employee, or other person has given to the school district to the extent of any payments on the void claim, not to exceed ten thousand dollars. However, no officer, employee, or other person shall be liable for a mistaken estimate of available resources made in good faith and based upon reasonable grounds. If an officer, employee, or other person is found to have complied with rules jointly adopted by the department of education and the auditor of state under this section governing methods by which revenue shall be estimated and determined sufficient to provide necessary operating revenue for the purpose of making certifications required by this section, the officer, employee, or other person shall not be liable under this section if the estimates and determinations made according to those rules do not, in fact, conform with actual revenue. The prosecuting attorney of the county, the city director of

law, or other chief law officer of the district shall enforce this liability by civil action brought in any court of appropriate jurisdiction in the name of and on behalf of the school district. If the prosecuting attorney, city director of law, or other chief law officer of the district fails, upon the written request of any taxpayer, to institute action for the enforcement of the liability, the attorney general, or the taxpayer in the taxpayer's own name, may institute the action on behalf of the subdivision.

(H) This section does not require the attachment of an additional certificate beyond that required by section 5705.41 of the Revised Code for current payrolls of, or contracts of employment with, any employees or officers of the school district.

This section does not require the attachment of a certificate to a temporary appropriation measure if all of the following apply:

(1) The amount appropriated does not exceed twenty-five per cent of the total amount from all sources available for expenditure from any fund during the preceding fiscal year;

(2) The measure will not be in effect on or after the thirtieth day following the earliest date on which the district may pass an annual appropriation measure;

(3) An amended official certificate of estimated resources for the current year, if required, has not been certified to the board of education under division (B) of section 5705.36 of the Revised Code.

Sec. 5705.71. (A) The electors of a county may initiate the question of a tax levy for support of senior citizens services or facilities by the filing of a petition with the board of elections of that county not less than ninety days before the date of any primary or general election requesting that an election be held on such question. The petition shall be signed by at least ten per cent of the qualified electors residing in the county and voting for the office of governor at the last general election.

(B) The petition shall state the purpose for which the senior citizens tax levy is being proposed, shall specify the amount of the proposed increase in rate, the period of time during which the increase is to be in effect, and whether the levy is to be imposed in the current year. The number of years may be any number not exceeding five, except that when the additional rate is for the payment of debt charges the increased rate shall be for the life of the indebtedness.

(C) 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 succeeding primary or general election.

(D) The election shall be conducted, canvassed, and certified in the

same manner as regular elections in such county for county offices. Notice of the election shall be published in 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, ~~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 purpose, the amount of the proposed increase in rate, and the time and place of the election.

(E) The form of the ballot cast at such election shall be prescribed by the secretary of state. If the tax is to be placed on the tax list of the current tax year, the form of the ballot shall include a statement to that effect and shall indicate the first calendar year the tax will be due. 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 propositions submitted at the same election other than the election of officers.

(F) If a majority of electors voting on the question vote in favor of the levy, the board of county commissioners shall levy a tax, for the period and the purpose stated within the petition. If the tax is to be placed upon the tax list of the current year, as specified in the petition, the result of the election shall be certified immediately after the canvass by the board of elections to the board of county commissioners, which shall forthwith make the necessary levy and certify it to the county auditor, who shall extend it on the tax list for collection. After the first year, the tax levy shall be included in the annual tax budget that is certified to the county budget commission.

Sec. 5707.031. As used in this section, "qualifying dealer in intangibles" ~~has the same meaning as "qualifying dealer" in section 5725.24 of the Revised Code~~ means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company also is a member on the first day of January of the year in and for which the tax imposed by section 5707.03 of the Revised Code is required to be paid by the dealer.

Upon the issuance of a tax credit certificate by the Ohio venture capital authority under section 150.07 of the Revised Code, a refundable credit may be claimed against the tax imposed on a qualifying dealer in intangibles under section 5707.03 and Chapter 5725. of the Revised Code. The credit shall be claimed on a return due under section 5725.14 of the Revised Code after the certificate is issued by the authority.

Sec. 5709.07. (A) The following property shall be exempt from taxation:

~~(1) Public schoolhouses, the books and furniture in them, and the ground attached to them necessary for the proper occupancy, use, and enjoyment of the schoolhouses, and not leased or otherwise used with a view to profit; Real property used by a school for primary or secondary educational purposes, including only so much of the land as is necessary for the proper occupancy, use, and enjoyment of such real property by the school for primary or secondary educational purposes. The exemption under division (A)(1) of this section does not apply to any portion of the real property not used for primary or secondary educational purposes.~~

For purposes of division (A)(1) of this section:

(a) "School" means a public or nonpublic school. "School" excludes home instruction as authorized under section 3321.04 of the Revised Code.

(b) "Public school" includes schools of a school district, STEM schools established under Chapter 3326. of the Revised Code, community schools established under Chapter 3314. of the Revised Code, and educational service centers established under section 3311.05 of the Revised Code.

(c) "Nonpublic school" means a nonpublic school for which the state board of education has issued a charter pursuant to section 3301.16 of the Revised Code and prescribes minimum standards under division (D)(2) of section 3301.07 of the Revised Code.

(2) Houses used exclusively for public worship, the books and furniture in them, and the ground attached to them that is not leased or otherwise used with a view to profit and that is necessary for their proper occupancy, use, and enjoyment;

(3) Real property owned and operated by a church that is used primarily for church retreats or church camping, and that is not used as a permanent residence. Real property exempted under division (A)(3) of this section may be made available by the church on a limited basis to charitable and educational institutions if the property is not leased or otherwise made available with a view to profit.

(4) Public colleges and academies and all buildings connected with them, and all lands connected with public institutions of learning, not used with a view to profit, including those buildings and lands that satisfy all of the following:

(a) The buildings are used for housing for full-time students or housing-related facilities for students, faculty, or employees of a state university, or for other purposes related to the state university's educational purpose, and the lands are underneath the buildings or are used for common space, walkways, and green spaces for the state university's students, faculty, or employees. As used in this division, "housing-related facilities"

includes both parking facilities related to the buildings and common buildings made available to students, faculty, or employees of a state university. The leasing of space in housing-related facilities shall not be considered an activity with a view to profit for purposes of division (A)(4) of this section.

(b) The buildings and lands are supervised or otherwise under the control, directly or indirectly, of an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended, and the state university has entered into a qualifying joint use agreement with the organization that entitles the students, faculty, or employees of the state university to use the lands or buildings;

(c) The state university has agreed, under the terms of the qualifying joint use agreement with the organization described in division (A)(4)(b) of this section, that the state university, to the extent applicable under the agreement, will make payments to the organization in amounts sufficient to maintain agreed-upon debt service coverage ratios on bonds related to the lands or buildings.

(B) This section shall not extend to leasehold estates or real property held under the authority of a college or university of learning in this state; but leaseholds, or other estates or property, real or personal, the rents, issues, profits, and income of which is given to a municipal corporation, school district, or subdistrict in this state exclusively for the use, endowment, or support of schools for the free education of youth without charge shall be exempt from taxation as long as such property, or the rents, issues, profits, or income of the property is used and exclusively applied for the support of free education by such municipal corporation, district, or subdistrict. Division (B) of this section shall not apply with respect to buildings and lands that satisfy all of the requirements specified in divisions (A)(4)(a) to (c) of this section.

(C) For purposes of this section, if the requirements specified in divisions (A)(4)(a) to (c) of this section are satisfied, the buildings and lands with respect to which exemption is claimed under division (A)(4) of this section shall be deemed to be used with reasonable certainty in furthering or carrying out the necessary objects and purposes of a state university.

(D) As used in this section:

(1) "Church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed for the private profit of any person.

(2) "State university" has the same meaning as in section 3345.011 of the Revised Code.

(3) "Qualifying joint use agreement" means an agreement that satisfies all of the following:

(a) The agreement was entered into before June 30, 2004;

(b) The agreement is between a state university and an organization that is exempt from federal income taxation under section 501(c)(3) of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended; and

(c) The state university that is a party to the agreement reported to the Ohio board of regents that the university maintained a headcount of at least twenty-five thousand students on its main campus during the academic school year that began in calendar year 2003 and ended in calendar year 2004.

Sec. 5709.084. Real and personal property comprising a convention center that is constructed or, in the case of personal property, acquired, after January 1, 2010, are exempt from taxation if the convention center is located in a county having a population, when construction of the convention center commences, of more than one million two hundred thousand according to the most recent federal decennial census, and if the convention center, or the land upon which the convention center is situated, is owned or leased by the county. For the purposes of this section, construction of the convention center commences upon the earlier of issuance of debt to finance all or a portion of the convention center, demolition of existing structures on the site, or grading of the site in preparation for construction.

Real and personal property comprising a convention center owned by the largest city in a county having a population greater than seven hundred thousand but less than nine hundred thousand according to the most recent federal decennial census is exempt from taxation, regardless of whether the property is leased to or otherwise operated or managed by a person other than the city.

As used in this section, "convention center" has the same meaning as in section 307.695 of the Revised Code.

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential

purposes.

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(7) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; environmental

remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities; and the enhancement of public waterways through improvements that allow for greater public access.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation for a period of not more than ten years. The ordinance shall specify the percentage of the improvement to be exempted from taxation and the life of the exemption.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance, for the purpose described in division (D)(1) of this section or as provided in section 5709.43 of the Revised Code.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no legislative authority of a municipal corporation that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt an ordinance that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the municipal corporation that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district

and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the municipal corporation for the preceding tax year. The ordinance shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. An ordinance may create more than one such district, and more than one ordinance may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting an ordinance under division (C)(1) of this section, if the municipal corporation intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of a municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance.

(3)(a) An ordinance adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D)(1) or (E) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C)(1) of this section on or after ~~the effective date of this amendment~~ March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village, and joint vocational school district in which the parcel or incentive district is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty

years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the legislative authority shall deliver to the board of education a notice stating its intent to adopt an ordinance making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvement that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The notice regarding improvements to parcels within an incentive district under division (C) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(4) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of exemptions by the board is not required under division (D) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (D) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(5) If the legislative authority is not required by division (D) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the

Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes ~~foregone~~ forgone due to the exemption. If the board of county commissioners objects, and the board and legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance adopted under division (C)(1) of this section shall provide to the board compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and

no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after a mutually acceptable compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees in the proposed ordinance to provide compensation to the board of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.42 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and

facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. Except as otherwise provided in this division, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (D)(2) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the

taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) Additional municipal financing of public infrastructure improvements and housing renovations may be provided by any methods that the municipal corporation may otherwise use for financing such improvements or renovations. If the municipal corporation issues bonds or notes to finance the public infrastructure improvements and housing renovations and pledges money from the municipal public improvement tax increment equivalent fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised Code.

(I) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.43 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5709.41. (A) As used in this section:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(2) "Improvement" means the increase in assessed value of any parcel of property subsequent to the acquisition of the parcel by a municipal corporation engaged in urban redevelopment.

(B) The legislative authority of a municipal corporation, by ordinance, may declare to be a public purpose any improvement to a parcel of real property if both of the following apply:

(1) The municipal corporation held fee title to the parcel prior to the adoption of the ordinance;

(2) The parcel is leased, or the fee of the parcel is conveyed, to any person either before or after adoption of the ordinance.

Improvements used or to be used for residential purposes may be declared a public purpose under this section only if the parcel is located in a blighted area of an impacted city as those terms are defined in section 1728.01 of the Revised Code.

(C) Except as otherwise provided in division (C)(1), (2), or (3) of this section, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation. The ordinance shall specify the percentage of the improvement to be exempted from taxation.

(1) If the ordinance declaring improvements to a parcel to be a public purpose specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village school district in which the parcel is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (C)(2) of this section.

(2) Improvements may be exempted from taxation for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within the territory of which the improvements are or will be located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section, the legislative authority shall deliver to the board of education a notice stating its intent to declare improvements to be a public purpose under this section. The notice shall describe the parcel and the improvements, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice, may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both, or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation

to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period, or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation. The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education approves the exemption on the condition that a compensation agreement be negotiated, the board in its resolution shall propose a compensation percentage. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, but shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority. If a mutually acceptable compensation agreement is negotiated between the legislative authority and the board, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority shall compensate the joint vocational school district within the territory of which the improvements are or will be located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation and the resolution remains in effect, approval of exemptions by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five

business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) If the legislative authority is not required by division (C)(1), (2), or (3) of this section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(D) The exemption commences on the effective date of the ordinance and ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose. The exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(E) A municipal corporation, not later than fifteen days after the adoption of an ordinance granting a tax exemption under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March each year, the municipal corporation shall submit a status report to the director of development outlining the progress of the project during each year that the exemption remains in effect.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements

entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, ~~2011~~ 2012, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation

shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code.

The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2011~~ 2012, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to

relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of

development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all

agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, ~~2011~~ 2012, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in

which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the

agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development under this section prior to July 22, 1994.

On or before October 15, ~~2011~~ 2012, and with the consent of the legislative authority of each affected municipal corporation or board of

township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the

purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise

at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the

manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, ~~2011~~ 2012, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or

more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement

shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a

resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one district, and more than one resolution may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to

every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after ~~the effective date of this amendment~~ March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be

exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section f.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage

of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five

business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If

the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have

been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list

and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes, which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a

copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except with the approval under division (C) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific

public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (E) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the county that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the county for the preceding tax year. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (B)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located.

(3)(a) A resolution adopted under division (B)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (B)(1) of this section on or after ~~the effective date of this amendment~~ March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.79 of the Revised Code and received by the county under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from

taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of ~~the~~ each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The notice regarding improvements to parcels within an incentive district under division (B) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

(2) The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners. If a mutually acceptable compensation agreement is negotiated between the board of county commissioners and the board of education, including agreements for payments in lieu of taxes under section 5709.79 of the Revised Code, the board of county commissioners shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice

to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution.

(2) The board of township trustees, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes ~~foregone~~ forgone due to the exemption. If the board of township trustees objects, and the board of township trustees and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (B)(1) of this section shall provide to the board of township trustees compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the township or, if the board of township trustee's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the township on the portion of the

improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of township trustees shall certify its resolution to the board of county commissioners not later than thirty days after receipt of the notice.

(3) If the board of township trustees does not object or fails to certify a resolution objecting to an exemption within thirty days after receipt of the notice, the board of county commissioners may adopt its resolution, and no compensation shall be provided to the board of township trustees. If the board of township trustees certifies its resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees. If the board of township trustees certifies a resolution objecting to the commissioners' resolution, the board of county commissioners may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of county commissioners in the proposed resolution to provide compensation to the board of township trustees of fifty per cent of the taxes that would be payable to the township in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(E) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (B)(1) of this section that is adopted on or after January 1, 2006, shall be distributed to the appropriate taxing authority as required under division (D) of section 5709.79 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (B) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 of the Revised Code for community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(F) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the county can no longer require annual service payments in lieu of taxes under section 5709.79 of the

Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of commissioners and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (C)(1) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(G) If the board of county commissioners is not required by this section to notify the board of education of the board of county commissioners' intent to declare improvements to be a public purpose, the board of county commissioners shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive such a notice.

(H) The county, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development a copy of the resolution. On or before the thirty-first day of March of each year, the county shall submit a status report to the director of development. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.80 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(I) Nothing in this section shall be construed to prohibit a board of county commissioners from declaring to be a public purpose improvements with respect to more than one parcel.

Sec. 5709.82. (A) As used in this section:

(1) "New employee" means both of the following:

(a) Persons employed in the construction of real property exempted

from taxation under the chapters or sections of the Revised Code enumerated in division (B) of this section;

(b) Persons not described by division (A)(1)(a) of this section who are first employed at the site of such property and who within the two previous years have not been subject, prior to being employed at that site, to income taxation by the municipal corporation within whose territory the site is located on income derived from employment for the person's current employer. "New employee" does not include any person who replaces a person who is not a new employee under division (A)(1) of this section.

(2) "Infrastructure costs" means costs incurred by a municipal corporation in a calendar year to acquire, construct, reconstruct, improve, plan, or equip real or tangible personal property that directly benefits or will directly benefit the exempted property. If the municipal corporation finances the acquisition, construction, reconstruction, improvement, planning, or equipping of real or tangible personal property that directly benefits the exempted property by issuing debt, "infrastructure costs" means the annual debt charges incurred by the municipal corporation from the issuance of such debt. Real or tangible personal property directly benefits exempted property only if the exempted property places or will place direct, additional demand on the real or tangible personal property for which such costs were or will be incurred.

(3) "Taxing unit" has the same meaning as in division (H) of section 5705.01 of the Revised Code.

(B)(1) Except as otherwise provided under division (C) of this section, the legislative authority of any political subdivision that has acted under the authority of Chapter 725. or 1728., sections 3735.65 to 3735.70, or section 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code to grant an exemption from taxation for real or tangible personal property may negotiate with the board of education of each city, local, exempted village, or joint vocational school district or other taxing unit within the territory of which the exempted property is located, and enter into an agreement whereby the school district or taxing unit is compensated for tax revenue foregone by the school district or taxing unit as a result of the exemption. Except as otherwise provided in division (B)(1) of this section, if a political subdivision enters into more than one agreement under this section with respect to a tax exemption, the political subdivision shall provide to each school district or taxing unit with which it contracts the same percentage of tax revenue foregone by the school district or taxing unit, which may be based on a good faith projection made at the time the exemption is granted. Such percentage shall be calculated on the basis of

amounts paid by the political subdivision and any amounts paid by an owner under division (B)(2) of this section. A political subdivision may provide a school district or other taxing unit with a smaller percentage of foregone tax revenue than that provided to other school districts or taxing units only if the school district or taxing unit expressly consents in the agreement to receiving a smaller percentage. If a subdivision has acted under the authority of section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code and enters into a compensation agreement with a city, local, or exempted village school district, the subdivision shall provide compensation to the joint vocational school district within the territory of which the exempted property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(2) An owner of property exempted from taxation under the authority described in division (B)(1) of this section may, by becoming a party to an agreement described in division (B)(1) of this section or by entering into a separate agreement with a school district or other taxing unit, agree to compensate the school district or taxing unit by paying cash or by providing property or services by gift, loan, or otherwise. If the owner's property is exempted under the authority of section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code and the owner enters into a compensation agreement with a city, local, or exempted village school district, the owner shall provide compensation to the joint vocational school district within the territory of which the owner's property is located at the same rate and under the same terms as received by the city, local, or exempted village school district.

(C) This division does not apply to the following:

(1) The legislative authority of a municipal corporation that has acted under the authority of division (H) of section 715.70 or section 715.81 of the Revised Code to consent to the granting of an exemption from taxation for real or tangible personal property in a joint economic development district.

(2) The legislative authority of a municipal corporation that has specified in an ordinance adopted under section 5709.40 or 5709.41 of the Revised Code that payments in lieu of taxes provided for under section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village school district in which the improvements are located in the amount of taxes that would have been payable to the school district if the improvements had not been exempted from taxation, as directed in the ordinance.

If the legislative authority of any municipal corporation has acted under the authority of Chapter 725. or 1728. or section 3735.671, 5709.40,

5709.41, 5709.62, 5709.63, 5709.632, or 5709.88, or a housing officer under section 3735.67 of the Revised Code, to grant or consent to the granting of an exemption from taxation for real or tangible personal property on or after July 1, 1994, the municipal corporation imposes a tax on incomes, and the payroll of new employees resulting from the exercise of that authority equals or exceeds one million dollars in any tax year for which such property is exempted, the legislative authority and the board of education of each city, local, or exempted village school district within the territory of which the exempted property is located shall attempt to negotiate an agreement providing for compensation to the school district for all or a portion of the tax revenue the school district would have received had the property not been exempted from taxation. The agreement may include as a party the owner of the property exempted or to be exempted from taxation and may include provisions obligating the owner to compensate the school district by paying cash or providing property or services by gift, loan, or otherwise. Such an obligation is enforceable by the board of education of the school district pursuant to the terms of the agreement.

If the legislative authority and board of education fail to negotiate an agreement that is mutually acceptable within six months of formal approval by the legislative authority of the instrument granting the exemption, the legislative authority shall compensate the school district in the amount and manner prescribed by division (D) of this section.

(D) Annually, the legislative authority of a municipal corporation subject to this division shall pay to the city, local, or exempted village school district within the territory of which the exempted property is located an amount equal to fifty per cent of the difference between the amount of taxes levied and collected by the municipal corporation on the incomes of new employees in the calendar year ending on the day the payment is required to be made, and the amount of any infrastructure costs incurred in that calendar year. For purposes of such computation, the amount of infrastructure costs shall not exceed thirty-five per cent of the amount of those taxes unless the board of education of the school district, by resolution adopted by a majority of the board, approves an amount in excess of that percentage. If the amount of those taxes or infrastructure costs must be estimated at the time the payment is made, payments in subsequent years shall be adjusted to compensate for any departure of those estimates from the actual amount of those taxes.

A municipal corporation required to make a payment under this section shall make the payment from its general fund or a special fund established for the purpose. The payment is payable on the thirty-first day of December

of the tax year for or in which the exemption from taxation commences and on that day for each subsequent tax year property is exempted and the legislative authority and board fail to negotiate an acceptable agreement under division (C) of this section.

Sec. 5709.83. (A) Except as otherwise provided in division (B) or (C) of this section, prior to taking formal action to adopt or enter into any instrument granting a tax exemption under section 725.02, 1728.06, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.84, or 5709.88 of the Revised Code or formally approving an agreement under section 3735.671 of the Revised Code, or prior to forwarding an application for a tax exemption for residential property under section 3735.67 of the Revised Code to the county auditor, the legislative authority of the political subdivision or housing officer shall notify the board of education of each city, local, exempted village, or joint vocational school district in which the proposed tax-exempted property is located. The notice shall include a copy of the instrument or application. The notice shall be delivered not later than fourteen days prior to the day the legislative authority takes formal action to adopt or enter into the instrument, or not later than fourteen days prior to the day the housing officer forwards the application to the county auditor. If the board of education comments on the instrument or application to the legislative authority or housing officer, the legislative authority or housing officer shall consider the comments. If the board of education of the city, local, ~~or exempted village,~~ or joint vocational school district so requests, the legislative authority or the housing officer shall meet in person with a representative designated by the board of education to discuss the terms of the instrument or application.

(B) The notice otherwise required to be provided to boards of education under division (A) of this section is not required if the board has adopted a resolution waiving its right to receive such notices, and that resolution remains in effect. If a board of education adopts such a resolution, the board shall cause a copy of the resolution to be certified to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority. A board of education may adopt such a resolution with respect to any one or more counties, townships, or municipal corporations situated in whole or in part within the school district.

(C) If a legislative authority is required to provide notice to a city, local, or exempted village school district of its intent to grant such an exemption as required by section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code, the legislative authority, before adopting a resolution or ordinance

under that section, shall notify the board of education of each joint vocational school district in which the property to be exempted is located. The notice shall be delivered not later than forty-five days before the day the legislative authority adopts a resolution or ordinance under any of those sections. The content of the notice and procedures for responding to the notice are the same as required in division (A) of this section.

Sec. 5713.01. (A) Each county shall be the unit for assessing real estate for taxation purposes. The county auditor shall be the assessor of all the real estate in the auditor's county for purposes of taxation, but this section does not affect the power conferred by Chapter 5727. of the Revised Code upon the tax commissioner regarding the valuation and assessment of real property used in railroad operations.

(B) The auditor shall assess all the real estate situated in the county at its taxable value in accordance with sections 5713.03, 5713.31, and 5715.01 of the Revised Code and with the rules and methods applicable to the auditor's county adopted, prescribed, and promulgated by the tax commissioner. The auditor shall view and appraise or cause to be viewed and appraised at its true value in money, each lot or parcel of real estate, including land devoted exclusively to agricultural use, and the improvements located thereon at least once in each six-year period and the taxable values required to be derived therefrom shall be placed on the auditor's tax list and the county treasurer's duplicate for the tax year ordered by the commissioner pursuant to section 5715.34 of the Revised Code. The commissioner may grant an extension of one year or less if the commissioner finds that good cause exists for the extension. When the auditor so views and appraises, the auditor may enter each structure located thereon to determine by actual view what improvements have been made therein or additions made thereto since the next preceding valuation. The auditor shall revalue and assess at any time all or any part of the real estate in such county, including land devoted exclusively to agricultural use, where the auditor finds that the true or taxable values thereof have changed, and when a conservation easement is created under sections 5301.67 to 5301.70 of the Revised Code. The auditor may increase or decrease the true or taxable value of any lot or parcel of real estate in any township, municipal corporation, or other taxing district by an amount which will cause all real property on the tax list to be valued as required by law, or the auditor may increase or decrease the aggregate value of all real property, or any class of real property, in the county, township, municipal corporation, or other taxing district, or in any ward or other division of a municipal corporation by a per cent or amount which will cause all property to be properly valued and assessed for taxation in

accordance with Section 36, Article II, Section 2, Article XII, Ohio Constitution, this section, and sections 5713.03, 5713.31, and 5715.01 of the Revised Code.

(C) When the auditor determines to reappraise all the real estate in the county or any class thereof, when the tax commissioner orders an increase in the aggregate true or taxable value of the real estate in any taxing subdivision, or when the taxable value of real estate is increased by the application of a uniform taxable value per cent of true value pursuant to the order of the commissioner, the auditor shall advertise the completion of the reappraisal or equalization action in a newspaper of general circulation in the county once a week for the three consecutive weeks next preceding the issuance of the tax bills, or as provided in section 7.16 of the Revised Code for the two consecutive weeks next preceding the issuance of the tax bills. When the auditor changes the true or taxable value of any individual parcels of real estate, the auditor shall notify the owner of the real estate, or the person in whose name the same stands charged on the duplicate, by mail or in person, of the changes the auditor has made in the assessments of such property. Such notice shall be given at least thirty days prior to the issuance of the tax bills. Failure to receive notice shall not invalidate any proceeding under this section.

(D) The auditor shall make the necessary abstracts from books of the auditor's office containing descriptions of real estate in such county, together with such platbooks and lists of transfers of title to land as the auditor deems necessary in the performance of the auditor's duties in valuing such property for taxation. Such abstracts, platbooks, and lists shall be in such form and detail as the tax commissioner prescribes.

(E) The auditor, with the approval of the tax commissioner, may appoint and employ such experts, deputies, clerks, or other employees as the auditor deems necessary to the performance of the auditor's duties as assessor, or, with the approval of the tax commissioner, the auditor may enter into a contract with an individual, partnership, firm, company, or corporation to do all or any part of the work; the amount to be expended in the payment of the compensation of such employees shall be fixed by the board of county commissioners. If, in the opinion of the auditor, the board of county commissioners fails to provide a sufficient amount for the compensation of such employees, the auditor may apply to the tax commissioner for an additional allowance, and the additional amount of compensation allowed by the commissioner shall be certified to the board of county commissioners, and the same shall be final. The salaries and compensation of such experts, deputies, clerks, and employees shall be paid upon the

warrant of the auditor out of the general fund or the real estate assessment fund of the county, or both. If the salaries and compensation are in whole or in part fixed by the commissioner, they shall constitute a charge against the county regardless of the amount of money in the county treasury levied or appropriated for such purposes.

(F) Any contract for goods or services related to the auditor's duties as assessor, including contracts for mapping, computers, and reproduction on any medium of any documents, records, photographs, microfiche, or magnetic tapes, but not including contracts for the professional services of an appraiser, shall be awarded pursuant to the competitive bidding procedures set forth in sections 307.86 to 307.92 of the Revised Code and shall be paid for, upon the warrant of the auditor, from the real estate assessment fund.

(G) Experts, deputies, clerks, and other employees, in addition to their other duties, shall perform such services as the auditor directs in ascertaining such facts, description, location, character, dimensions of buildings and improvements, and other circumstances reflecting upon the value of real estate as will aid the auditor in fixing its true and taxable value and, in the case of land valued in accordance with section 5713.31 of the Revised Code, its current agricultural use value. The auditor may also summon and examine any person under oath in respect to any matter pertaining to the value of any real property within the county.

Sec. 5715.17. When the county board of revision has completed its work of equalization and transmitted the returns to ~~him~~ the county auditor, the ~~county~~ auditor shall give notice by advertising in ~~two newspapers of opposite politics published in and~~ a newspaper of general circulation throughout the county that the tax returns for the current year have been revised and the valuations have been completed and are open for public inspection in ~~his~~ the auditor's office, and that complaints against any valuation or assessment, except the valuations fixed and assessments made by the department of taxation, will be heard by the board, stating in the notice the time and place of the meeting of such board. Such advertisement shall be inserted in a conspicuous place in ~~each~~ such newspaper and be published daily for ten days, ~~unless there is no daily newspaper published in and of general circulation throughout such county, in which event such advertisement shall be so published once each week for two weeks~~ or as provided in section 7.16 of the Revised Code.

The auditor shall, upon request, furnish to any person a certificate setting forth the assessment and valuation of any tract, lot, or parcel of real estate or any specific personal property, and mail the same when requested

to do so upon receipt of sufficient postage.

The auditor shall furnish notice to boards of education of school districts within the county of all hearings, and the results of such hearings, held in regard to the reduction or increasing of tax valuations in excess of one hundred thousand dollars directly affecting the revenue of such district.

Sec. 5715.23. Annually, immediately after the county board of revision has acted upon the assessments for the current year as required under section 5715.16 of the Revised Code and the county auditor has given notice by advertisement in ~~two newspapers~~ a newspaper of general circulation in the county that the valuations have been revised and are open for public inspection as provided in section 5715.17 of the Revised Code, each auditor shall make out and transmit to the tax commissioner an abstract of the real property of each taxing district in ~~his~~ the auditor's county, in which ~~he~~ the auditor shall set forth the aggregate amount and valuation of each class of real property in such county and in each taxing district therein as it appears on ~~his~~ the auditor's tax list or the statements and returns on file in ~~his~~ the auditor's office and an abstract of the current year's true value of land valued for such year under section 5713.31 of the Revised Code as it appears in the current year's agricultural land tax list.

Sec. 5715.26. (A)(1) Upon receiving the statement required by section 5715.25 of the Revised Code, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation thereof, adding or deducting any sum less than five dollars so that the value of any separate tract, lot, or parcel of real property shall be ten dollars or some multiple thereof.

(2) After making the additions or deductions required by this section, the auditor shall transmit to the tax commissioner the appropriate adjusted abstract of the real property of each taxing district in the auditor's county in which an adjustment was required.

(3) If the commissioner increases or decreases the aggregate value of the real property or any class thereof in any county or taxing district thereof and does not receive within ninety days thereafter an adjusted abstract conforming to its statement for such county or taxing district therein, the commissioner shall withhold from such county or taxing district therein fifty per cent of its share in the distribution of state revenues to local governments pursuant to sections 5747.50 to 5747.55 of the Revised Code and shall direct the department of education to withhold therefrom fifty per cent of state revenues to school districts pursuant to ~~Chapters 3306. and Chapter~~ Chapter 3317. of the Revised Code. The commissioner shall withhold the

distribution of such funds until such county auditor has complied with this division, and the department shall withhold the distribution of such funds until the commissioner has notified the department that such county auditor has complied with this division.

(B)(1) If the commissioner's determination is appealed under section 5715.251 of the Revised Code, the county auditor, treasurer, and all other officers shall forthwith proceed with the levy and collection of the current year's taxes in the manner prescribed by law. The taxes shall be determined and collected as if the commissioner had determined under section 5715.24 of the Revised Code that the real property and the various classes thereof in the county as shown in the auditor's abstract were assessed for taxation and the true and agricultural use values were recorded on the agricultural land tax list as required by law.

(2) If as a result of the appeal to the board it is finally determined either that all real property and the various classes thereof have not been assessed as required by law or that the values set forth in the agricultural land tax list do not correctly reflect the true and agricultural use values of the lands contained therein, the county auditor shall forthwith add to or deduct from each tract, lot, or parcel of real property or class of real property the required percentage or amount of the valuation in accordance with the order of the board or judgment of the court to which the board's order was appealed, and the taxes on each tract, lot, or parcel and the percentages required by section 319.301 of the Revised Code shall be recomputed using the valuation as finally determined. The order or judgment making the final determination shall prescribe the time and manner for collecting, crediting, or refunding the resultant increases or decreases in taxes.

Sec. 5719.04. (A) Immediately after each settlement required by division (D) of section 321.24 of the Revised Code the county auditor shall make a tax list and duplicates thereof of all general personal and classified property taxes remaining unpaid, as shown by the county treasurer's books and the list of taxes returned as delinquent by the treasurer to the auditor at such settlement. The county auditor shall also include in such list all taxes assessed by the tax commissioner pursuant to law which were not charged upon the tax lists and duplicates on which such settlements were made nor previously charged upon a delinquent tax list and duplicates pursuant to this section, but the auditor shall not include taxes specifically excepted from collection pursuant to section 5711.32 of the Revised Code. Such tax list and duplicates shall contain the name of the person charged and the amount of such taxes, and the penalty, due and unpaid, and shall set forth separately the amount charged or chargeable on the general and on the classified list

and duplicate. The auditor shall deliver one such duplicate to the treasurer on the first day of December, annually. Upon receipt of the duplicate the treasurer may prepare and mail tax bills to all persons charged with such delinquent taxes. Each bill shall include a notice that the interest charge prescribed by section 5719.041 of the Revised Code has begun to accrue.

The auditor shall cause a copy of the delinquent personal and classified property tax list and duplicate provided for in this division to be published twice within sixty days after delivery of such duplicate to the treasurer in a newspaper ~~published in the English language in the county and of general circulation therein; provided that before~~ in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The auditor may publish the tax list on a pre-printed insert in the newspaper. The cost of the second publication of the list shall not exceed three-fourths of the cost of the first publication of the list.

Before such publication, the auditor shall cause a display notice of the forthcoming publication of such delinquent personal and classified property tax list to be inserted once a week for two consecutive weeks in a newspaper ~~published in the English language in the county and of general circulation therein~~ in the county. Copy for such display notice shall be furnished by the auditor to the newspaper selected to publish such delinquent tax lists simultaneously with the delivery of the duplicate to the treasurer. ~~If there is only one newspaper published in the county, such display notice and delinquent personal and classified property tax lists shall be published in it.~~ Publication of the delinquent lists may be made by a newspaper in installments, provided that complete publication thereof is made twice during said sixty-day period.

The office of the county treasurer shall be kept open to receive the payment of delinquent general and classified property taxes from the day of delivery of the duplicate thereof until the final publication of the delinquent tax list. The name of any taxpayer who prior to seven days before either the first or second publication of said list pays such taxes in full or enters into a delinquent tax contract to pay such taxes in installments pursuant to section 5719.05 of the Revised Code shall be stricken from such list, and the taxpayer's name shall not be included in the list for that publication.

The other such duplicate, from which shall first be eliminated the names of persons whose total liability for taxes and penalty is less than one hundred dollars, shall be filed by the auditor on the first day of December, annually, in the office of the county recorder, and the same shall constitute a notice of lien and operate as of the date of delivery as a lien on the lands and tenements, vested legal interests therein, and permanent leasehold estates of

each person named therein having such real estate in such county. Such notice of lien and such lien shall not be valid as against any mortgagee, pledgee, purchaser, or judgment creditor whose rights have attached prior to the date of such delivery. Such duplicate shall be kept by the recorder, designated as the personal tax lien record, and indexed under the name of the person charged with such tax. No fee shall be charged by the recorder for the services required under this section.

The auditor shall add to the tax list made pursuant to this section all such taxes omitted in a previous year when assessed by the auditor or finally assessed by the tax commissioner pursuant to law, and by proper certificates cause the same to be added to the treasurer's delinquent tax duplicate provided for in this section, and, in proper cases, file notice of the lien with the recorder, as provided in this section.

If the authority making any assessment believes that the collection of such taxes will be jeopardized by delay, such assessing authority shall so certify on the assessment certificate thereof, and the auditor shall include a certificate of such jeopardy in the certificate given by the auditor to the treasurer. In such event the treasurer shall proceed immediately to collect such taxes, and to enforce the collection thereof by any means provided by law, and the treasurer may not accept a tender of any part of such taxes; but the person or the representatives of the person against whom such assessment is made may, in the event of an appeal to the tax commissioner therefrom, obtain a stay of collection of the whole or any part of the amount of such assessment by filing with the treasurer a bond in an amount not exceeding double the amount as to which the stay is desired, with such surety as the treasurer deems necessary, conditioned upon the payment of the amount determined to be due by the decision of the commissioner which has become final, and further conditioned that if an appeal is not filed within the period provided by law, the amount of collection which is stayed by the bond will be paid on notice and demand of the treasurer at any time after the expiration of such period. The taxpayer may waive such stay as to the whole or any part of the amount covered by the bond, and if as the result of such waiver any part of the amount covered by the bond is paid, then the bond shall be proportionately reduced on the request of the taxpayer.

(B) Immediately after each settlement required by division (D) of section 321.24 of the Revised Code the auditor shall make a separate list and duplicate, prepared as prescribed in division (A) of this section, of all general personal and classified property taxes that remain unpaid but are excepted from collection pursuant to section 5711.32 of the Revised Code. The duplicate of such list shall be delivered to the treasurer at the time of

delivery of the delinquent personal and classified property tax duplicate.

Sec. 5721.01. (A) As used in this chapter:

(1) "Delinquent lands" means all lands upon which delinquent taxes, as defined in section 323.01 of the Revised Code, remain unpaid at the time a settlement is made between the county treasurer and auditor pursuant to division (C) of section 321.24 of the Revised Code.

(2) "Delinquent vacant lands" means all lands that have been delinquent lands for at least one year and that are unimproved by any dwelling.

(3) "County land reutilization corporation" means a county land reutilization corporation organized under Chapter 1724. of the Revised Code.

(B) As used in sections 5719.04, 5721.03, and 5721.31 of the Revised Code and in any other sections of the Revised Code to which those sections are applicable, a "newspaper" or "newspaper of general circulation ~~shall be a publication bearing a title or name, regularly issued as frequently as once a week for a definite price or consideration paid for by not less than fifty per cent of those to whom distribution is made, having a second class mailing privilege, being not less than four pages, published continuously during the immediately preceding one-year period, and circulated generally in the political subdivision in which it is published. Such publication shall be of a type to which the general public resorts for passing events of a political, religious, commercial, and social nature, current happenings, announcements, miscellaneous reading matter, advertisements, and other notices~~" has the same meaning as in section 7.12 of the Revised Code.

Sec. 5721.03. (A) At the time of making the delinquent land list, as provided in section 5721.011 of the Revised Code, the county auditor shall compile a delinquent tax list consisting of all lands on the delinquent land list on which taxes have become delinquent at the close of the collection period immediately preceding the making of the delinquent land list. The auditor shall also compile a delinquent vacant land tax list of all delinquent vacant lands prior to the institution of any foreclosure and forfeiture actions against delinquent vacant lands under section 5721.14 of the Revised Code or any foreclosure actions against delinquent vacant lands under section 5721.18 of the Revised Code.

The delinquent tax list, and the delinquent vacant land tax list if one is compiled, shall contain all of the information included on the delinquent land list, except that, if the auditor's records show that the name of the person in whose name the property currently is listed is not the name that appears on the delinquent land list, the name used in the delinquent tax list or the delinquent vacant land tax list shall be the name of the person the

auditor's records show as the person in whose name the property currently is listed.

Lands that have been included in a previously published delinquent tax list shall not be included in the delinquent tax list so long as taxes have remained delinquent on such lands for the entire intervening time.

In either list, there may be included lands that have been omitted in error from a prior list and lands with respect to which the auditor has received a certification that a delinquent tax contract has become void since the publication of the last previously published list, provided the name of the owner was stricken from a prior list under section 5721.02 of the Revised Code.

(B)(1) The auditor shall cause the delinquent tax list and the delinquent vacant land tax list, if one is compiled, to be published twice within sixty days after the delivery of the delinquent land duplicate to the county treasurer, in a newspaper of general circulation in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The publication shall be printed in the English language auditor may publish the list or lists on a pre-printed insert in the newspaper. The cost of the second publication of the list or lists shall not exceed three-fourths of the cost of the first publication of the list or lists.

The auditor shall insert display notices of the forthcoming publication of the delinquent tax list and, if it is to be published, the delinquent vacant land tax list once a week for two consecutive weeks in a newspaper of general circulation in the county. The display notices shall contain the times and methods of payment of taxes provided by law, including information concerning installment payments made in accordance with a written delinquent tax contract. The display notice for the delinquent tax list also shall include a notice that an interest charge will accrue on accounts remaining unpaid after the last day of November unless the taxpayer enters into a written delinquent tax contract to pay such taxes in installments. The display notice for the delinquent vacant land tax list if it is to be published also shall include a notice that delinquent vacant lands in the list are lands on which taxes have remained unpaid for one year after being certified delinquent, and that they are subject to foreclosure proceedings as provided in section 323.25, sections 323.65 to 323.79, or section 5721.18 of the Revised Code, or foreclosure and forfeiture proceedings as provided in section 5721.14 of the Revised Code. Each display notice also shall state that the lands are subject to a tax certificate sale under section 5721.32 or 5721.33 of the Revised Code or assignment to a county land reutilization corporation, as the case may be, and shall include any other information that

the auditor considers pertinent to the purpose of the notice. The display notices shall be furnished by the auditor to the ~~newspapers~~ newspaper selected to publish the lists at least ten days before their first publication.

(2) Publication of the list or lists may be made by a newspaper in installments, provided the complete publication of each list is made twice during the sixty-day period.

(3) There shall be attached to the delinquent tax list a notice that the delinquent lands will be certified for foreclosure by the auditor unless the taxes, assessments, interest, and penalties due and owing on them are paid. There shall be attached to the delinquent vacant land tax list, if it is to be published, a notice that delinquent vacant lands will be certified for foreclosure or foreclosure and forfeiture by the auditor unless the taxes, assessments, interest, and penalties due and owing on them are paid within twenty-eight days after the final publication of the notice.

(4) The auditor shall review the first publication of each list for accuracy and completeness and may correct any errors appearing in the list in the second publication.

(C) For the purposes of section 5721.18 of the Revised Code, land is first certified delinquent on the date of the certification of the delinquent land list containing that land.

Sec. 5721.04. The proper and necessary expenses of publishing the delinquent tax lists, delinquent vacant land tax lists, and display notices provided for by sections 5719.04 and 5721.03 of the Revised Code shall be paid from the county treasury as county expenses are paid, and the board of county commissioners shall make provision for them in the annual budget of the county submitted to the budget commission, and shall make the necessary appropriations. If the board fails to make such appropriations, or if an appropriation is insufficient to meet such an expense, any person interested may apply to the court of common pleas of the county for an allowance to cover the expense, and the court shall issue an order instructing the county auditor to issue ~~his~~ a warrant upon the county treasurer for the amount necessary. The order by the court shall be final and shall be complied with immediately.

The aggregate amount paid ~~shall for publication may~~ be apportioned by the county auditor among the taxing districts in which the lands on each list are located in proportion to the amount of delinquent taxes so advertised in such subdivision, or the county auditor may charge the property owner of land on a 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 tax duplicate as a lien on the land, to be collected as other taxes.

Thereafter, the auditor, in making ~~his~~ the auditor's semiannual apportionment of funds, shall retain at each semiannual apportionment one half the amount apportioned to each such taxing district. The amounts retained shall be credited to the general fund of the county until the aggregate of all amounts paid in the first instance out of the treasury have been fully reimbursed.

Sec. 5721.18. The county prosecuting attorney, upon the delivery to the prosecuting attorney by the county auditor of a delinquent land or delinquent vacant land tax certificate, or of a master list of delinquent or delinquent vacant tracts, shall institute a foreclosure proceeding under this section in the name of the county treasurer to foreclose the lien of the state, in any court with jurisdiction or in the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time a complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code. If the delinquent land or delinquent vacant land tax certificate or the master list of delinquent or delinquent vacant tracts lists minerals or rights to minerals listed pursuant to sections 5713.04, 5713.05, and 5713.06 of the Revised Code, the county prosecuting attorney may institute a foreclosure proceeding in the name of the county treasurer, in any court with jurisdiction, to foreclose the lien of the state against such minerals or rights to minerals, unless the taxes, assessments, charges, penalties, and interest are paid prior to the time the complaint is filed, or unless a foreclosure or foreclosure and forfeiture action has been or will be instituted under section 323.25, sections 323.65 to 323.79, or section 5721.14 of the Revised Code.

The prosecuting attorney shall prosecute the proceeding to final judgment and satisfaction. Within ten days after obtaining a judgment, the prosecuting attorney shall notify the treasurer in writing that judgment has been rendered. If there is a copy of a written delinquent tax contract attached to the certificate or an asterisk next to an entry on the master list, or if a copy of a delinquent tax contract is received from the auditor prior to the commencement of the proceeding under this section, the prosecuting attorney shall not institute the proceeding under this section, unless the prosecuting attorney receives a certification of the treasurer that the delinquent tax contract has become void.

(A) This division applies to all foreclosure proceedings not instituted and prosecuted under section 323.25 of the Revised Code or division (B) or (C) of this section. The foreclosure proceedings shall be instituted and

prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks instead of as provided by the Rules of Civil Procedure, and the service shall be complete at the expiration of three weeks after the date of the first publication. In any proceeding prosecuted under this section, if the prosecuting attorney determines that service upon a defendant may be obtained ultimately only by publication, the prosecuting attorney may cause service to be made simultaneously by certified mail, return receipt requested, ordinary mail, and publication.

In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the treasurer to allege in the treasurer's complaint that the certificate or master list has been duly filed by the auditor, that the amount of money appearing to be due and unpaid is due and unpaid, and that there is a lien against the property described in the certificate or master list, without setting forth in the complaint any other or special matter relating to the foreclosure proceeding. The prayer of the complaint shall be that the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code issue an order that the property be sold or conveyed by the sheriff or otherwise be disposed of, and the equity of redemption be extinguished, according to the alternative redemption procedures prescribed in sections 323.65 to 323.79 of the Revised Code, or if the action is in the municipal court by the bailiff, in the manner provided in section 5721.19 of the Revised Code.

In the foreclosure proceeding, the treasurer may join in one action any number of lots or lands, but the decree shall be rendered separately, and any proceedings may be severed, in the discretion of the court or board of revision, for the purpose of trial or appeal, and the court or board of revision shall make such order for the payment of costs as is considered proper. The certificate or master list filed by the auditor with the prosecuting attorney is prima-facie evidence at the trial of the foreclosure action of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid and of their nonpayment.

(B) Foreclosure proceedings constituting an action in rem may be commenced by the filing of a complaint after the end of the second year from the date on which the delinquency was first certified by the auditor. Prior to filing such an action in rem, the prosecuting attorney shall cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure. Following the title search, the action in rem shall be instituted by filing in the office of the clerk of a court with jurisdiction a complaint bearing a caption substantially in the form set forth in division (A) of section 5721.181 of the Revised Code.

Any number of parcels may be joined in one action. Each separate parcel included in a complaint shall be given a serial number and shall be separately indexed and docketed by the clerk of the court in a book kept by the clerk for such purpose. A complaint shall contain the permanent parcel number of each parcel included in it, the full street address of the parcel when available, a description of the parcel as set forth in the certificate or master list, the name and address of the last known owner of the parcel if they appear on the general tax list, the name and address of each lienholder and other person with an interest in the parcel identified in the title search relating to the parcel that is required by this division, and the amount of taxes, assessments, charges, penalties, and interest due and unpaid with respect to the parcel. It is sufficient for the treasurer to allege in the complaint that the certificate or master list has been duly filed by the auditor with respect to each parcel listed, that the amount of money with respect to each parcel appearing to be due and unpaid is due and unpaid, and that there is a lien against each parcel, without setting forth any other or special matters. The prayer of the complaint shall be that the court issue an order that the land described in the complaint be sold in the manner provided in section 5721.19 of the Revised Code.

(1) Within thirty days after the filing of a complaint, the clerk of the court in which the complaint was filed shall cause a notice of foreclosure substantially in the form of the notice set forth in division (B) of section 5721.181 of the Revised Code to be published once a week for three consecutive weeks in a newspaper of general circulation in the county. The newspaper shall meet the requirements of section 7.12 of the Revised Code. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure proceeding to the interested parties. If

the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

After the third publication, the publisher shall file with the clerk of the court an affidavit stating the fact of the publication and including a copy of the notice of foreclosure as published. Service of process for purposes of the action in rem shall be considered as complete on the date of the last publication.

Within thirty days after the filing of a complaint and before the final date of publication of the notice of foreclosure, the clerk of the court also shall cause a copy of a notice substantially in the form of the notice set forth in division (C) of section 5721.181 of the Revised Code to be mailed by certified mail, with postage prepaid, to each person named in the complaint as being the last known owner of a parcel included in it, or as being a lienholder or other person with an interest in a parcel included in it. The notice shall be sent to the address of each such person, as set forth in the complaint, and the clerk shall enter the fact of such mailing upon the appearance docket. If the name and address of the last known owner of a parcel included in a complaint is not set forth in it, the auditor shall file an affidavit with the clerk stating that the name and address of the last known owner does not appear on the general tax list.

(2)(a) An answer may be filed in an action in rem under this division by any person owning or claiming any right, title, or interest in, or lien upon, any parcel described in the complaint. The answer shall contain the caption and number of the action and the serial number of the parcel concerned. The answer shall set forth the nature and amount of interest claimed in the parcel and any defense or objection to the foreclosure of the lien of the state for delinquent taxes, assessments, charges, penalties, and interest as shown in the complaint. The answer shall be filed in the office of the clerk of the court, and a copy of the answer shall be served on the prosecuting attorney, not later than twenty-eight days after the date of final publication of the notice of foreclosure. If an answer is not filed within such time, a default judgment may be taken as to any parcel included in a complaint as to which no answer has been filed. A default judgment is valid and effective with respect to all persons owning or claiming any right, title, or interest in, or lien upon, any such parcel, notwithstanding that one or more of such persons are minors, incompetents, absentees or nonresidents of the state, or convicts in confinement.

(b)(i) A receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code may file an answer pursuant to division (B)(2)(a) of this section, but is not required to do so as a condition of

receiving proceeds in a distribution under division (B)(1) of section 5721.17 of the Revised Code.

(ii) When a receivership under section 3767.41 of the Revised Code is associated with a parcel, the notice of foreclosure set forth in division (B) of section 5721.181 of the Revised Code and the notice set forth in division (C) of that section shall be modified to reflect the provisions of division (B)(2)(b)(i) of this section.

(3) At the trial of an action in rem under this division, the certificate or master list filed by the auditor with the prosecuting attorney shall be prima-facie evidence of the amount and validity of the taxes, assessments, charges, penalties, and interest appearing due and unpaid on the parcel to which the certificate or master list relates and their nonpayment. If an answer is properly filed, the court may, in its discretion, and shall, at the request of the person filing the answer, grant a severance of the proceedings as to any parcel described in such answer for purposes of trial or appeal.

(C) In addition to the actions in rem authorized under division (B) of this section and section 5721.14 of the Revised Code, an action in rem may be commenced under this division. An action commenced under this division shall conform to all of the requirements of division (B) of this section except as follows:

(1) The prosecuting attorney shall not cause a title search to be conducted for the purpose of identifying any lienholders or other persons with interests in the property subject to foreclosure, except that the prosecuting attorney shall cause a title search to be conducted to identify any receiver's lien.

(2) The names and addresses of lienholders and persons with an interest in the parcel shall not be contained in the complaint, and notice shall not be mailed to lienholders and persons with an interest as provided in division (B)(1) of this section, except that the name and address of a receiver under section 3767.41 of the Revised Code shall be contained in the complaint and notice shall be mailed to the receiver.

(3) With respect to the forms applicable to actions commenced under division (B) of this section and contained in section 5721.181 of the Revised Code:

(a) The notice of foreclosure prescribed by division (B) of section 5721.181 of the Revised Code shall be revised to exclude any reference to the inclusion of the name and address of each lienholder and other person with an interest in the parcel identified in a statutorily required title search relating to the parcel, and to exclude any such names and addresses from the published notice, except that the revised notice shall refer to the inclusion of

the name and address of a receiver under section 3767.41 of the Revised Code and the published notice shall include the receiver's name and address. The notice of foreclosure also shall include the following in boldface type:

"If pursuant to the action the parcel is sold, the sale shall not affect or extinguish any lien or encumbrance with respect to the parcel other than a receiver's lien and other than the lien for land taxes, assessments, charges, interest, and penalties for which the lien is foreclosed and in satisfaction of which the property is sold. All other liens and encumbrances with respect to the parcel shall survive the sale."

(b) The notice to the owner, lienholders, and other persons with an interest in a parcel shall be a notice only to the owner and to any receiver under section 3767.41 of the Revised Code, and the last two sentences of the notice shall be omitted.

(4) As used in this division, a "receiver's lien" means the lien of a receiver appointed pursuant to divisions (C)(2) and (3) of section 3767.41 of the Revised Code that is acquired pursuant to division (H)(2)(b) of that section for any unreimbursed expenses and other amounts paid in accordance with division (F) of that section by the receiver and for the fees of the receiver approved pursuant to division (H)(1) of that section.

(D) If the prosecuting attorney determines that an action in rem under division (B) or (C) of this section is precluded by law, then foreclosure proceedings shall be filed pursuant to division (A) of this section, and the complaint in the action in personam shall set forth the grounds upon which the action in rem is precluded.

(E) The conveyance by the owner of any parcel against which a complaint has been filed pursuant to this section at any time after the date of publication of the parcel on the delinquent tax list but before the date of a judgment of foreclosure pursuant to section 5721.19 of the Revised Code shall not nullify the right of the county to proceed with the foreclosure.

Sec. 5721.19. (A) In its judgment of foreclosure rendered with respect to actions filed pursuant to section 5721.18 of the Revised Code, the court or the county board of revision with jurisdiction pursuant to section 323.66 of the Revised Code shall enter a finding with respect to each parcel of the amount of the taxes, assessments, charges, penalties, and interest, and the costs incurred in the foreclosure proceeding instituted against it, that are due and unpaid. The court or the county board of revision shall order such premises to be transferred pursuant to division (I) of this section or may order each parcel to be sold, without appraisal, for not less than either of the following:

(1) The fair market value of the parcel, as determined by the county

auditor, plus the costs incurred in the foreclosure proceeding;

(2) The total amount of the finding entered by the court or the county board of revision, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale, plus the costs incurred in the foreclosure proceeding. For purposes of determining such amount, the county treasurer may estimate the amount of taxes, assessments, interest, penalties, and costs that will be payable at the time the deed of the property is transferred to the purchaser.

Notwithstanding the minimum sales price provisions of divisions (A)(1) and (2) of this section to the contrary, a parcel sold pursuant to this section shall not be sold for less than the amount described in division (A)(2) of this section if the highest bidder is the owner of record of the parcel immediately prior to the judgment of foreclosure or a member of the following class of parties connected to that owner: a member of that owner's immediate family, a person with a power of attorney appointed by that owner who subsequently transfers the parcel to the owner, a sole proprietorship owned by that owner or a member of that owner's immediate family, or a partnership, trust, business trust, corporation, or association in which the owner or a member of the owner's immediate family owns or controls directly or indirectly more than fifty per cent. If a parcel sells for less than the amount described in division (A)(2) of this section, the officer conducting the sale shall require the buyer to complete an affidavit stating that the buyer is not the owner of record immediately prior to the judgment of foreclosure or a member of the specified class of parties connected to that owner, and the affidavit shall become part of the court records of the proceeding. If the county auditor discovers within three years after the date of the sale that a parcel was sold to that owner or a member of the specified class of parties connected to that owner for a price less than the amount so described, and if the parcel is still owned by that owner or a member of the specified class of parties connected to that owner, the auditor within thirty days after such discovery shall add the difference between that amount and the sale price to the amount of taxes that then stand charged against the parcel and is payable at the next succeeding date for payment of real property taxes. As used in this paragraph, "immediate family" means a spouse who resides in the same household and children.

(B) Each parcel affected by the court's finding and order of sale shall be separately sold, unless the court orders any of such parcels to be sold

together.

Each parcel shall be advertised and sold by the officer to whom the order of sale is directed in the manner provided by law for the sale of real property on execution. The advertisement for sale of each parcel shall be published once a week for three consecutive weeks and shall include the date on which a second sale will be conducted if no bid is accepted at the first sale. Any number of parcels may be included in one advertisement.

The notice of the advertisement shall be substantially in the form of the notice set forth in section 5721.191 of the Revised Code. In any county that has adopted a permanent parcel number system, the parcel may be described in the notice by parcel number only, instead of also with a complete legal description, if the prosecuting attorney determines that the publication of the complete legal description is not necessary to provide reasonable notice of the foreclosure sale to potential bidders. If the complete legal description is not published, the notice shall indicate where the complete legal description may be obtained.

(C)(1) Whenever the officer charged to conduct the sale offers any parcel for sale the officer first shall read aloud a complete legal description of the parcel, or in the alternative, may read aloud only a summary description, including the complete street address of the parcel, if any, and a parcel number if the county has adopted a permanent parcel number system and if the advertising notice prepared pursuant to this section includes a complete legal description or indicates where the complete legal description may be obtained. Whenever the officer charged to conduct the sale offers any parcel for sale and no bids are made equal to the lesser of the amounts described in divisions (A)(1) and (2) of this section, the officer shall adjourn the sale of the parcel to the second date that was specified in the advertisement of sale. The second date shall be not less than two weeks or more than six weeks from the day on which the parcel was first offered for sale. The second sale shall be held at the same place and commence at the same time as set forth in the advertisement of sale. The officer shall offer any parcel not sold at the first sale. Upon the conclusion of any sale, or if any parcel remains unsold after being offered at two sales, the officer conducting the sale shall report the results to the court.

(2)(a) If a parcel remains unsold after being offered at two sales, or one sale in the case of abandoned lands foreclosed under sections 323.65 to 323.79 of the Revised Code, or if a parcel sells at any sale but the amount of the price is less than the costs incurred in the proceeding instituted against the parcel under section 5721.18 of the Revised Code, then the clerk of the court shall certify to the county auditor the amount of those costs that

remains unpaid. At the next semiannual apportionment of real property taxes that occurs following any such certification, the auditor shall reduce the real property taxes that the auditor otherwise would distribute to each taxing district. In making the reductions, the auditor shall subtract from the otherwise distributable real property taxes to a taxing district an amount that shall be determined by multiplying the certified costs by a fraction the numerator of which shall be the amount of the taxes, assessments, charges, penalties, and interest on the parcel owed to that taxing district at the time the parcel first was offered for sale pursuant to this section, and the denominator of which shall be the total of the taxes, assessments, charges, penalties, and interest on the parcel owed to all the taxing districts at that time. The auditor promptly shall pay to the clerk of the court the amounts of the reductions.

(b) If reductions occur pursuant to division (C)(2)(a) of this section, and if at a subsequent time a parcel is sold at a foreclosure sale or a forfeiture sale pursuant to Chapter 5723. of the Revised Code, then, notwithstanding other provisions of the Revised Code, except section 5721.17 of the Revised Code, governing the distribution of the proceeds of a foreclosure or forfeiture sale, the proceeds first shall be distributed to reimburse the taxing districts subjected to reductions in their otherwise distributable real property taxes. The distributions shall be based on the same proportions used for purposes of division (C)(2)(a) of this section.

(3) The court, in its discretion, may order any parcel not sold pursuant to the original order of sale to be advertised and offered for sale at a subsequent foreclosure sale. For such purpose, the court may direct the parcel to be appraised and fix a minimum price for which it may be sold.

(D) Except as otherwise provided in division (B)(1) of section 5721.17 of the Revised Code, upon the confirmation of a sale, the proceeds of the sale shall be applied as follows:

(1) The costs incurred in any proceeding filed against the parcel pursuant to section 5721.18 of the Revised Code shall be paid first.

(2) Following the payment required by division (D)(1) of this section, the part of the proceeds that is equal to five per cent of the taxes and assessments due shall be deposited in equal shares into each of the delinquent tax and assessment collection ~~fund~~ funds created pursuant to section 321.261 of the Revised Code. If a county land reutilization corporation is operating in the county, the board of county commissioners, by resolution, may provide that an additional amount, not to exceed five per cent of such taxes and assessments, shall be credited to the county land reutilization corporation fund created by section 321.263 of the Revised

Code to pay for the corporation's expenses. If such a resolution is in effect, the percentage of such taxes and assessments so provided shall be credited to that fund.

(3) Following the payment required by division (D)(2) of this section, the amount found due for taxes, assessments, charges, penalties, and interest shall be paid, including all taxes, assessments, charges, penalties, and interest payable subsequent to the delivery to the county prosecuting attorney of the delinquent land tax certificate or master list of delinquent tracts and prior to the transfer of the deed of the parcel to the purchaser following confirmation of sale. If the proceeds available for distribution pursuant to division (D)(3) of this section are sufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the portion of the proceeds representing taxes, interest, and penalties shall be paid to each claimant in proportion to the amount of taxes levied by the claimant in the preceding tax year, and the amount representing assessments and other charges shall be paid to each claimant in the order in which they became due. If the proceeds are not sufficient to pay that entire amount, the proportion of the proceeds representing taxes, penalties, and interest shall be paid to each claimant in the same proportion that the amount of taxes levied by the claimant against the parcel in the preceding tax year bears to the taxes levied by all such claimants against the parcel in the preceding tax year, and the proportion of the proceeds representing items of assessments and other charges shall be credited to those items in the order in which they became due.

(E) If the proceeds from the sale of a parcel are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the foreclosure proceeding instituted against it which are due and unpaid; and, if division (B)(1) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court, pursuant to section 5721.192 of the Revised Code, may enter a deficiency judgment against the owner of record of the parcel for the unpaid amount. If that owner of record is a corporation, the court may enter the deficiency judgment against the stockholder holding a majority of that corporation's stock.

If after distribution of proceeds from the sale of the parcel under division (D) of this section the amount of proceeds to be applied to pay the taxes, assessments, charges, penalties, interest, and costs is insufficient to pay them in full, and the court does not enter a deficiency judgment against

the owner of record pursuant to this division, the taxes, assessments, charges, penalties, interest, and costs shall be deemed satisfied.

(F)(1) Upon confirmation of a sale, a spouse of the party charged with the delinquent taxes or assessments shall thereby be barred of the right of dower in the property sold, though such spouse was not a party to the action. No statute of limitations shall apply to such action. When the land or lots stand charged on the tax duplicate as certified delinquent, it is not necessary to make the state a party to the foreclosure proceeding, but the state shall be deemed a party to such action through and be represented by the county treasurer.

(2) Except as otherwise provided in divisions (F)(3) and (G) of this section, unless such land or lots were previously redeemed pursuant to section 5721.25 of the Revised Code, upon the filing of the entry of confirmation of any sale or the expiration of the alternative redemption period as defined in section 323.65 of the Revised Code, if applicable, the title to such land or lots shall be incontestable in the purchaser and shall be free and clear of all liens and encumbrances, except a federal tax lien notice of which is properly filed in accordance with section 317.09 of the Revised Code prior to the date that a foreclosure proceeding is instituted pursuant to division (B) of section 5721.18 of the Revised Code and the easements and covenants of record running with the land or lots that were created prior to the time the taxes or assessments, for the nonpayment of which the land or lots are sold at foreclosure, became due and payable.

(3) When proceedings for foreclosure are instituted under division (C) of section 5721.18 of the Revised Code, unless the land or lots were previously redeemed pursuant to section 5721.25 of the Revised Code or before the expiration of the alternative redemption period, upon the filing of the entry of confirmation of sale or after the expiration of the alternative redemption period, as may apply to the case, the title to such land or lots shall be incontestable in the purchaser and shall be free of any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code and, except as otherwise provided in division (G) of this section, the liens for land taxes, assessments, charges, interest, and penalties for which the lien was foreclosed and in satisfaction of which the property was sold. All other liens and encumbrances with respect to the land or lots shall survive the sale.

(4) The title shall not be invalid because of any irregularity, informality, or omission of any proceedings under this chapter, or in any processes of taxation, if such irregularity, informality, or omission does not abrogate the provision for notice to holders of title, lien, or mortgage to, or other interests

in, such foreclosed lands or lots, as prescribed in this chapter.

(G) If a parcel is sold under this section for the amount described in division (A)(2) of this section, and the county treasurer's estimate exceeds the amount of taxes, assessments, interest, penalties, and costs actually payable when the deed is transferred to the purchaser, the officer who conducted the sale shall refund to the purchaser the difference between the estimate and the amount actually payable. If the amount of taxes, assessments, interest, penalties, and costs actually payable when the deed is transferred to the purchaser exceeds the county treasurer's estimate, the officer shall certify the amount of the excess to the treasurer, who shall enter that amount on the real and public utility property tax duplicate opposite the property; the amount of the excess shall be payable at the next succeeding date prescribed for payment of taxes in section 323.12 of the Revised Code.

(H) If a parcel is sold or transferred under this section or sections 323.28 and 323.65 to 323.78 of the Revised Code, the officer who conducted the sale or made the transfer of the property shall collect the recording fee and any associated costs to cover the recording from the purchaser or transferee at the time of the sale or transfer and, following confirmation of the sale or transfer, shall execute and record the deed conveying title to the parcel to the purchaser or transferee. For purposes of recording such deed, by placement of a bid or making a statement of interest by any party ultimately awarded the parcel, that purchaser or transferee thereby appoints the officer who makes the sale or is charged with executing and delivering the deed as agent for the purchaser or transferee for the sole purpose of accepting delivery of the deed. For such purposes, the confirmation of any such sale or order to transfer the parcel without appraisal or sale shall be deemed delivered upon the confirmation of such sale or transfer.

(I) Notwithstanding section 5722.03 of the Revised Code, if the complaint alleges that the property is delinquent vacant land as defined in section 5721.01 of the Revised Code, abandoned lands as defined in section 323.65 of the Revised Code, or lands described in division (E) of section 5722.01 of the Revised Code, and the value of the taxes, assessments, penalties, interest, and all other charges and costs of the action exceed the auditor's fair market value of the parcel, then the court or board of revision having jurisdiction over the matter on motion of the plaintiff, or on the court's or board's own motion, shall, upon any adjudication of foreclosure, order, without appraisal and without sale, the fee simple title of the property to be transferred to and vested in an electing subdivision as defined in division (A) of section 5722.01 of the Revised Code. For purposes of determining whether the taxes, assessments, penalties, interest, and all other

charges and costs of the action exceed the actual fair market value of the parcel, the auditor's most current valuation shall be rebuttably presumed to be, and constitute prima-facie evidence of, the fair market value of the parcel. In such case, the filing for journalization of a decree of foreclosure ordering that direct transfer without appraisal or sale shall constitute confirmation of the transfer and thereby terminate any further statutory or common law right of redemption.

Sec. 5721.30. As used in sections 5721.30 to 5721.43 of the Revised Code:

(A) "Tax certificate," "certificate," or "duplicate certificate" means a document that may be issued as a physical certificate, in book-entry form, or through an electronic medium, at the discretion of the county treasurer. Such document shall contain the information required by section 5721.31 of the Revised Code and shall be prepared, transferred, or redeemed in the manner prescribed by sections 5721.30 to 5721.43 of the Revised Code. As used in those sections, "tax certificate," "certificate," and "duplicate certificate" do not refer to the delinquent land tax certificate or the delinquent vacant land tax certificate issued under section 5721.13 of the Revised Code.

(B) "Certificate parcel" means the parcel of delinquent land that is the subject of and is described in a tax certificate.

(C) "Certificate holder" means a person, including a county land reutilization corporation, that purchases or otherwise acquires a tax certificate under section 5721.32, 5721.33, or 5721.42 of the Revised Code, or a person to whom a tax certificate has been transferred pursuant to section 5721.36 of the Revised Code.

(D) "Certificate purchase price" means, with respect to the sale of tax certificates under sections 5721.32, 5721.33, and 5721.42 of the Revised Code, the amount equal to delinquent taxes charged against a certificate parcel at the time the tax certificate respecting that parcel is sold or transferred, not including any delinquent taxes the lien for which has been conveyed to a certificate holder through a prior sale of a tax certificate respecting that parcel. Payment of the certificate purchase price in a sale under section 5721.33 of the Revised Code may be made wholly in cash or partially in cash and partially by noncash consideration acceptable to the county treasurer from the purchaser, and, in the case of a county land reutilization corporation, with notes. In the event that any such noncash consideration is delivered to pay a portion of the certificate purchase price, such noncash consideration may be subordinate to the rights of the holders of other obligations whose proceeds paid the cash portion of the certificate purchase price.

"Certificate purchase price" also includes the amount of the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(E)(1) With respect to a sale of tax certificates under section 5721.32 of the Revised Code, and except as provided in division (E)(2) of this section, "certificate redemption price" means the certificate purchase price plus the greater of the following:

(a) Simple interest, at the certificate rate of interest, accruing during the certificate interest period on the certificate purchase price, calculated in accordance with section 5721.41 of the Revised Code;

(b) Six per cent of the certificate purchase price.

(2) If the certificate rate of interest equals zero, the certificate redemption price equals the certificate purchase price plus the fee charged by the county treasurer to the purchaser of the certificate under division (H) of section 5721.32 of the Revised Code.

(F) With respect to a sale or transfer of tax certificates under section 5721.33 of the Revised Code, "certificate redemption price" means the amount equal to the sum of the following:

(1) The certificate purchase price;

(2) Interest accrued on the certificate purchase price at the certificate rate of interest from the date on which a tax certificate is delivered through and including the day immediately preceding the day on which the certificate redemption price is paid;

(3) The fee, if any, charged by the county treasurer to the purchaser of the certificate under division (J) of section 5721.33 of the Revised Code;

(4) Any other fees charged by any county office in connection with the recording of tax certificates.

(G) "Certificate rate of interest" means the rate of simple interest per year bid by the winning bidder in an auction of a tax certificate held under section 5721.32 of the Revised Code, or the rate of simple interest per year not to exceed eighteen per cent per year fixed pursuant to section 5721.42 of the Revised Code or by the county treasurer with respect to any tax certificate sold or transferred pursuant to a negotiated sale under section 5721.33 of the Revised Code. The certificate rate of interest shall not be less than zero per cent per year.

(H) "Cash" means United States currency, certified checks, money orders, bank drafts, electronic transfer of funds, or other forms of payment authorized by the county treasurer, and excludes any other form of payment not so authorized.

(I) "The date on which a tax certificate is sold or transferred," "the date

the certificate was sold or transferred," "the date the certificate is purchased," and any other phrase of similar content mean, with respect to a sale pursuant to an auction under section 5721.32 of the Revised Code, the date designated by the county treasurer for the submission of bids and, with respect to a negotiated sale or transfer under section 5721.33 of the Revised Code, the date of delivery of the tax certificates to the purchasers thereof pursuant to a tax certificate sale/purchase agreement.

(J) "Certificate interest period" means, with respect to a tax certificate sold under section 5721.32 or 5721.42 of the Revised Code and for the purpose of accruing interest under section 5721.41 of the Revised Code, the period beginning on the date on which the certificate is purchased and, with respect to a tax certificate sold or transferred under section 5721.33 of the Revised Code, the period beginning on the date of delivery of the tax certificate, and in either case ending on one of the following dates:

(1) The date the certificate holder files a request for foreclosure or notice of intent to foreclose under division (A) of section 5721.37 of the Revised Code and submits the payment required under division (B) of that section;

(2) The date the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, redeems the certificate parcel under division (A) or (C) of section 5721.38 of the Revised Code or redeems the certificate under section 5721.381 of the Revised Code.

(K) "Qualified trustee" means a trust company within the state or a bank having the power of a trust company within the state with a combined capital stock, surplus, and undivided profits of at least one hundred million dollars.

(L) "Tax certificate sale/purchase agreement" means the purchase and sale agreement described in division (C) of section 5721.33 of the Revised Code setting forth the certificate purchase price, plus any applicable premium or less any applicable discount, including, without limitation, the amount to be paid in cash and the amount and nature of any noncash consideration, the date of delivery of the tax certificates, and the other terms and conditions of the sale, including, without limitation, the rate of interest that the tax certificates shall bear.

(M) "Noncash consideration" means any form of consideration other than cash, including, but not limited to, promissory notes whether subordinate or otherwise.

(N) "Private attorney" means any attorney licensed to practice law in this state whose license has not been revoked and is not currently suspended, and who is retained to bring foreclosure proceedings pursuant to section

5721.37 of the Revised Code on behalf of a certificate holder.

(O) "Related certificate parcel" means, with respect to a certificate holder, the certificate parcel with respect to which the certificate holder has purchased and holds a tax certificate pursuant to sections 5721.30 to 5721.43 of the Revised Code and, with respect to a tax certificate, the certificate parcel against which the tax certificate has been sold pursuant to those sections.

(P) "Delinquent taxes" means delinquent taxes as defined in section 323.01 of the Revised Code and includes assessments and charges, and penalties and interest computed under section 323.121 of the Revised Code.

(Q) "Certificate period" means the period of time after the sale or delivery of a tax certificate within which a certificate holder must initiate an action to foreclose the tax lien represented by the certificate as specified under division (A) of section 5721.32 of the Revised Code or as negotiated under section 5721.33 of the Revised Code.

Sec. 5721.31. (A)(1) After receipt of a duplicate of the delinquent land list compiled under section 5721.011 of the Revised Code, or a delinquent land list compiled previously under that section, the county treasurer may select from the list parcels of delinquent land the lien against which the county treasurer may attempt to transfer by the sale of tax certificates under sections 5721.30 to 5721.43 of the Revised Code. None of the following parcels may be selected for a tax certificate sale:

(a) A parcel for which the full amount of taxes, assessments, penalties, interest, and charges have been paid;

(b) A parcel for which a valid contract under section 323.122, 323.31, or 5713.20 of the Revised Code is in force;

(c) A parcel the owner of which has filed a petition in bankruptcy, so long as the parcel is property of the bankruptcy estate.

(2) The county treasurer shall compile a separate list of parcels selected for tax certificate sales, including the same information as is required to be included in the delinquent land list.

Upon compiling the list of parcels selected for tax certificate sales, the county treasurer may conduct a title search for any parcel on the list.

(B)(1) Except as otherwise provided in division (B)(3) of this section, when tax certificates are to be sold under section 5721.32 of the Revised Code with respect to parcels, the county treasurer shall send written notice by certified mail to either the owner of record or all interested parties discoverable through a title search, or both, of each parcel on the list. A notice to an owner shall be sent to the owner's last known tax-mailing address. The notice shall inform the owner or interested parties that a tax

certificate will be offered for sale on the parcel, and that the owner or interested parties may incur additional expenses as a result of the sale.

(2) Except as otherwise provided in division (B)(3) of this section, when tax certificates are to be sold or transferred under section 5721.33 of the Revised Code with respect to parcels, the county treasurer, at least thirty days prior to the date of sale or transfer of such tax certificates, shall send written notice of the sale or transfer by certified mail to the last known tax-mailing address of the record owner of the property or parcel and may send such notice to all parties with an interest in the property that has been recorded in the property records of the county pursuant to section 317.08 of the Revised Code. The notice shall state that a tax certificate will be offered for sale or transfer on the parcel, and that the owner or interested parties may incur additional expenses as a result of the sale or transfer.

(3) The county treasurer is not required to send a notice under division (B)(1) or (B)(2) of this section if the treasurer previously has attempted to send such notice to the owner of the parcel and the notice has been returned by the post office as undeliverable. The absence of a valid tax-mailing address for the owner of a parcel does not preclude the county treasurer from selling or transferring a tax certificate for the parcel.

(C) The county treasurer shall advertise the sale of tax certificates under section 5721.32 of the Revised Code in a newspaper of general circulation in the county, once a week for two consecutive weeks. The newspaper shall meet the requirements of section 7.12 of the Revised Code. The advertisement shall include the date, the time, and the place of the public auction, abbreviated legal descriptions of the parcels, and the names of the owners of record of the parcels. The advertisement also shall include the certificate purchase prices of the parcels or the total purchase price of tax certificates for sale in blocks of tax certificates.

(D) After the county treasurer has compiled the list of parcels selected for tax certificate sales but before a tax certificate respecting a parcel is sold or transferred, if the owner of record of the parcel pays to the county treasurer in cash the delinquent taxes respecting the parcel or otherwise acts so that any condition in division (A)(1)(a), (b), or (c) of this section applies to the parcel, the owner of record of the parcel also shall pay a fee in an amount prescribed by the treasurer to cover the administrative costs of the treasurer under this section respecting the parcel. The fee shall be deposited in the county treasury to the credit of the tax certificate administration fund.

(E) A tax certificate administration fund shall be created in the county treasury of each county selling tax certificates under sections 5721.30 to 5721.43 of the Revised Code. The fund shall be administered by the county

treasurer, and used solely for the purposes of sections 5721.30 to 5721.43 of the Revised Code or as otherwise permitted in this division. Any fee received by the treasurer under sections 5721.30 to 5721.43 of the Revised Code shall be credited to the fund, except the bidder registration fee under division (B) of section 5721.32 of the Revised Code and the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code. To the extent there is a surplus in the fund from time to time, the surplus may, with the approval of the county treasurer, be utilized for the purposes of a county land reutilization corporation operating in the county.

(F) The county treasurers of more than one county may jointly conduct a regional sale of tax certificates under section 5721.32 of the Revised Code. A regional sale shall be held at a single location in one county, where the tax certificates from each of the participating counties shall be offered for sale at public auction. Before the regional sale, each county treasurer shall advertise the sale for the parcels in the treasurer's county as required by division (C) of this section. At the regional sale, tax certificates shall be sold on parcels from one county at a time, with all of the certificates for one county offered for sale before any certificates for the next county are offered for sale.

(G) The tax commissioner shall prescribe the form of the tax certificate under this section, and county treasurers shall use the form so prescribed.

Sec. 5721.32. (A) The sale of tax certificates by public auction may be conducted at any time after completion of the advertising of the sale under section 5721.31 of the Revised Code, on the date and at the time and place designated in the advertisements, and may be continued from time to time as the county treasurer directs. The county treasurer may offer the tax certificates for sale in blocks of tax certificates, consisting of any number of tax certificates as determined by the county treasurer, and may specify a certificate period of not less than three years and not more than six years.

(B)(1) The sale of tax certificates under this section shall be conducted at a public auction by the county treasurer or a designee of the county treasurer.

(2) No person shall be permitted to bid without completing a bidder registration form, in the form prescribed by the tax commissioner, and without filing the form with the county treasurer prior to the start of the auction, together with remittance of a registration fee, in cash, of five hundred dollars. The bidder registration form shall include a tax identification number of the registrant. The registration fee is refundable at the end of bidding on the day of the auction, unless the registrant is the winning bidder for one or more tax certificates or one or more blocks of tax

certificates, in which case the fee may be applied toward the deposit required by this section.

(3) The county treasurer may require a person who wishes to bid on one or more parcels to submit a letter from a financial institution stating that the bidder has sufficient funds available to pay the purchase price of the parcels and a written authorization for the treasurer to verify such information with the financial institution. The county treasurer may require submission of the letter and authorization sufficiently in advance of the auction to allow for verification. No person who fails to submit the required letter and authorization, or whose financial institution fails to provide the requested verification, shall be permitted to bid.

(C) At the public auction, the county treasurer or the treasurer's designee or agent shall begin the bidding at eighteen per cent per year simple interest, and accept lower bids in even increments of one-fourth of one per cent to the rate of zero per cent. The county treasurer, designee, or agent shall award the tax certificate to the person bidding the lowest certificate rate of interest. The county treasurer shall decide which person is the winning bidder in the event of a tie for the lowest bid offered, or if a person contests the lowest bid offered. The county treasurer's decision is not appealable.

(D)(1) The winning bidder shall pay the county treasurer a cash deposit of at least ten per cent of the certificate purchase price not later than the close of business on the day of the sale. The winning bidder shall pay the balance and the fee required under division (H) of this section not later than five business days after the day on which the certificate is sold. Except as provided under division (D)(2) of this section, if the winning bidder fails to pay the balance and fee within the prescribed time, the bidder forfeits the deposit, and the county treasurer shall retain the tax certificate and may attempt to sell it at any auction conducted at a later date.

(2) At the request of a winning bidder, the county treasurer may release the bidder from the bidder's tax certificate purchase obligation. The county treasurer may retain all or any portion of the deposit of a bidder granted a release. After granting a release under this division, the county treasurer may award the tax certificate to the person that submitted the second lowest bid at the auction.

(3) The county treasurer shall deposit the deposit forfeited or retained under divisions (D)(1) or (2) of this section in the county treasury to the credit of the tax certificate administration fund.

(E) Upon receipt of the full payment of the certificate purchase price from the purchaser, the county treasurer shall issue the tax certificate and record the tax certificate sale by entering into a tax certificate register the

certificate purchase price, the certificate rate of interest, the date the certificate was sold, the certificate period, the name and address of the certificate holder, and any other information the county treasurer considers necessary. The county treasurer may keep the tax certificate register in a hard-copy format or in an electronic format. The name and address of the certificate holder may be, upon receipt of instructions from the purchaser, that of the secured party of the actual purchaser, or an agent or custodian for the purchaser or secured party. The county treasurer also shall transfer the tax certificate to the certificate holder. The county treasurer shall apportion the part of the proceeds from the sale representing taxes, penalties, and interest among the several taxing districts in the same proportion that the amount of taxes levied by each district against the certificate parcel in the preceding tax year bears to the taxes levied by all such districts against the certificate parcel in the preceding tax year, and credit the part of the proceeds representing assessments and other charges to the items of assessments and charges in the order in which those items became due. Upon issuing a tax certificate, the delinquent taxes that make up the certificate purchase price are transferred, and the superior lien of the state and its taxing districts for those delinquent taxes is conveyed intact to the certificate holder.

(F) If a tax certificate is offered for sale under this section but is not sold, the county treasurer may sell the certificate in a negotiated sale authorized under section 5721.33 of the Revised Code, or may strike the corresponding certificate parcel from the list of parcels selected for tax certificate sales. The lien for taxes, assessments, charges, penalties, and interest against a parcel stricken from the list thereafter may be foreclosed in the manner prescribed by section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code unless, prior to the institution of such proceedings against the parcel, the county treasurer restores the parcel to the list of parcels selected for tax certificate sales.

(G) A certificate holder shall not be liable for damages arising from a violation of sections 3737.87 to 3737.891 or Chapter 3704., 3734., 3745., 3746., 3750., 3751., 3752., 6109., or 6111. of the Revised Code, or a rule adopted or order, permit, license, variance, or plan approval issued under any of those chapters, that is or was committed by another person in connection with the parcel for which the tax certificate is held.

(H) When selling a tax certificate under this section, the county treasurer shall charge a fee to the purchaser of the certificate. The county treasurer shall set the fee at a reasonable amount that covers the treasurer's costs of administering the sale of the tax certificate. The county treasurer

shall deposit the fee in the county treasury to the credit of the tax certificate administration fund.

(I) After selling a tax certificate under this section, the county treasurer shall send written notice by certified mail to the owner of the certificate parcel at the owner's last known tax-mailing address. The notice shall inform the owner that the tax certificate was sold, shall describe the owner's options to redeem the parcel, including entering into a redemption payment plan under division (C)(1) of section 5721.38 of the Revised Code, and shall name the certificate holder and its secured party, if any. However, the county treasurer is not required to send a notice under this division if the treasurer previously has attempted to send a notice to the owner of the parcel at the owner's last known tax-mailing address, and the postal service has returned the notice as undeliverable.

(J) A tax certificate shall not be sold to the owner of the certificate parcel.

Sec. 5721.37. ~~(A)(1) Division (A)(1) of this section applies to tax certificates purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code.~~ At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than ~~six years after that date~~ the end of the certificate period, a certificate holder, except for a county land reutilization corporation, may file with the county treasurer a request for foreclosure, or a private attorney on behalf of the certificate holder may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the certificate parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.

~~(2) Division (A)(2) of this section applies to tax certificates purchased under section 5721.33 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code. At any time after one year from the date shown on the tax certificate as the date the tax certificate was sold, and not later than six years~~

~~after that date or any extension of that date pursuant to division (C)(2) of section 5721.38 of the Revised Code, or not earlier or later than the dates negotiated by the county treasurer and specified in the tax certificate sale/purchase agreement, the certificate holder may file with the county treasurer a request for foreclosure, or a private attorney on behalf of a certificate holder other than a county land reutilization corporation may file with the county treasurer a notice of intent to foreclose, on a form prescribed by the tax commissioner, provided the parcel has not been redeemed under division (A) or (C) of section 5721.38 of the Revised Code and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure or notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires the tax certificate.~~

~~(3)(a) Division (A)(3)(a) of this section applies to a tax certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, and not held by a county land reutilization corporation. If, before the expiration of six years after the date a tax certificate was sold, the owner of the property for which the certificate was sold files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or the private attorney may file a notice of intent to foreclose is the later of six years after the date the certificate was sold or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the six year period measured from the date the certificate was sold is tolled while the property owner's bankruptcy case remains open.~~

~~(b) Division (A)(3)(b) of this section applies to a tax certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, and not held by a county land reutilization corporation. If, before six years after the date a tax certificate~~

~~was sold or before the date negotiated by the county treasurer~~ If, before the expiration of the certificate period, the owner of the property files a petition in bankruptcy, the county treasurer, upon being notified of the filing of the petition, shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the petition. It is the obligation of the certificate holder to file a proof of claim with the bankruptcy court to protect the holder's interest in the certificate parcel. The last day on which the certificate holder may file a request for foreclosure or a notice of intent to foreclose is the later of ~~six years after the date the tax certificate was sold or the date negotiated by the county treasurer~~, the expiration of the certificate period or one hundred eighty days after the certificate parcel is no longer property of the bankruptcy estate; however, the ~~six-year or negotiated period being measured after the date the certificate was sold~~ certificate period is tolled while the property owner's bankruptcy case remains open. If the certificate holder is a county land reutilization corporation, the corporation may institute a foreclosure action under the statutes pertaining to the foreclosure of mortgages or as permitted under sections 323.65 to 323.79 of the Revised Code at any time after it acquires such tax certificate, subject to any restrictions under such bankruptcy law or proceeding.

(e) Interest at the certificate rate of interest continues to accrue during any extension of time required by division ~~(A)(3)(a) or (b)(A)(2)~~ of this section unless otherwise provided under Title 11 of the United States Code.

~~(4)(3)~~ If, before the expiration of three years from the date a tax certificate was sold, the owner of property for which the certificate was sold applies for an exemption under section 3735.67 or 5715.27 of the Revised Code or under any other section of the Revised Code under the jurisdiction of the director of environmental protection, the county treasurer shall notify the certificate holder by ordinary first-class or certified mail or by binary means of the filing of the application. Once a determination has been made on the exemption application, the county treasurer shall notify the certificate holder of the determination by ordinary first-class or certified mail or by binary means. Except with respect to a county land reutilization corporation, the last day on which the certificate holder may file a request for foreclosure shall be the later of three years from the date the certificate was sold or forty-five days after notice of the determination was provided.

(B) When a request for foreclosure or a notice of intent to foreclose is filed under ~~division (A)(1) or (2)~~ of this section, the certificate holder shall submit a payment to the county treasurer equal to the sum of the following:

(1) The certificate redemption prices of all outstanding tax certificates that have been sold on the parcel, other than tax certificates held by the

person requesting foreclosure;

(2) Any taxes, assessments, penalties, interest, and charges appearing on the tax duplicate charged against the certificate parcel that is the subject of the foreclosure proceedings and that are not covered by a tax certificate, but such amounts are not payable if the certificate holder is a county land reutilization corporation;

(3) If the foreclosure proceedings are filed by the county prosecuting attorney pursuant to section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, a fee in the amount prescribed by the county prosecuting attorney to cover the prosecuting attorney's legal costs incurred in the foreclosure proceeding.

(C)(1) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed and at least one certificate respecting the certificate parcel, held by the certificate holder filing the request for foreclosure and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, the county treasurer, within five days after receiving a foreclosure request and the payment required under division (B) of this section, shall certify notice to that effect to the county prosecuting attorney and shall provide a copy of the foreclosure request. The county treasurer also shall send notice by ordinary first class or certified mail to all certificate holders other than the certificate holder requesting foreclosure that foreclosure has been requested by a certificate holder and that payment for the tax certificates is forthcoming. Within ninety days of receiving the copy of the foreclosure request, the prosecuting attorney shall commence a foreclosure proceeding in the name of the county treasurer in the manner provided under section 323.25, sections 323.65 to 323.79, or section 5721.14 or 5721.18 of the Revised Code, to enforce the lien vested in the certificate holder by the certificate. The prosecuting attorney shall attach to the complaint the foreclosure request and the county treasurer's written certification.

(2) With respect to a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, if the certificate parcel has not been redeemed, at least one certificate respecting the certificate parcel, held by the certificate holder filing the notice of intent to foreclose and eligible to be enforced through a foreclosure proceeding, has not been voided under section 5721.381 of the Revised Code, a notice of intent to foreclose has been filed, and the payment required under division (B) of this section has been made, the county treasurer shall certify notice to that effect to the private attorney. The county treasurer also shall send notice by ordinary first

class or certified mail or by binary means to all certificate holders other than the certificate holder represented by the attorney that a notice of intent to foreclose has been filed and that payment for the tax certificates is forthcoming. After receipt of the treasurer's certification and not later than one hundred twenty days after the filing of the intent to foreclose or the number of days specified under the terms of a negotiated sale under section 5721.33 of the Revised Code, the private attorney shall commence a foreclosure proceeding in the name of the certificate holder in the manner provided under division (F) of this section to enforce the lien vested in the certificate holder by the certificate. The private attorney shall attach to the complaint the notice of intent to foreclose and the county treasurer's written certification.

(D) The county treasurer shall credit the amount received under division (B)(1) of this section to the tax certificate redemption fund. The tax certificates respecting the payment shall be paid as provided in division (D) of section 5721.38 of the Revised Code. The amount received under division (B)(2) of this section shall be distributed to the taxing districts to which the delinquent and unpaid amounts are owed. The county treasurer shall deposit the fee received under division (B)(3) of this section in the county treasury to the credit of the delinquent tax and assessment collection fund.

~~(E)(1)(a) Except with respect to a county land reutilization corporation, if, in the case of a certificate purchased under section 5721.32 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with the required payment within six years after the date shown on the tax certificate as the date the certificate was sold or within the period provided under division (A)(3)(a) of this section, and during that time the certificate has not been voided under section 5721.381 of the Revised Code and the parcel has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel is canceled, and the certificate is voided, subject to division (E)(1)(b) of this section.~~

~~(b) In the case of any tax certificate purchased under section 5721.32 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code prior to June 24, 2008, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three-year period prescribed by division (E)(1) of this section, as that division existed prior to that date, to six years after the date shown on~~

~~the original certificate as the date it was sold or any extension of that date.~~

~~(2)(a) Except with respect to a county land reutilization corporation, if, in the case of a certificate purchased under section 5721.33 of the Revised Code, or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.33 of the Revised Code, the certificate holder does not file with the county treasurer a request for foreclosure or a notice of intent to foreclose with respect to a certificate parcel with the required payment within six years after the date shown on the tax certificate as the date the certificate was sold the certificate period or any extension of that date period pursuant to division (C)(2) of section 5721.38 of the Revised Code, or within the period provided under division (A)(3)(b)(A)(2) of this section or as specified under the terms of a negotiated sale under section 5721.33 of the Revised Code, and during that time the certificate has not been voided under section 5721.381 of the Revised Code and the certificate parcel has not been redeemed or foreclosed upon, the certificate holder's lien against the parcel is canceled and the certificate is voided, subject to division (E)(2)(b)(E)(2) of this section.~~

~~(b)(2) In the case of any tax certificate purchased under section 5721.33 5721.32 of the Revised Code or under section 5721.42 of the Revised Code by the holder of a certificate issued under section 5721.32 of the Revised Code prior to October 10, 2000 June 24, 2008, the county treasurer, upon application by the certificate holder, may sell to the certificate holder a new certificate extending the three-year period prescribed by division (E)(2)(E)(1) of this section, as that division existed prior to October 10, 2000 that date, to six years after the date shown on the original certificate as the date it was sold or any extension of that date.~~

~~(3) The county treasurer and the certificate holder shall negotiate the premium, in cash, to be paid for a new certificate sold under division (E)(1)(b) or (2)(b)(E)(2) of this section. If the county treasurer and certificate holder do not negotiate a mutually acceptable premium, the county treasurer and certificate holder may agree to engage a person experienced in the valuation of financial assets to appraise a fair premium for the new certificate. The certificate holder has the option to purchase the new certificate for the fair premium so appraised. Not less than one-half of the fee of the person so engaged shall be paid by the certificate holder requesting the new certificate; the remainder of the fee shall be paid from the proceeds of the sale of the new certificate. If the certificate holder does not purchase the new certificate for the premium so appraised, the certificate holder shall pay the entire fee. The county treasurer shall credit the remaining proceeds from the sale to the items of taxes, assessments,~~

penalties, interest, and charges in the order in which they became due.

(4) A certificate issued under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section vests in the certificate holder and its secured party, if any, the same rights, interests, privileges, and immunities as are vested by the original certificate under sections 5721.30 to 5721.43 of the Revised Code. The certificate shall be issued in the same form as the form prescribed for the original certificate issued except for any modifications necessary, in the county treasurer's discretion, to reflect the extension under this division of the certificate holder's lien to six years after the date shown on the original certificate as the date it was sold or any extension of that date. The certificate holder may record a certificate issued under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section or memorandum thereof as provided in division (B) of section 5721.35 of the Revised Code, and the county recorder shall index the certificate and record any subsequent cancellation of the lien as provided in that section. The sale of a certificate extending the lien under division ~~(E)(1)(b) or (2)(b)~~(E)(2) of this section does not impair the right of redemption of the owner of record of the certificate parcel or of any other person entitled to redeem the property.

~~(5)~~(3) If the holder of a certificate purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code submits a notice of intent to foreclose to the county treasurer but fails to file a foreclosure action in a court of competent jurisdiction within the time specified in division (C)(2) of this section, the liens represented by all tax certificates respecting the certificate parcel held by that certificate holder, and for which the deadline for filing a notice of intent to foreclose has passed, are canceled and the certificates voided, and the certificate holder forfeits the payment of the amounts described in division (B)(2) of this section.

(F) With respect to tax certificates purchased under section 5721.32, 5721.33, or 5721.42 of the Revised Code, upon the delivery to the private attorney by the county treasurer of the certification provided for under division (C)(2) of this section, the private attorney shall institute a foreclosure proceeding under this division in the name of the certificate holder to enforce the holder's lien, in any court or board of revision with jurisdiction, unless the certificate redemption price is paid prior to the time a complaint is filed. The attorney shall prosecute the proceeding to final judgment and satisfaction, whether through sale of the property or the vesting of title and possession in the certificate holder or other disposition under sections 323.65 to 323.79 of the Revised Code or as may otherwise be provided by law.

The foreclosure proceedings under this division, except as otherwise

provided in this division, shall be instituted and prosecuted in the same manner as is provided by law for the foreclosure of mortgages on land, except that, if service by publication is necessary, such publication shall be made once a week for three consecutive weeks and the service shall be complete at the expiration of three weeks after the date of the first publication.

Any notice given under this division shall include the name of the owner of the parcel as last set forth in the records of the county recorder, the owner's last known mailing address, the address of the subject parcel if different from that of the owner, and a complete legal description of the subject parcel. In any county that has adopted a permanent parcel number system, such notice may include the permanent parcel number in addition to a complete legal description.

It is sufficient, having been made a proper party to the foreclosure proceeding, for the certificate holder to allege in such holder's complaint that the tax certificate has been duly purchased by the certificate holder, that the certificate redemption price is due and unpaid, that there is a lien against the property described in the tax certificate, and, if applicable, that the certificate holder desires to invoke the alternative redemption period prescribed in sections 323.65 to 323.79 of the Revised Code, without setting forth in such holder's complaint any other special matter relating to the foreclosure proceeding. The complaint shall pray for an order directing the sheriff, or the bailiff if the complaint is filed in municipal court, to offer the property for sale in the manner provided in section 5721.19 of the Revised Code or otherwise transferred according to any applicable procedures provided in sections 323.65 to 323.79 of the Revised Code, unless the complaint documents that the county auditor has determined that the true value of the certificate parcel is less than the certificate purchase price. In that case, the prayer of the complaint shall request that fee simple title to the property be transferred to and vested in the certificate holder free and clear of all subordinate liens.

In the foreclosure proceeding, the certificate holder may join in one action any number of tax certificates relating to the same owner. However, the decree for each tax certificate shall be rendered separately and any proceeding may be severed, in the discretion of the court or board of revision, for the purpose of trial or appeal. Except as may otherwise be provided in sections 323.65 to 323.79 of the Revised Code, upon confirmation of sale, the court or board of revision shall order payment of all costs related directly or indirectly to the tax certificate, including, without limitation, attorney's fees of the holder's attorney in accordance with section

5721.371 of the Revised Code. The tax certificate purchased by the certificate holder is presumptive evidence in all courts and boards of revision and in all proceedings, including, without limitation, at the trial of the foreclosure action, of the amount and validity of the taxes, assessments, charges, penalties by the court and added to such principal amount, and interest appearing due and unpaid and of their nonpayment.

(G) If a parcel is sold under this section, the officer who conducted the sale shall collect the recording fee from the purchaser at the time of the sale and, following confirmation of the sale, shall prepare and record the deed conveying the title to the parcel to the purchaser.

Sec. 5721.38. (A) At any time prior to payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under division (B) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may redeem the parcel by paying to the county treasurer an amount equal to the total of the certificate redemption prices of all tax certificates respecting that parcel.

(B) At any time after payment to the county treasurer by the certificate holder to initiate foreclosure proceedings under section 5721.37 of the Revised Code, and before the filing of the entry of confirmation of sale of a certificate parcel, or the expiration of the alternative redemption period defined in section 323.65 of the Revised Code under foreclosure proceedings filed by the county prosecuting attorney, and before the decree conveying title to the certificate holder is rendered as provided for in division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel or any other person entitled to redeem that parcel may redeem the parcel by paying to the county treasurer the sum of the following amounts:

(1) The amount described in division (A) of this section;

(2) Interest on the certificate purchase price for each tax certificate sold respecting the parcel at the rate of eighteen per cent per year for the period beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division;

(3) An amount equal to the sum of the county prosecuting attorney's fee under division (B)(3) of section 5721.37 of the Revised Code plus interest on that amount at the rate of eighteen per cent per year beginning on the day on which the payment was submitted by the certificate holder and ending on the day the parcel is redeemed under this division. If the parcel is redeemed before the complaint has been filed, the prosecuting attorney shall adjust the fee to reflect services performed to the date of redemption, and the county

treasurer shall calculate the interest based on the adjusted fee and refund any excess fee to the certificate holder.

(4) Reasonable attorney's fees in accordance with section 5721.371 of the Revised Code if the certificate holder retained a private attorney to foreclose the lien;

(5) Any other costs and fees of the proceeding allocable to the certificate parcel as determined by the court or board of revision.

The county treasurer may collect the total amount due under divisions (B)(1) to (5) of this section in the form of guaranteed funds acceptable to the treasurer. Immediately upon receipt of such payments, the county treasurer shall reimburse the certificate holder who initiated foreclosure proceedings as provided in division (D) of this section. The county treasurer shall pay the certificate holder interest at the rate of eighteen per cent per year on amounts paid under divisions (B)(2) and (3) of section 5721.37 of the Revised Code, beginning on the day the certificate holder paid the amounts under those divisions and ending on the day the parcel is redeemed under this section.

(C)(1) During the period beginning on the date a tax certificate is sold under section 5721.32 of the Revised Code and ending one year from that date, the county treasurer may enter into a redemption payment plan with the owner of record of the certificate parcel or any other person entitled to redeem that parcel. The plan shall require the owner or other person to pay the certificate redemption price for the tax certificate in installments, with the final installment due no later than one year after the date the tax certificate is sold. The certificate holder may at any time, by written notice to the county treasurer, agree to accept installments collected to the date of notice as payment in full. Receipt of such notice by the treasurer shall constitute satisfaction of the payment plan and redemption of the tax certificate.

(2) During the period beginning on the date a tax certificate is sold under section 5721.33 of the Revised Code and ending on the date the decree is rendered on the foreclosure proceeding under division (F) of section 5721.37 of the Revised Code, the owner of record of the certificate parcel, or any other person entitled to redeem that parcel, may enter into a redemption payment plan with the certificate holder and all secured parties of the certificate holder. The plan shall require the owner or other person to pay the certificate redemption price for the tax certificate, an administrative fee not to exceed one hundred dollars per year, and the actual fees and costs incurred, in installments, with the final installment due no later than ~~six~~ years after the date the tax certificate is sold the expiration of the certificate period. The certificate holder shall give written notice of the plan to the

applicable county treasurer within sixty days after entering into the plan and written notice of default under the plan within ninety days after the default. If such a plan is entered into, the time period for filing a request for foreclosure or a notice of intent to foreclose under section 5721.37 of the Revised Code is extended by the length of time the plan is in effect and not in default.

(D)(1) Immediately upon receipt of full payment under division (A) or (B) of this section, the county treasurer shall make an entry to that effect in the tax certificate register, credit the payment to the tax certificate redemption fund created in the county treasury, and shall notify the certificate holder or holders by ordinary first class or certified mail or by binary means that the parcel has been redeemed and the lien or liens canceled, and that payment on the certificate or certificates is forthcoming. The treasurer shall pay the tax certificate holder or holders promptly.

The county treasurer shall administer the tax certificate redemption fund for the purpose of redeeming tax certificates. Interest earned on the fund shall be credited to the county general fund. If the county has established a county land reutilization corporation, the county treasurer may apply interest earned on the fund to the payment of the expenses of such corporation.

(2) If a redemption payment plan is entered into pursuant to division (C)(1) of this section, the county treasurer immediately shall notify each certificate holder by ordinary first class or certified mail or by binary means of the terms of the plan. Installment payments made pursuant to the plan shall be deposited in the tax certificate redemption fund. Any overpayment of the installments shall be refunded to the person responsible for causing the overpayment if the person applies for a refund under this section. If the person responsible for causing the overpayment fails to apply for a refund under this section within five years from the date the plan is satisfied, an amount equal to the overpayment shall be deposited into the general fund of the county. If the county has established a county land reutilization corporation, the county treasurer may apply such overpayment to the payment of the expenses of the corporation.

Upon satisfaction of the plan, the county treasurer shall indicate in the tax certificate register that the plan has been satisfied, and shall notify each certificate holder by ordinary first class or certified mail or by binary means that the plan has been satisfied and that payment on the certificate or certificates is forthcoming. The treasurer shall pay each certificate holder promptly.

If a redemption payment plan becomes void, the county treasurer shall notify each certificate holder by ordinary first class or certified mail or by

binary means. If a certificate holder files a request for foreclosure under section 5721.37 of the Revised Code, upon the filing of the request for foreclosure, any money paid under the plan shall be refunded to the person that paid the money under the plan.

(3) Upon receipt of the payment required under division (B)(1) of section 5721.37 of the Revised Code, the treasurer shall pay all other certificate holders and indicate in the tax certificate register that such certificates have been satisfied. If a county has organized a county land reutilization corporation, the county treasurer may apply the redemption price and any applicable interest payable under division (B) of this section to the payment of the expenses of the corporation.

Sec. 5721.42. After the settlement required under division (C) of section 321.24 of the Revised Code, the county treasurer shall notify the certificate holder of the most recently issued tax certificate, by ordinary first class or certified mail or by binary means, that the certificate holder may purchase a subsequent tax certificate by paying all delinquent taxes on the related certificate parcel, the lien against which has not been transferred by the sale of a tax certificate. During the thirty days after receiving the notice, the certificate holder possesses the exclusive right to purchase the subsequent tax certificate by paying those amounts to the county treasurer. The amount of the payment shall constitute a separate lien against the certificate parcel that shall be evidenced by the issuance by the treasurer to the certificate holder of an additional tax certificate with respect to the delinquent taxes so paid on the related certificate parcel. The amount of the payment as set forth in the tax certificate shall earn interest at the rate of eighteen per cent per year. The certificate period of each subsequent tax certificate shall terminate on the expiration date of the certificate period of the most recent tax certificate for the same certificate parcel.

Sec. 5722.13. Real property acquired and held by an electing subdivision pursuant to this chapter that is not sold or otherwise transferred within fifteen years after such acquisition shall be offered for sale at public auction during the sixteenth year after acquisition. If the real property is not sold at that time, it may be disposed of or retained for any lawful purpose without further application of this chapter.

Notice of the sale shall contain a description of each parcel, the permanent parcel number, and the full street address when available. The notice shall be published once a week for three consecutive weeks prior to the sale in a newspaper of general circulation within the electing subdivision. The newspaper shall meet the requirements of section 7.12 of the Revised Code.

Each parcel subsequent to the fifteenth year after its acquisition as part of a land reutilization program shall be sold for an amount equal to not less than the greater of:

(A) Two-thirds of its fair market value;

(B) The total amount of accrued taxes, assessments, penalties, interest, charges, and costs incurred by the electing subdivision in the acquisition, maintenance, and disposal of each parcel and the parcel's share of the costs and expenses of the land reutilization program.

The sale requirements of this section do not apply to real property acquired and held by a county land reutilization corporation.

Sec. 5723.05. If the taxes, assessments, charges, penalties, interest, and costs due on the forfeited lands have not been paid when the county auditor fixes the date for the sale of forfeited lands, the auditor shall give notice of them once a week for two consecutive weeks prior to the date fixed by the auditor for the sale, ~~in two newspapers~~ as provided in section 5721.03 of the Revised Code. The notice shall state that if the taxes, assessments, charges, penalties, interest, and costs charged against the lands forfeited to the state for nonpayment of taxes are not paid into the county treasury, and the county treasurer's receipt produced for the payment before the time specified in the notice for the sale of the lands, which day shall be named in the notice, each forfeited tract on which the taxes, assessments, charges, penalties, interest, and costs remain unpaid will be offered for sale beginning on the date set by the auditor, at the courthouse in the county, in order to satisfy the unpaid taxes, assessments, charges, penalties, interest, and costs, and that the sale will continue from day to day until each of the tracts is sold or offered for sale.

The notice also shall state that, if the forfeited land is sold for an amount that is less than the amount of the delinquent taxes, assessments, charges, penalties, and interest against it, and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court, in a separate order, may enter a deficiency judgment against the last owner of record of the land before its forfeiture to the state, for the amount of the difference; and that, if that owner of record is a corporation, the court may enter the deficiency judgment against the stockholder holding a majority of that corporation's stock.

Sec. 5723.18. (A) Except as otherwise provided in division (B)(2) of section 5721.17 and division (B) of section 319.43 of the Revised Code, the proceeds from a forfeiture sale shall be distributed as follows:

(1) The county auditor shall deduct all costs pertaining to the forfeiture and sale of forfeited lands, including costs pertaining to a foreclosure and forfeiture proceeding instituted under section 5721.14 of the Revised Code, except those paid under section 5721.04 of the Revised Code, from the moneys received from the sale of land and town lots forfeited to the state for the nonpayment of taxes, and shall pay such costs into the proper fund. In the case of the forfeiture sale of a parcel against which a foreclosure and forfeiture proceeding was instituted under section 5721.14 of the Revised Code, if the proceeds from the forfeiture sale are insufficient to pay the costs pertaining to such proceeding, the county auditor, at the next semiannual apportionment of real property taxes, shall reduce the amount of real property taxes that the auditor otherwise would distribute to each subdivision to which taxes, assessments, charges, penalties, or interest charged against the parcel are due. The reduction in each subdivision's real property tax distribution shall equal the amount of the unpaid costs multiplied by a fraction, the numerator of which is the amount of taxes, assessments, charges, penalties, and interest due the subdivision, and the denominator of which is the total amount of taxes, assessments, charges, penalties, and interest due all such subdivisions.

(2) Following the payment required by division (A)(1) of this section, the part of the proceeds that is equal to ten per cent of the taxes and assessments due shall be deposited in equal shares into each of the delinquent tax and assessment collection ~~fund~~ funds created pursuant to section 321.261 of the Revised Code.

(3) Following the payment required by division (A)(2) of this section, the remaining proceeds shall be distributed by the auditor to the appropriate subdivisions to pay the taxes, assessments, charges, penalties, and interest which are due and unpaid. If the proceeds available for distribution under this division are insufficient to pay the entire amount of those taxes, assessments, charges, penalties, and interest, the auditor shall distribute the proceeds available for distribution under this division to the appropriate subdivisions in proportion to the amount of those taxes, assessments, charges, penalties, and interest that each is due.

(B) If the proceeds from the sale of forfeited land are insufficient to pay in full the amount of the taxes, assessments, charges, penalties, and interest; the costs incurred in the proceedings instituted pursuant to this chapter and section 5721.18 of the Revised Code, or the foreclosure and forfeiture proceeding instituted pursuant to section 5721.14 of the Revised Code; and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the

Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code, the court may enter a deficiency judgment against the last owner of record of the land before its forfeiture to the state, for the unpaid amount. The court shall enter the judgment pursuant to section 5721.192 of the Revised Code. Except as otherwise provided in division (B) of section 319.43 of the Revised Code, the proceeds paid pursuant to the entry and satisfaction of such a judgment shall be distributed as if they had been received as a part of the proceeds from the sale of the land to satisfy the amount of the taxes, assessments, charges, penalties, and interest which are due and unpaid; the costs incurred in the associated proceedings which were due and unpaid; and, if division (B)(2) of section 5721.17 of the Revised Code is applicable, any notes issued by a receiver pursuant to division (F) of section 3767.41 of the Revised Code and any receiver's lien as defined in division (C)(4) of section 5721.18 of the Revised Code.

Sec. 5725.151. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5707.03 and assessed under section 5725.15 of the Revised Code for a dealer in intangibles subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any dealer for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the dealer but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The dealer may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) A dealer in intangibles claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

~~(D) For the purpose of division (C) of section 5725.24 of the Revised Code, reductions in the amount of taxes collected on account of credits allowed under this section shall be applied to reduce the amount credited to~~

~~the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

Sec. 5725.24. (A) ~~As used in this section, "qualifying dealer" means a dealer in intangibles that is a qualifying dealer in intangibles as defined in section 5733.45 of the Revised Code or a member of a qualifying controlled group, as defined in section 5733.04 of the Revised Code, of which an insurance company also is a member on the first day of January of the year in and for which the tax imposed by section 5707.03 of the Revised Code is required to be paid by the dealer.~~

~~(B)~~ The taxes levied by section 5725.18 of the Revised Code and collected pursuant to this chapter shall be paid into the state treasury to the credit of the general revenue fund.

~~(C)~~(B) The taxes levied by section 5707.03 of the Revised Code on the value of shares in and capital employed by all dealers in intangibles ~~other than those that are qualifying dealers~~ shall be ~~for the use of~~ paid into the state treasury to the credit of the general revenue fund ~~of the state and the local government funds of the several counties in which the taxes originate as provided in this division.~~

~~During each month for which there is money in the state treasury for disbursement under this division, the tax commissioner shall provide for payment to the county treasurer of each county of five eighths of the amount of the taxes collected on account of shares in and capital employed by dealers in intangibles other than those that are qualifying dealers, representing capital employed in the county. The balance of the money received and credited on account of taxes assessed on shares in and capital employed by such dealers in intangibles shall be credited to the general revenue fund.~~

~~Reductions in the amount of taxes collected on account of credits allowed under section 5725.151 of the Revised Code shall be applied to reduce the amount credited to the general revenue fund and shall not be applied to reduce the amount to be credited to the undivided local government funds of the counties in which such taxes originate.~~

~~For the purpose of this division, such taxes are deemed to originate in the counties in which such dealers in intangibles have their offices.~~

~~Money received into the treasury of a county pursuant to this section shall be credited to the undivided local government fund of the county and shall be distributed by the budget commission as provided by law.~~

~~(D)~~ All of the taxes levied under section 5707.03 of the Revised Code on the value of the shares in and capital employed by dealers in intangibles

~~that are qualifying dealers shall be paid into the state treasury to the credit of the general revenue fund.~~

Sec. 5725.34. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5725.18 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5725.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) An insurance company claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5725.98. (A) To provide a uniform procedure for calculating the amount of tax imposed by section 5725.18 of the Revised Code that is due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5725.31 of the Revised Code;

(3) The credit for purchasers of qualified low-income community investments under section 5725.33 of the Revised Code;

(4) The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association permitted by section 3956.20 of the Revised Code;

(6) The refundable credit for rehabilitating a historic building under

section 5725.34 of the Revised Code.

(7) The refundable credit for Ohio job retention under division (B)(2) or (3) of section 122.171 of the Revised Code;

~~(7)~~(8) The refundable credit for Ohio job creation under section 5725.32 of the Revised Code;

~~(8)~~(9) The refundable credit under section 5725.19 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5727.57. In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, fees, or penalties due from any public utility have remained unpaid for a period of ninety days, or whenever any public utility has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such public utility has its principal place of business for a judgment for the amount of the taxes and penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such public utility and its officers, directors, and managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, fees, penalties, and the costs of the proceeding, which shall be fixed by the court, or the making and filing of such report or return.

Such petition shall be in the name of the state. All or any of the public utilities having their principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permit process to be served by certified mail and by publication in a newspaper of general circulation ~~published~~ in the county, which publication need not be made more than once, setting forth the name of each delinquent public utility, the matter in which such public utility is delinquent, the names of its officers,

directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by said public utility.

All of the officers, directors, shareholders, or managing agents of any public utility may be joined as defendants with such public utility.

If it appears to the court upon hearing that any public utility which is a party to such proceeding is indebted to the state for taxes, fees, or penalties, judgment shall be entered therefor with interest, which shall be computed at the rate per annum prescribed by section 5703.47 of the Revised Code; and if it appears that any public utility has failed to make or file any report or return, a mandatory injunction may be issued against such public utility, its officers, directors, and managing agents, as such enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and the payment in full of all taxes, fees, and penalties.

If the officers, directors, shareholders, or managing agents of a public utility are not made parties in the first instance, and a judgment or an injunction is rendered or issued against such public utility, such officers, directors, shareholders, or managing agents, or any of them, may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this section, a statement of the commissioner or the secretary of state, when duly certified shall be prima-facie evidence of the amount of taxes, fees, or penalties due from any public utility, or of the failure of any public utility to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined ~~upon him~~ by this section the attorney general may direct any prosecuting attorney to bring an action, as authorized by this section, in the name of the state with respect to any delinquent public utilities within his the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by

the attorney general.

Sec. 5727.75. (A) For purposes of this section:

(1) "Qualified energy project" means an energy project certified by the director of development pursuant to this section.

(2) "Energy project" means a project to provide electric power through the construction, installation, and use of an energy facility.

(3) "Alternative energy zone" means a county declared as such by the board of county commissioners under division (E)(1)(b) or (c) of this section.

(4) "Full-time equivalent employee" means the total number of employee-hours for which compensation was paid to individuals employed at a qualified energy project for services performed at the project during the calendar year divided by two thousand eighty hours.

(5) "Solar energy project" means an energy project composed of an energy facility using solar panels to generate electricity.

(B)(1) Tangible personal property of a qualified energy project using renewable energy resources is exempt from taxation for tax years 2011 ~~and~~ 2012, 2013, and 2014 if all of the following conditions are satisfied:

(a) On or before December 31, ~~2014~~ 2013, the owner or a lessee pursuant to a sale and leaseback transaction of the project submits an application to the power siting board for a certificate under section 4906.20 of the Revised Code, or if that section does not apply, submits an application for any approval, consent, permit, or certificate or satisfies any condition required by a public agency or political subdivision of this state for the construction or initial operation of an energy project.

(b) Construction or installation of the energy facility begins on or after January 1, 2009, and before January 1, ~~2012~~ 2014. For the purposes of this division, construction begins on the earlier of the date of application for a certificate or other approval or permit described in division (B)(1)(a) of this section, or the date the contract for the construction or installation of the energy facility is entered into.

(c) For a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting an application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(2) If tangible personal property of a qualified energy project using renewable energy resources was exempt from taxation under this section ~~for beginning in any of tax years 2011 and, 2012, 2013, or 2014,~~ and the certification under division (E)(2) of this section has not been revoked, the tangible personal property of the qualified energy project is exempt from taxation for tax year ~~2013~~ 2015 and all ensuing tax years if the property was placed into service before January 1, ~~2013~~ 2015, as certified in the construction progress report required under division (F)(2) of this section. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation. An energy project for which certification has been revoked is ineligible for further exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(C) Tangible personal property of a qualified energy project using clean coal technology, advanced nuclear technology, or cogeneration technology is exempt from taxation for the first tax year that the property would be listed for taxation and all subsequent years if all of the following circumstances are met:

(1) The property was placed into service before January 1, ~~2017~~ 2019. Tangible personal property that has not been placed into service before that date is taxable property subject to taxation.

(2) For such a qualified energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of a county in which property of the qualified energy project is located has adopted a resolution under division (E)(1)(b) or (c) of this section to approve the application submitted under division (E) of this section to exempt the property located in that county from taxation. A board's adoption of a resolution rejecting the application or its failure to adopt a resolution approving the application does not affect the tax-exempt status of the qualified energy project's property that is located in another county.

(3) The certification for the qualified energy project issued under division (E)(2) of this section has not been revoked. An energy project for which certification has been revoked is ineligible for exemption under this section. Revocation does not affect the tax-exempt status of the project's tangible personal property for the tax year in which revocation occurs or any prior tax year.

(D) Except as otherwise provided in this ~~division~~ section, real property of a qualified energy project is exempt from taxation for any tax year for which the tangible personal property of the qualified energy project is

exempted under this section.

(E)(1)(a) A person may apply to the director of development for certification of an energy project as a qualified energy project on or before the following dates:

(i) December 31, ~~2014~~ 2013, for an energy project using renewable energy resources;

(ii) December 31, ~~2013~~ 2015, for an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology.

(b) The director shall forward a copy of each application for certification of an energy project with a nameplate capacity of five megawatts or greater to the board of county commissioners of each county in which the project is located and to each taxing unit with territory located in each of the affected counties. Any board that receives from the director a copy of an application submitted under this division shall adopt a resolution approving or rejecting the application unless it has adopted a resolution under division (E)(1)(c) of this section. A resolution adopted under division (E)(1)(b) or (c) of this section may require an annual service payment to be made in addition to the service payment required under division (G) of this section. The sum of the service payment required in the resolution and the service payment required under division (G) of this section shall not exceed nine thousand dollars per megawatt of nameplate capacity located in the county. The resolution shall specify the time and manner in which the payments required by the resolution shall be paid to the county treasurer. The county treasurer shall deposit the payment to the credit of the county's general fund to be used for any purpose for which money credited to that fund may be used.

The board shall send copies of the resolution by certified mail to the owner of the facility and the director within thirty days after receipt of the application, or a longer period of time if authorized by the director.

(c) A board of county commissioners may adopt a resolution declaring the county to be an alternative energy zone and declaring all applications submitted to the director of development under this division after the adoption of the resolution, and prior to its repeal, to be approved by the board.

All tangible personal property and real property of an energy project with a nameplate capacity of five megawatts or greater is taxable if it is located in a county in which the board of county commissioners adopted a resolution rejecting the application submitted under this division or failed to adopt a resolution approving the application under division (E)(1)(b) or (c) of this section.

(2) The director shall certify an energy project if all of the following circumstances exist:

(a) The application was timely submitted.

(b) For an energy project with a nameplate capacity of five megawatts or greater, a board of county commissioners of at least one county in which the project is located has adopted a resolution approving the application under division (E)(1)(b) or (c) of this section.

(c) No portion of the project's facility was used to supply electricity before December 31, 2009.

(3) The director shall deny a certification application if the director determines the person has failed to comply with any requirement under this section. The director may revoke a certification if the director determines the person, or subsequent owner or lessee pursuant to a sale and leaseback transaction of the qualified energy project, has failed to comply with any requirement under this section. Upon certification or revocation, the director shall notify the person, owner, or lessee, the tax commissioner, and the county auditor of a county in which the project is located of the certification or revocation. Notice shall be provided in a manner convenient to the director.

(F) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall do each of the following:

(1) Comply with all applicable regulations;

(2) File with the director of development a certified construction progress report before the first day of March of each year during the energy facility's construction or installation indicating the percentage of the project completed, and the project's nameplate capacity, as of the preceding thirty-first day of December. Unless otherwise instructed by the director of development, the owner or lessee of an energy project shall file a report with the director on or before the first day of March each year after completion of the energy facility's construction or installation indicating the project's nameplate capacity as of the preceding thirty-first day of December. Not later than sixty days after ~~the effective date of this section~~ June 17, 2010, the owner or lessee of an energy project, the construction of which was completed before ~~the effective date of this section~~ June 17, 2010, shall file a certificate indicating the project's nameplate capacity.

(3) File with the director of development, in a manner prescribed by the director, a report of the total number of full-time equivalent employees, and the total number of full-time equivalent employees domiciled in Ohio, who are employed in the construction or installation of the energy facility;

(4) For energy projects with a nameplate capacity of five megawatts or

greater, repair all roads, bridges, and culverts affected by construction as reasonably required to restore them to their preconstruction condition, as determined by the county engineer in consultation with the local jurisdiction responsible for the roads, bridges, and culverts. In the event that the county engineer deems any road, bridge, or culvert to be inadequate to support the construction or decommissioning of the energy facility, the road, bridge, or culvert shall be rebuilt or reinforced to the specifications established by the county engineer prior to the construction or decommissioning of the facility. The owner or lessee of the facility shall post a bond in an amount established by the county engineer and to be held by the board of county commissioners to ensure funding for repairs of roads, bridges, and culverts affected during the construction. The bond shall be released by the board not later than one year after the date the repairs are completed. The energy facility owner or lessee pursuant to a sale and leaseback transaction shall post a bond, as may be required by the Ohio power siting board in the certificate authorizing commencement of construction issued pursuant to section 4906.10 of the Revised Code, to ensure funding for repairs to roads, bridges, and culverts resulting from decommissioning of the facility. The energy facility owner or lessee and the county engineer may enter into an agreement regarding specific transportation plans, reinforcements, modifications, use and repair of roads, financial security to be provided, and any other relevant issue.

(5) Provide or facilitate training for fire and emergency responders for response to emergency situations related to the energy project and, for energy projects with a nameplate capacity of five megawatts or greater, at the person's expense, equip the fire and emergency responders with proper equipment as reasonably required to enable them to respond to such emergency situations;

(6) Maintain a ratio of Ohio-domiciled full-time equivalent employees employed in the construction or installation of the energy project to total full-time equivalent employees employed in the construction or installation of the energy project of not less than eighty per cent in the case of a solar energy project, and not less than fifty per cent in the case of any other energy project. In the case of an energy project for which certification from the power siting board is required under section 4906.20 of the Revised Code, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed in the certificate application, if such projection is required under regulations adopted pursuant to section 4906.03 of the Revised Code, whichever is greater. For

all other energy projects, the number of full-time equivalent employees employed in the construction or installation of the energy project equals the number actually employed or the number projected to be employed by the director of development, whichever is greater. To estimate the number of employees to be employed in the construction or installation of an energy project, the director shall use a generally accepted job-estimating model in use for renewable energy projects, including but not limited to the job and economic development impact model. The director may adjust an estimate produced by a model to account for variables not accounted for by the model.

(7) For energy projects with a nameplate capacity in excess of two megawatts, establish a relationship with a member of the university system of Ohio as defined in section 3345.011 of the Revised Code or with a person offering an apprenticeship program registered with the employment and training administration within the United States department of labor or with the apprenticeship council created by section 4139.02 of the Revised Code, to educate and train individuals for careers in the wind or solar energy industry. The relationship may include endowments, cooperative programs, internships, apprenticeships, research and development projects, and curriculum development.

(8) Offer to sell power or renewable energy credits from the energy project to electric distribution utilities or electric service companies subject to renewable energy resource requirements under section 4928.64 of the Revised Code that have issued requests for proposal for such power or renewable energy credits. If no electric distribution utility or electric service company issues a request for proposal on or before December 31, 2010, or accepts an offer for power or renewable energy credits within forty-five days after the offer is submitted, power or renewable energy credits from the energy project may be sold to other persons. Division (F)(8) of this section does not apply if:

(a) The owner or lessee is a rural electric company or a municipal power agency as defined in section 3734.058 of the Revised Code.

(b) The owner or lessee is a person that, before completion of the energy project, contracted for the sale of power or renewable energy credits with a rural electric company or a municipal power agency.

(c) The owner or lessee contracts for the sale of power or renewable energy credits from the energy project before ~~the effective date of this section as enacted by this act~~ June 17, 2010.

(9) Make annual service payments as required by division (G) of this section and as may be required in a resolution adopted by a board of county

commissioners under division (E) of this section.

(G) The owner or a lessee pursuant to a sale and leaseback transaction of a qualified energy project shall make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payments of taxes on public utility personal property on the real and public utility personal property tax list for each tax year for which property of the energy project is exempt from taxation under this section. The county treasurer shall allocate the payment on the basis of the project's physical location. Upon receipt of a payment, or if timely payment has not been received, the county treasurer shall certify such receipt or non-receipt to the director of development and tax commissioner in a form determined by the director and commissioner, respectively. Each payment shall be in the following amount:

(1) In the case of a solar energy project, seven thousand dollars per megawatt of nameplate capacity located in the county as of December 31, 2010, for tax year 2011, as of December 31, 2011, for tax year 2012, ~~and as of December 31, 2012, for tax year 2013, as of December 31, 2013, for tax year 2014, and as of December 31, 2014, for tax year 2015~~ and each tax year thereafter;

(2) In the case of any other energy project using renewable energy resources, the following:

(a) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(3) In the case of an energy project using clean coal technology, advanced nuclear technology, or cogeneration technology, the following:

(a) If the project maintains during the construction or installation of the

energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of not less than seventy-five per cent, six thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(b) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than seventy-five per cent but not less than sixty per cent, seven thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year;

(c) If the project maintains during the construction or installation of the energy facility a ratio of Ohio-domiciled full-time equivalent employees to total full-time equivalent employees of less than sixty per cent but not less than fifty per cent, eight thousand dollars per megawatt of nameplate capacity located in the county as of the thirty-first day of December of the preceding tax year.

(H) The director of development in consultation with the tax commissioner shall adopt rules pursuant to Chapter 119. of the Revised Code to implement and enforce this section.

Sec. 5727.84. (A) As used in this section and sections 5727.85, 5727.86, and 5727.87 of the Revised Code:

(1) "School district" means a city, local, or exempted village school district.

(2) "Joint vocational school district" means a joint vocational school district created under section 3311.16 of the Revised Code, and includes a cooperative education school district created under section 3311.52 or 3311.521 of the Revised Code and a county school financing district created under section 3311.50 of the Revised Code.

(3) "Local taxing unit" means a subdivision or taxing unit, as defined in section 5705.01 of the Revised Code, a park district created under Chapter 1545. of the Revised Code, or a township park district established under section 511.23 of the Revised Code, but excludes school districts and joint vocational school districts.

(4) "State education aid," for a school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: divisions (A), (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (G), (L), and (N) of section 3317.024; and sections 3317.029, 3317.0216, 3317.0217, 3317.04, 3317.05, 3317.052, and 3317.053 of the

Revised Code; and the adjustments required by: division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code. However, when calculating state education aid for a school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly, as subsequently amended, instead of division (D) of section 3317.022 of the Revised Code; and include amounts calculated under Section 269.30.80 of ~~this act~~ H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year thereafter~~ 2011, the sum of the amounts computed for the district under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192; of the Revised Code and the following provisions, as they existed for the applicable fiscal year: division (G) of section 3317.024; sections 3317.05, 3317.052, and 3317.053 of the Revised Code; and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (E), (K), (L), (M), and (N) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 ~~and~~, 3313.981, ~~and~~ 3326.33 of the Revised Code.

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS" and the adjustments required by division (C) of section 3310.08; division (C)(2) of section 3310.41; section 3310.55; division (C) of section 3314.08; division (D)(2) of section 3314.091; division (D) of section 3314.13; divisions (B), (H), (I), (J), and (K) of section 3317.023; division (C) of section 3317.20; and sections 3313.979 and 3313.981 of the Revised Code.

(5) "State education aid," for a joint vocational school district, means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid amounts computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code. However, when calculating state education aid for a joint vocational school district for fiscal years 2008 and 2009, include the amount computed for the district under Section 269.30.90 of H.B. 119 of the 127th general assembly, as subsequently amended.

(b) For fiscal years 2010 and 2011, the amount computed for the district

in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS".

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(6) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5727.85 of the Revised Code.

(7) "Recognized valuation" has the same meaning as in section 3317.02 of the Revised Code.

(8) "Electric company tax value loss" means the amount determined under division (D) of this section.

(9) "Natural gas company tax value loss" means the amount determined under division (E) of this section.

(10) "Tax value loss" means the sum of the electric company tax value loss and the natural gas company tax value loss.

(11) "Fixed-rate levy" means any tax levied on property other than a fixed-sum levy.

(12) "Fixed-rate levy loss" means the amount determined under division (G) of this section.

(13) "Fixed-sum levy" means a tax levied on property at whatever rate is required to produce a specified amount of tax money or levied in excess of the ten-mill limitation to pay debt charges, and includes school district emergency levies imposed pursuant to section 5705.194 of the Revised Code.

(14) "Fixed-sum levy loss" means the amount determined under division (H) of this section.

(15) "Consumer price index" means the consumer price index (all items, all urban consumers) prepared by the bureau of labor statistics of the United States department of labor.

(16) "Total resources" has the same meaning as in section 5751.20 of the Revised Code.

(17) "2011 current expense S.B. 3 allocation" means the sum of payments received by a school district or joint vocational school district in fiscal year 2011 for current expense levy losses pursuant to division (C)(2) of section 5727.85 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2011 current expense S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 of the Revised Code in the tax years

following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(18) "2010 current expense S.B. 3 allocation" means the sum of payments received by a municipal corporation in calendar year 2010 for current expense levy losses pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 current expense S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(19) "2010 S.B. 3 allocation" means the sum of payments received by a local taxing unit during calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "2010 S.B. 3 allocation" used to compute payments to be made under division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy.

(20) "Total S.B. 3 allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(2) and (D) of section 5727.85 of the Revised Code. In the case of a local taxing unit, "total S.B. 3 allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1) and (4) of section 5727.86 of the Revised Code. If a fixed-rate levy eligible for reimbursement is not imposed in any year after tax year 2010, "total S.B. 3 allocation" used to compute payments to be made under division (C)(3) of section 5727.85 or division (A)(1)(d) of section 5727.86 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of those payments attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85 or division (A)(1)(b) of section 5727.86 of the Revised Code.

(21) "2011 non-current expense S.B. 3 allocation" means the difference of a school district's or joint vocational school district's total S.B. 3 allocation minus the sum of the school district's 2011 current expense S.B. 3 allocation and the portion of the school district's total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (D) of section 5727.85 of the Revised Code.

(22) "2010 non-current expense S.B. 3 allocation" means the difference

of a municipal corporation's total S.B. 3 allocation minus the sum of its 2010 current expense S.B. 3 allocation and the portion of its total S.B. 3 allocation constituting reimbursement for debt levies pursuant to division (A)(4) of section 5727.86 of the Revised Code.

(23) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for calendar year 2011, four per cent for calendar year 2012, and six per cent for calendar years 2013 and thereafter.

(B) The kilowatt-hour tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.81 of the Revised Code. All money in the kilowatt-hour tax receipts fund shall be credited as follows:

~~(1) Sixty three per cent shall be credited to the general revenue fund.~~

~~(2) Twenty five and four tenths per cent shall be credited to the school district property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.85 of the Revised Code.~~

~~(3) Eleven and six tenths per cent shall be credited to the local government property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5727.86 of the Revised Code.~~

<u>Fiscal Year</u>	<u>General Revenue Fund</u>	<u>School District Property Tax Replacement Fund</u>	<u>Local Government Property Tax Replacement Fund</u>
<u>2001-2011</u>	<u>63.0%</u>	<u>25.4%</u>	<u>11.6%</u>
<u>2012 and thereafter</u>	<u>88.0%</u>	<u>9.0%</u>	<u>3.0%</u>

(C) The natural gas tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed by section 5727.811 of the Revised Code. All money in the fund shall be credited as follows:

(1) For fiscal years before fiscal year 2012:

(a) Sixty-eight and seven-tenths per cent shall be credited to the school district property tax replacement fund for the purpose of making the payments described in section 5727.85 of the Revised Code.

~~(2)~~(b) Thirty-one and three-tenths per cent shall be credited to the local

government property tax replacement fund for the purpose of making the payments described in section 5727.86 of the Revised Code.

(2) For fiscal years 2012 and thereafter, one hundred per cent to the general revenue fund.

(D) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its electric company tax value loss, which is the sum of the applicable amounts described in divisions (D)(1) to (4) of this section:

(1) The difference obtained by subtracting the amount described in division (D)(1)(b) from the amount described in division (D)(1)(a) of this section.

(a) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 1999, and as apportioned to the taxing district for tax year 1998;

(b) The value of electric company and rural electric company tangible personal property as assessed by the tax commissioner for tax year 1998 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference obtained by subtracting the amount described in division (D)(2)(b) from the amount described in division (D)(2)(a) of this section.

(a) The three-year average for tax years 1996, 1997, and 1998 of the assessed value from nuclear fuel materials and assemblies assessed against a person under Chapter 5711. of the Revised Code from the leasing of them to an electric company for those respective tax years, as reflected in the preliminary assessments;

(b) The three-year average assessed value from nuclear fuel materials and assemblies assessed under division (D)(2)(a) of this section for tax years 1996, 1997, and 1998, as reflected in the preliminary assessments, using an assessment rate of twenty-five per cent.

(3) In the case of a taxing district having a nuclear power plant within its territory, any amount, resulting in an electric company tax value loss, obtained by subtracting the amount described in division (D)(1) of this section from the difference obtained by subtracting the amount described in division (D)(3)(b) of this section from the amount described in division (D)(3)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2000 on a preliminary assessment, or

an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned to the taxing district for tax year 2000;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2001 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2002, and as apportioned to the taxing district for tax year 2001.

(4) In the case of a taxing district having a nuclear power plant within its territory, the difference obtained by subtracting the amount described in division (D)(4)(b) of this section from the amount described in division (D)(4)(a) of this section, provided that such difference is greater than ten per cent of the amount described in division (D)(4)(a) of this section.

(a) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2005 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2006, and as apportioned to the taxing district for tax year 2005;

(b) The value of electric company tangible personal property as assessed by the tax commissioner for tax year 2006 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2007, and as apportioned to the taxing district for tax year 2006.

(E) Not later than January 1, 2002, the tax commissioner shall determine for each taxing district its natural gas company tax value loss, which is the sum of the amounts described in divisions (E)(1) and (2) of this section:

(1) The difference obtained by subtracting the amount described in division (E)(1)(b) from the amount described in division (E)(1)(a) of this section.

(a) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 on a preliminary assessment, or an amended preliminary assessment if issued prior to March 1, 2000, and apportioned to the taxing district for tax year 1999;

(b) The value of all natural gas company tangible personal property, other than property described in division (E)(2) of this section, as assessed by the tax commissioner for tax year 1999 had the property been apportioned to the taxing district for tax year 2001, and assessed at the rates in effect for tax year 2001.

(2) The difference in the value of current gas obtained by subtracting the amount described in division (E)(2)(b) from the amount described in division (E)(2)(a) of this section.

(a) The three-year average assessed value of current gas as assessed by the tax commissioner for tax years 1997, 1998, and 1999 on a preliminary

assessment, or an amended preliminary assessment if issued prior to March 1, 2001, and as apportioned in the taxing district for those respective years;

(b) The three-year average assessed value from current gas under division (E)(2)(a) of this section for tax years 1997, 1998, and 1999, as reflected in the preliminary assessment, using an assessment rate of twenty-five per cent.

(F) The tax commissioner may request that natural gas companies, electric companies, and rural electric companies file a report to help determine the tax value loss under divisions (D) and (E) of this section. The report shall be filed within thirty days of the commissioner's request. A company that fails to file the report or does not timely file the report is subject to the penalty in section 5727.60 of the Revised Code.

(G) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-rate levy loss, which is the sum of its electric company tax value loss multiplied by the tax rate in effect in tax year 1998 for fixed-rate levies and its natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999 for fixed-rate levies.

(H) Not later than January 1, 2002, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss, which is the amount obtained by subtracting the amount described in division (H)(2) of this section from the amount described in division (H)(1) of this section:

(1) The sum of the electric company tax value loss multiplied by the tax rate in effect in tax year 1998, and the natural gas company tax value loss multiplied by the tax rate in effect in tax year 1999, for fixed-sum levies for all taxing districts within each school district, joint vocational school district, and local taxing unit. For the years 2002 through 2006, this computation shall include school district emergency levies that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, and all other fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss and continue to be charged in the tax year preceding the distribution year. For the years 2007 through 2016 in the case of school district emergency levies, and for all years after 2006 in the case of all other fixed-sum levies, this computation shall exclude all fixed-sum levies that existed in 1998 in the case of the electric company tax value loss and 1999 in the case of the natural gas company tax value loss, but are no longer in effect in the tax year preceding the distribution year. For the purposes of this section, an emergency levy

that existed in 1998 in the case of the electric company tax value loss, and 1999 in the case of the natural gas company tax value loss, continues to exist in a year beginning on or after January 1, 2007, but before January 1, 2017, if, in that year, the board of education levies a school district emergency levy for an annual sum at least equal to the annual sum levied by the board in tax year 1998 or 1999, respectively, less the amount of the payment certified under this division for 2002.

(2) The total taxable value in tax year 1999 less the tax value loss in each school district, joint vocational school district, and local taxing unit multiplied by one-fourth of one mill.

If the amount computed under division (H) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the fixed-sum levy loss reimbursed pursuant to division ~~(E)~~(F) of section 5727.85 of the Revised Code or division (A)(2) of section 5727.86 of the Revised Code, and the one-fourth of one mill that is subtracted under division (H)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion of each levy to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(I) Notwithstanding divisions (D), (E), (G), and (H) of this section, in computing the tax value loss, fixed-rate levy loss, and fixed-sum levy loss, the tax commissioner shall use the greater of the 1998 tax rate or the 1999 tax rate in the case of levy losses associated with the electric company tax value loss, but the 1999 tax rate shall not include for this purpose any tax levy approved by the voters after June 30, 1999, and the tax commissioner shall use the greater of the 1999 or the 2000 tax rate in the case of levy losses associated with the natural gas company tax value loss.

(J) Not later than January 1, 2002, the tax commissioner shall certify to the department of education the tax value loss determined under divisions (D) and (E) of this section for each taxing district, the fixed-rate levy loss calculated under division (G) of this section, and the fixed-sum levy loss calculated under division (H) of this section. The calculations under divisions (G) and (H) of this section shall separately display the levy loss for each levy eligible for reimbursement.

(K) Not later than September 1, 2001, the tax commissioner shall certify the amount of the fixed-sum levy loss to the county auditor of each county in which a school district with a fixed-sum levy loss has territory.

Sec. 5727.85. (A) By the thirty-first day of July of each year, beginning in 2002 and ending in ~~2016~~ 2010, the department of education shall determine the following for each school district and each joint vocational

school district:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirty-first day of July if the recognized valuation included the tax value loss for the school district or joint vocational school district;

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section or the state education aid offset calculated for fiscal year 2009.

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of zero or the difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code for all taxing districts in each school district and joint vocational school district.

By the fifth day of August of each such year, the department of education shall certify the amount so determined under division (A)(1) of this section to the director of budget and management.

(B) Not later than the thirty-first day of October of the years 2006 through ~~2016~~ 2010, the department of education shall determine all of the following for each school district:

(1) The amount obtained by subtracting the district's state education aid computed for fiscal year 2002 from the district's state education aid computed for the current fiscal year as of the fifteenth day of July, by including in the definition of recognized valuation the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses, as defined in section 5751.20 of the Revised Code, for the school district or joint vocational school district for the preceding tax year;

(2) The inflation-adjusted property tax loss. The inflation-adjusted property tax loss equals the fixed-rate levy loss, excluding the tax loss from levies within the ten-mill limitation to pay debt charges, determined under division (G) of section 5727.84 of the Revised Code for all taxing districts in each school district, plus the product obtained by multiplying that loss by the cumulative percentage increase in the consumer price index from

January 1, 2002, to the thirtieth day of June of the current year.

(3) The difference obtained by subtracting the amount computed under division (B)(1) from the amount of the inflation-adjusted property tax loss. If this difference is zero or a negative number, no further payments shall be made under division (C) of this section to the school district from the school district property tax replacement fund.

~~(C) The Beginning in 2002 for school districts and beginning in August 2011 for joint vocational school districts, the~~ department of education shall pay from the school district property tax replacement fund to each school district all of the following:

(1) In February 2002, one-half of the fixed-rate levy loss certified under division (J) of section 5727.84 of the Revised Code between the twenty-first and twenty-eighth days of February.

(2) From August 2002 through ~~August 2017~~ February 2011, one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February, provided the difference computed under division (B)(3) of this section is not less than or equal to zero.

~~For~~ (3) For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(3)(a) or (b) and (c) of this section shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) If the ratio of 2011 current expense S.B. 3 allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of 2011 current expense S.B. 3 allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of 2011 current expense S.B. 3 allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of 2011 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district the apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2016.

~~The department of education shall report to each school district the~~

~~apportionment of the payments among the school district's funds based on the certifications under division (J) of section 5727.84 of the Revised Code.~~

~~(D)~~(E) Not later than January 1, 2002, for all taxing districts in each joint vocational school district, the tax commissioner shall certify to the department of education the fixed-rate levy loss determined under division (G) of section 5727.84 of the Revised Code. From February 2002 ~~to August 2016~~ through February 2011, the department shall pay from the school district property tax replacement fund to the joint vocational school district one-half of the amount calculated for that fiscal year under division (A)(2) of this section between the twenty-first and twenty-eighth days of August and of February.

~~(E)~~(F)(1) Not later than January 1, 2002, for each fixed-sum levy levied by each school district or joint vocational school district and for each year for which a determination is made under division (H) of section 5727.84 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner made such a determination. The department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-half of the fixed-sum levy loss so certified for each year between the twenty-first and twenty-eighth days of August and of February.

(2) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the certification originally made under division ~~(E)~~(F)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

~~(F)~~(G) If the balance of the half-mill equalization fund created under section 3318.18 of the Revised Code is insufficient to make the full amount of payments required under division (D) of that section, the department of education, at the end of the third quarter of the fiscal year, shall certify to the director of budget and management the amount of the deficiency, and the director shall transfer an amount equal to the deficiency from the school district property tax replacement fund to the half-mill equalization fund.

~~(G)~~(H) Beginning in August 2002, and ending in May ~~2017~~ 2011, the director of budget and management shall transfer from the school district property tax replacement fund to the general revenue fund each of the following:

(1) Between the twenty-eighth day of August and the fifth day of September, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund;

(2) Between the first and fifth days of May, the lesser of one-half of the amount certified for that fiscal year under division (A)(2) of this section or the balance in the school district property tax replacement fund.

~~(H)~~(I) On the first day of June each year, the director of budget and management shall transfer any balance remaining in the school district property tax replacement fund after the payments have been made under divisions (C), (D), (E), (F), ~~and (G), and (H)~~ of this section to the half-mill equalization fund created under section 3318.18 of the Revised Code to the extent required to make any payments in the current fiscal year under that section, and shall transfer the remaining balance to the general revenue fund.

~~(I)~~ From (J) After fiscal year 2002 through fiscal year 2016, if the total amount in the school district property tax replacement fund is insufficient to make all payments under divisions (C), (D), (E), ~~and (F), and (G)~~ of this section at the time the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the difference between the total amount to be paid and the total amount in the school district property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill No. 95 of the 125th general assembly.

~~(J)~~(K) If all of the territory of a school district or joint vocational school district is merged with an existing district, or if a part of the territory of a school district or joint vocational school district is transferred to an existing or new district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For the merger of all of the territory of two or more districts, the ~~fixed-rate levy loss and the~~ total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy loss of the successor district shall be equal to the sum of the ~~fixed-rate levy losses and the~~ total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, 2011 non-current expense S.B. 3 allocation, and fixed-sum levy losses loss for each of the districts involved in the merger.

(2) For the transfer of a part of one district's territory to an existing district, the amount of the ~~fixed-rate levy loss~~ total resources, 2011 current

expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation that is transferred to the recipient district shall be an amount equal to the transferring district's ~~total fixed-rate levy loss~~ total resources, 2011 current expense S.B. 3 allocation, total 2011 S.B. 3 allocation, and 2011 non-current expense S.B. 3 allocation times a fraction, the numerator of which is the ~~value of electric company tangible personal property located in the part of the territory that was~~ number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership as reported under division (A) of section 3317.03 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of that section, and the denominator of which is the ~~total value of electric company tangible personal property located in the entire district from which the territory was transferred. The value of electric company tangible personal property under this division shall be determined for the most recent year for which data is available~~ average daily membership or formula ADM of the transferor district. Fixed-sum levy losses for both districts shall be determined under division ~~(J)~~(K)(4) of this section.

(3) For the transfer of a part of the territory of one or more districts to create a new district:

(a) If the new district is created on or after January 1, 2000, but before January 1, 2005, the new district shall be paid its current fixed-rate levy loss through August 2009. ~~From~~ In February 2010 ~~to~~, August 2016 ~~2010, and February 2011~~, the new district shall be paid fifty per cent of the lesser of: (i) the amount calculated under division (C)(2) of this section or (ii) an amount equal to seventy per cent of the new district's fixed-rate levy loss ~~multiplied by the percentage prescribed by the following schedule:~~

<u>YEAR</u>	<u>PERCENTAGE</u>
2010	70%
2011	70%
2012	60%
2013	50%
2014	40%
2015	24%
2016	11.5%
2017 and thereafter	0%

Beginning in fiscal year 2012, the new district shall be paid as provided in division (C) of this section.

Fixed-sum levy losses for the districts shall be determined under division ~~(J)~~(K)(4) of this section.

(b) If the new district is created on or after January 1, 2005, the new district shall be deemed not to have any fixed-rate levy loss or, except as provided in division ~~(J)~~(K)(4) of this section, fixed-sum levy loss. The district or districts from which the territory was transferred shall have no reduction in their fixed-rate levy loss, or, except as provided in division ~~(J)~~(K)(4) of this section, their fixed-sum levy loss.

(4) If a recipient district under division ~~(J)~~(K)(2) of this section or a new district under division ~~(J)~~(K)(3)(a) or (b) of this section takes on debt from one or more of the districts from which territory was transferred, and any of the districts transferring the territory had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy losses.

~~(K) There is hereby created the public utility property tax study committee, effective January 1, 2011. The committee shall consist of the following seven members: the tax commissioner, three members of the senate appointed by the president of the senate, and three members of the house of representatives appointed by the speaker of the house of representatives. The appointments shall be made not later than January 31, 2011. The tax commissioner shall be the chairperson of the committee.~~

~~The committee shall study the extent to which each school district or joint vocational school district has been compensated, under sections 5727.84 and 5727.85 of the Revised Code as enacted by Substitute Senate Bill No. 3 of the 123rd general assembly and any subsequent acts, for the property tax loss caused by the reduction in the assessment rates for natural gas, electric, and rural electric company tangible personal property. Not later than June 30, 2011, the committee shall issue a report of its findings, including any recommendations for providing additional compensation for the property tax loss or regarding remedial legislation, to the president of the senate and the speaker of the house of representatives, at which time the committee shall cease to exist.~~

~~The department of taxation and department of education shall provide such information and assistance as is required for the committee to carry out its duties.~~

Sec. 5727.86. (A) Not later than January 1, 2002, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) and division (E) of this section, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the tax commissioner determined, pursuant to division (H) of section 5727.84 of

the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in divisions (A)(3) and (4) of this section, ~~for fixed rate levy losses determined under division (G) of section 5727.84 of the Revised Code, payments shall be made in each of the following years at the following percentage of the fixed rate levy loss certified under division (A) of this section:~~

YEAR	PERCENTAGE
2002	100%
2003	100%
2004	100%
2005	100%
2006	100%
2007	80%
2008	80%
2009	80%
2010	80%
2011	80%
2012	66.7%
2013	53.4%
2014	40.1%
2015	26.8%
2016	13.5%
2017 and thereafter	0%

the following amounts shall be paid on or before the thirty-first day of August and the twenty-eighth day of February:

(a) For years 2002 through 2006, fifty per cent of the fixed-rate levy loss computed under division (G) of section 5727.84 of the Revised Code;

(b) For years 2007 through 2010, forty per cent of the fixed rate levy loss computed under division (G) of section 5727.84 of the Revised Code;

(c) For the payment in 2011 to be made on or before the twentieth day of February, the amount required to be paid in 2010 on or before the twentieth day of February;

(d) For the payment in 2011 to be made on or before the thirty-first day of August and for all payments to be made in years 2012 and thereafter, the sum of the amounts in divisions (A)(1)(d)(i) or (ii) and (iii) of this section:

(i) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is equal to or less than the threshold per cent, zero;

(ii) If the ratio of fifty per cent of the taxing unit's 2010 S.B. 3 allocation to its total resources is greater than the threshold per cent, the difference of fifty per cent of the 2010 S.B. 3 allocation minus the product of total

resources multiplied by the threshold per cent:

(iii) In the case of a municipal corporation, fifty per cent of the product of its 2010 non-current expense S.B. 3 allocation multiplied by seventy-five per cent for year 2011, fifty per cent for year 2012, and twenty-five percent for years 2013 and thereafter.

(2) For fixed-sum levy losses determined under division (H) of section 5727.84 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2002 and thereafter.

(3) A local taxing unit in a county of less than two hundred fifty square miles that receives eighty per cent or more of its combined general fund and bond retirement fund revenues from property taxes and rollbacks based on 1997 actual revenues as presented in its 1999 tax budget, and in which electric companies and rural electric companies comprise over twenty per cent of its property valuation, shall receive one hundred per cent of its fixed-rate levy losses from electric company tax value losses certified under division (A) of this section in years 2002 to ~~2016~~ 2010. Beginning in 2011, payments for such local taxing units shall be determined under division (A)(1) of this section.

(4) For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 1998 in the case of electric company tax value losses, and in tax year 1999 in the case of natural gas company tax value losses, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from ~~fiscal year 2006~~ 2011 through ~~fiscal year~~ 2016 if the levy was imposed for debt purposes in tax year 2010. If the levy is not imposed for debt purposes in tax year 2010 or any following tax year before tax year 2016, payments for that levy shall be made under division (A)(1) of this section beginning with the first year after the year the levy is imposed for a purpose other than debt. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval.

(B) Beginning in 2003, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy loss determined under division (H) of section 5727.84 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under divisions (A) and (E) of this section shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. ~~One-half of the amount certified under those divisions shall be paid between the twenty-first and twenty-eighth days of August and of February.~~ The county treasurer shall distribute amounts paid under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes. Except in the case of amounts distributed to the county as a local taxing unit, amounts distributed under division (E)(2) of this section shall be credited to the general fund of the local taxing unit that receives them. Amounts distributed to each county as a local taxing unit under division (E)(2) of this section shall be credited in the proportion that the current taxes charged and payable from each levy of or by the county bears to the total current taxes charged and payable from all levies of or by the county.

(D) By February 5, 2002, the tax commissioner shall estimate the amount of money in the local government property tax replacement fund in excess of the amount necessary to make payments in that month under division (C) of this section. Notwithstanding division (A) of this section, the tax commissioner may pay any local taxing unit, from those excess funds, nine and four-tenths times the amount computed for 2002 under division (A)(1) of this section. A payment made under this division shall be in lieu of the payment to be made in February 2002 under division (A)(1) of this section. A local taxing unit receiving a payment under this division will no longer be entitled to any further payments under division (A)(1) of this section. A payment made under this division shall be paid from the local government property tax replacement fund to the county undivided income tax fund in the proper county treasury. The county treasurer shall distribute the payment to the proper local taxing unit as if it had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(E)(1) On the thirty-first day of July of 2002, 2003, 2004, 2005, and 2006, and on the thirty-first day of January and July of 2007 ~~and each year thereafter~~ through January 2011, if the amount credited to the local government property tax replacement fund exceeds the amount needed to be distributed from the fund under division (A) of this section in the following month, the tax commissioner shall distribute the excess to each county as

follows:

(a) One-half shall be distributed to each county in proportion to each county's population.

(b) One-half shall be distributed to each county in the proportion that the amounts determined under divisions (G) and (H) of section 5727.84 of the Revised Code for all local taxing units in the county is of the total amounts so determined for all local taxing units in the state.

(2) The amounts distributed to each county under division (E) of this section shall be distributed by the county auditor to each local taxing unit in the county in the proportion that the unit's current taxes charged and payable are of the total current taxes charged and payable of all the local taxing units in the county. If the amount that the county auditor determines to be distributed to a local taxing unit is less than five dollars, that amount shall not be distributed, and the amount not distributed shall remain credited to the county undivided income tax fund. At the time of the next distribution under division (E)(2) of this section, any amount that had not been distributed in the prior distribution shall be added to the amount available for the next distribution prior to calculation of the amount to be distributed. As used in this division, "current taxes charged and payable" means the taxes charged and payable as most recently determined for local taxing units in the county.

~~(3) If, in the opinion of the tax commissioner, the excess remaining in the local government property tax replacement fund in any year is not sufficient to warrant distribution. After January 2011, any amount that exceeds the amount needed to be distributed from the fund under division (E)(A) of this section, the excess shall remain to the credit of in the following month shall be transferred to the general revenue fund.~~

(F) ~~From fiscal year 2002 through fiscal year 2016, if~~ If the total amount in the local government property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the difference between the total amount to be paid and the amount in the local government property tax replacement fund, except that no transfer shall be made by reason of a deficiency to the extent that it results from the amendment of section 5727.84 of the Revised Code by Amended Substitute House Bill 95 of the 125th general assembly.

(G) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this

section to each of the local taxing units in proportion to the ~~tax value loss~~ square mileage apportioned to the merged or annexed territory, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the tax commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5729.17. (A) As used in this section, "certificate owner" has the same meaning as in section 149.311 of the Revised Code.

(B) There is allowed a credit against the tax imposed by section 5729.03 of the Revised Code for an insurance company subject to that tax that is a certificate owner of a rehabilitation tax credit certificate issued under section 149.311 of the Revised Code. The credit shall equal twenty-five per cent of the dollar amount indicated on the certificate, but the amount of the credit allowed for any company for any year shall not exceed five million dollars. The credit shall be claimed in the calendar year specified in the certificate and in the order required under section 5729.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due in that year, the excess shall be refunded to the company but, if any amount of the credit is refunded, the sum of the amount refunded and the amount applied to reduce the tax otherwise due in that year shall not exceed three million dollars. The company may carry forward any balance of the credit in excess of the amount claimed in that year for not more than five ensuing years, and shall deduct any amount claimed in any such year from the amount claimed in an ensuing year.

(C) An insurance company claiming a credit under this section shall retain the rehabilitation tax credit certificate for four years following the end of the year in which the credit was claimed, and shall make the certificate available for inspection by the tax commissioner upon the request of the tax commissioner during that period.

Sec. 5729.98. (A) To provide a uniform procedure for calculating the amount of tax due under this chapter, a taxpayer shall claim any credits and offsets against tax liability to which it is entitled in the following order:

(1) The credit for an insurance company or insurance company group under section 5729.031 of the Revised Code;

(2) The credit for eligible employee training costs under section 5729.07 of the Revised Code;

(3) The credit for purchases of qualified low-income community investments under section 5729.16 of the Revised Code;

(4) The nonrefundable job retention credit under division (B)(1) of section 122.171 of the Revised Code;

(5) The offset of assessments by the Ohio life and health insurance guaranty association against tax liability permitted by section 3956.20 of the Revised Code;

(6) The refundable credit for rehabilitating a historic building under section 5729.17 of the Revised Code.

(7) The refundable credit for Ohio job retention under division (B)(2) or (3) of section 122.171 of the Revised Code;

~~(7)~~(8) The refundable credit for Ohio job creation under section 5729.032 of the Revised Code;

~~(8)~~(9) The refundable credit under section 5729.08 of the Revised Code for losses on loans made under the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code.

(B) For any credit except the refundable credits enumerated in this section, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5731.02. (A) A tax is hereby levied on the transfer of the taxable estate, determined as provided in section 5731.14 of the Revised Code, of every person dying on or after July 1, 1968, and before January 1, 2013, who at the time of death was a resident of this state, as follows:

If the taxable estate is:	The tax shall be:
Not over \$40,000	2% of the taxable estate
Over \$40,000 but not over \$100,000	\$800 plus 3% of the excess over \$40,000
Over \$100,000 but not over \$200,000	\$2,600 plus 4% of the excess over \$100,000
Over \$200,000 but not over \$300,000	\$6,600 plus 5% of the excess over \$200,000
Over \$300,000 but not over \$500,000	\$11,600 plus 6% of the excess over \$300,000
Over \$500,000	\$23,600 plus 7% of the excess over \$500,000.

(B) A credit shall be allowed against the tax imposed by division (A) of this section equal to the lesser of five hundred dollars or the amount of the tax for persons dying on or after July 1, 1968, but before January 1, 2001; the lesser of six thousand six hundred dollars or the amount of the tax for persons dying on or after January 1, 2001, but before January 1, 2002; or the

lesser of thirteen thousand nine hundred dollars or the amount of the tax for persons dying on or after January 1, 2002.

Sec. 5731.19. (A) A tax is hereby levied upon the transfer of so much of the taxable estate of every person dying on or after July 1, 1968, and before January 1, 2013, who, at the time of ~~his~~ death, was not a resident of this state, as consists of real property situated in this state, tangible personal property having an actual situs in this state, and intangible personal property employed in carrying on a business within this state unless exempted from tax under the provisions of section 5731.34 of the Revised Code.

(B) The amount of the tax on such real and tangible personal property shall be determined as follows:

(1) Determine the amount of tax which would be payable under Chapter 5731. of the Revised Code if the decedent had died a resident of this state with all ~~his~~ the decedent's property situated or located within this state;

(2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible personal property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product shall be the amount of tax payable to this state.

(C) In addition to the tax levied by division (A) of this section, an additional tax is hereby levied on such real and tangible personal property determined as follows:

(1) Determine the amount of tax which would be payable under division (A) of section 5731.18 of the Revised Code, if the decedent had died a resident of this state with all ~~his~~ the decedent's property situated or located within this state;

(2) Multiply the tax so determined by a fraction, the denominator of which shall be the value of the gross estate wherever situated and the numerator of which shall be the said gross estate value of the real property situated and the tangible property having an actual situs in this state and intangible personal property employed in carrying on a business within this state and not exempted from tax under section 5731.34 of the Revised Code. The product so derived shall be credited with the amount of the tax determined under division (B) of this section.

Sec. 5731.21. (A)(1)(a) Except as provided under division (A)(3) of this section, the executor or administrator, or, if no executor or administrator has been appointed, another person in possession of property the transfer of which is subject to estate taxes under section 5731.02 or division (A) of

section 5731.19 of the Revised Code, shall file an estate tax return, within nine months of the date of the decedent's death, in the form prescribed by the tax commissioner, in duplicate, with the probate court of the county. The return shall include all property the transfer of which is subject to estate taxes, whether that property is transferred under the last will and testament of the decedent or otherwise. The time for filing the return may be extended by the tax commissioner.

(b) The estate tax return described in division (A)(1)(a) of this section shall be accompanied by a certificate, in the form prescribed by the tax commissioner, that is signed by the executor, administrator, or other person required to file the return, and that states all of the following:

(i) The fact that the return was filed;

(ii) The date of the filing of the return;

(iii) The fact that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are shown to be due in the return, have been paid in full;

(iv) If applicable, the fact that real property listed in the inventory for the decedent's estate is included in the return;

(v) If applicable, the fact that real property not listed in the inventory for the decedent's estate, including, but not limited to, survivorship tenancy property as described in section 5302.17 of the Revised Code or transfer on death property as described in sections 5302.22 and 5302.23 of the Revised Code, also is included in the return. In this regard, the certificate additionally shall describe that real property by the same description used in the return.

(2) The probate court shall forward one copy of the estate tax return described in division (A)(1)(a) of this section to the tax commissioner.

(3) A person shall not be required to file a return under division (A) of this section if the decedent was a resident of this state and the value of the decedent's gross estate is twenty-five thousand dollars or less in the case of a decedent dying on or after July 1, 1968, but before January 1, 2001; two hundred thousand dollars or less in the case of a decedent dying on or after January 1, 2001, but before January 1, 2002; or three hundred thirty-eight thousand three hundred thirty-three dollars or less in the case of a decedent dying on or after January 1, 2002. No return shall be filed for estates of decedents dying on or after January 1, 2013.

(4)(a) Upon receipt of the estate tax return described in division (A)(1)(a) of this section and the accompanying certificate described in division (A)(1)(b) of this section, the probate court promptly shall give notice of the return, by a form prescribed by the tax commissioner, to the

county auditor. The auditor then shall make a charge based upon the notice and shall certify a duplicate of the charge to the county treasurer. The treasurer then shall collect, subject to division (A) of section 5731.25 of the Revised Code or any other statute extending the time for payment of an estate tax, the tax so charged.

(b) Upon receipt of the return and the accompanying certificate, the probate court also shall forward the certificate to the auditor. When satisfied that the estate taxes under section 5731.02 or division (A) of section 5731.19 of the Revised Code, that are shown to be due in the return, have been paid in full, the auditor shall stamp the certificate so forwarded to verify that payment. The auditor then shall return the stamped certificate to the probate court.

(5)(a) The certificate described in division (A)(1)(b) of this section is a public record subject to inspection and copying in accordance with section 149.43 of the Revised Code. It shall be kept in the records of the probate court pertaining to the decedent's estate and is not subject to the confidentiality provisions of section 5731.90 of the Revised Code.

(b) All persons are entitled to rely on the statements contained in a certificate as described in division (A)(1)(b) of this section if it has been filed in accordance with that division, forwarded to a county auditor and stamped in accordance with division (A)(4) of this section, and placed in the records of the probate court pertaining to the decedent's estate in accordance with division (A)(5)(a) of this section. The real property referred to in the certificate shall be free of, and may be regarded by all persons as being free of, any lien for estate taxes under section 5731.02 and division (A) of section 5731.19 of the Revised Code.

(B) An estate tax return filed under this section, in the form prescribed by the tax commissioner, and showing that no estate tax is due shall result in a determination that no estate tax is due, if the tax commissioner within three months after the receipt of the return by the department of taxation, fails to file exceptions to the return in the probate court of the county in which the return was filed. A copy of exceptions to a return of that nature, when the tax commissioner files them within that period, shall be sent by ordinary mail to the person who filed the return. The tax commissioner is not bound under this division by a determination that no estate tax is due, with respect to property not disclosed in the return.

(C) If the executor, administrator, or other person required to file an estate tax return fails to file it within nine months of the date of the decedent's death, the tax commissioner may determine the estate tax in that estate and issue a certificate of determination in the same manner as is

provided in division (B) of section 5731.27 of the Revised Code. A certificate of determination of that nature has the same force and effect as though a return had been filed and a certificate of determination issued with respect to the return.

Sec. 5731.39. (A) No corporation organized or existing under the laws of this state shall transfer on its books or issue a new certificate for any share of its capital stock registered in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, without the written consent of the tax commissioner.

(B) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code or other corporation or person, having in possession, control, or custody a deposit standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, shall deliver or transfer an amount in excess of three-fourths of the total value of such deposit, including accrued interest and dividends, as of the date of decedent's death, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of amounts having a value of three-fourths or less of said total value.

(C) No life insurance company shall pay the proceeds of an annuity or matured endowment contract, or of a life insurance contract payable to the estate of a decedent, or of any other insurance contract taxable under Chapter 5731. of the Revised Code, without the written consent of the tax commissioner. Any life insurance company may pay the proceeds of any insurance contract not specified in this division (C) without the written consent of the tax commissioner.

(D) No trust company or other corporation or person shall pay the proceeds of any death benefit, retirement, pension or profit sharing plan in excess of two thousand dollars, without the written consent of the tax commissioner. Such trust company or other corporation or person, however, may pay the proceeds of any death benefit, retirement, pension, or profit-sharing plan which consists of insurance on the life of the decedent payable to a beneficiary other than the estate of the insured without the written consent of the tax commissioner.

(E) No safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person, having in possession, control, or custody securities, assets, or other property (including the shares of the capital stock of, or other interest in, such safe deposit company, trust company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other

corporation), standing in the name of a decedent, or in trust for a decedent, or in the name of a decedent and another person or persons, and the transfer of which is taxable under Chapter 5731. of the Revised Code, shall deliver or transfer any such securities, assets, or other property which have a value as of the date of decedent's death in excess of three-fourths of the total value thereof, without the written consent of the tax commissioner. The written consent of the tax commissioner need not be obtained prior to the delivery or transfer of any such securities, assets, or other property having a value of three-fourths or less of said total value.

(F) No safe deposit company, financial institution as defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person having possession or control of a safe deposit box or similar receptacle standing in the name of a decedent or in the name of the decedent and another person or persons, or to which the decedent had a right of access, except when such safe deposit box or other receptacle stands in the name of a corporation or partnership, or in the name of the decedent as guardian or executor, shall deliver any of the contents thereof unless the safe deposit box or similar receptacle has been opened and inventoried in the presence of the tax commissioner or the commissioner's agent, and a written consent to transfer issued; provided, however, that a safe deposit company, financial institution, or other corporation or person having possession or control of a safe deposit box may deliver wills, deeds to burial lots, and insurance policies to a representative of the decedent, but that a representative of the safe deposit company, financial institution, or other corporation or person must supervise the opening of the box and make a written record of the wills, deeds, and policies removed. Such written record shall be included in the tax commissioner's inventory records.

(G) Notwithstanding any provision of this section:

(1) The tax commissioner may authorize any delivery or transfer or waive any of the foregoing requirements under such terms and conditions as the commissioner may prescribe;

(2) An adult care facility, as defined in section ~~3722.01~~ 5119.70 of the Revised Code, or a home, as defined in section 3721.10 of the Revised Code, may transfer or use the money in a personal needs allowance account in accordance with section 5111.113 of the Revised Code without the written consent of the tax commissioner, and without the account having been opened and inventoried in the presence of the commissioner or the commissioner's agent.

Failure to comply with this section shall render such safe deposit company, trust company, life insurance company, financial institution as

defined in division (A) of section 5725.01 of the Revised Code, or other corporation or person liable for the amount of the taxes and interest due under the provisions of Chapter 5731. of the Revised Code on the transfer of such stock, deposit, proceeds of an annuity or matured endowment contract or of a life insurance contract payable to the estate of a decedent, or other insurance contract taxable under Chapter 5731. of the Revised Code, proceeds of any death benefit, retirement, pension, or profit sharing plan in excess of two thousand dollars, or securities, assets, or other property of any resident decedent, and in addition thereto, to a penalty of not less than five hundred or more than five thousand dollars.

Sec. 5733.0610. (A) A refundable corporation franchise tax credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax year. The refundable credit shall not be claimed for any tax years following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable corporation franchise tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5733.98 of the Revised Code.

Sec. 5733.23. In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, fees, or penalties due from any corporation have remained unpaid for a period of ninety days, or whenever any corporation has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such corporation has its principal place of business for a judgment for the amount of the taxes or penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such corporation and its officers, directors, and managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, fees, and penalties, and the costs of the proceeding which shall be fixed by the court, or the making and filing of such report or return.

Such petition shall be in the name of the state. All or any of the

corporations having their principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permitting process to be served by registered mail and by publication in a newspaper of general circulation published in the county, which publication need not be made more than once, setting forth the name of each delinquent corporation, the matter in which such corporation is delinquent, the names of its officers, directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by said corporation.

All or any of the officers, directors, shareholders, or managing agents of any corporation may be joined as defendants with such corporation.

If it appears to the court upon hearing that any corporation which is a party to such proceeding is indebted to the state for taxes, fees, or penalties, judgment shall be entered therefor with interest; and if it appears that any corporation has failed to make or file any report or return, a mandatory injunction may be issued against such corporation, its officers, directors, and managing agents, enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and until the payment in full of all taxes, fees, and penalties.

If the officers, directors, shareholders, or managing agents of a corporation are not made parties in the first instance, and a judgment or an injunction is rendered or issued against such corporation, such officers, directors, shareholders, or managing agents may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this section, a statement of the commissioner, or the secretary of state, when duly certified, shall be prima-facie evidence of the amount of taxes, fees, or penalties due from any corporation, or of the failure of any corporation to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as

the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined upon ~~him~~ the attorney general by this section the attorney general may direct any prosecuting attorney to bring an action, as authorized by this section, in the name of the state with respect to any delinquent corporations within ~~his~~ the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by the attorney general.

Sec. 5733.351. (A) As used in this section, "qualified research expenses" has the same meaning as in section 41 of the Internal Revenue Code.

(B)(1) A nonrefundable credit is allowed against the tax imposed by section 5733.06 of the Revised Code for tax year 2002 for a taxpayer whose taxable year for tax year 2002 ended before July 1, 2001. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer between January 1, 2001, and the end of the taxable year, over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(2) A nonrefundable credit also is allowed against the tax imposed by section 5733.06 of the Revised Code for each tax year, commencing with tax year 2004, and in the case of a corporation subject to division (G)(2) of section 5733.01 of the Revised Code ending with tax year 2008. The credit shall equal seven per cent of the excess of qualified research expenses incurred in this state by the taxpayer for the taxable year over the taxpayer's average annual qualified research expenses incurred in this state for the three preceding taxable years.

(3) The taxpayer shall claim the credit allowed under division (B)(1) or (2) of this section in the order required by section 5733.98 of the Revised Code. Any credit amount in excess of the tax due under section 5733.06 of the Revised Code, after allowing for any other credits that precede the credit under this section in the order required under section 5733.98 of the Revised Code, may be carried forward for seven taxable years, but the amount of the excess credit allowed in any such year shall be deducted from the balance carried forward to the next year. A corporation subject to division (G)(2) of section 5733.01 of the Revised Code may carry forward any credit not fully utilized by tax year 2008 and apply it against the tax levied by Chapter 5751. of the Revised Code to the extent allowed under section 5751.51 of the Revised Code, provided that the total number of taxable years under this

section and calendar years under Chapter 5751. of the Revised Code for which the credit is carried forward shall not exceed seven.

(C) In the case of a qualifying controlled group, the credit allowed under division (B)(1) or (2) of this section to taxpayers in the qualifying controlled group shall be computed as if all corporations in the qualifying controlled group were a consolidated, single taxpayer. For purposes of this division, an insurance company subject to the tax levied under section 5727.18 or Chapter 5729. of the Revised Code may be considered a member of a qualifying controlled group by the group, even though the insurance company is not subject to the tax levied under section 5733.06 of the Revised Code. The credit shall be allocated to such taxpayers in any amount elected for the taxable year by the qualifying controlled group. The election shall be revocable and amendable during the period prescribed by division (B) of section 5733.12 of the Revised Code.

Sec. 5739.01. As used in this chapter:

(A) "Person" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.

(B) "Sale" and "selling" include all of the following transactions for a consideration in any manner, whether absolutely or conditionally, whether for a price or rental, in money or by exchange, and by any means whatsoever:

(1) All transactions by which title or possession, or both, of tangible personal property, is or is to be transferred, or a license to use or consume tangible personal property is or is to be granted;

(2) All transactions by which lodging by a hotel is or is to be furnished to transient guests;

(3) All transactions by which:

(a) An item of tangible personal property is or is to be repaired, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code;

(b) An item of tangible personal property is or is to be installed, except property, the purchase of which would not be subject to the tax imposed by section 5739.02 of the Revised Code or property that is or is to be incorporated into and will become a part of a production, transmission, transportation, or distribution system for the delivery of a public utility service;

(c) The service of washing, cleaning, waxing, polishing, or painting a motor vehicle is or is to be furnished;

(d) Until August 1, 2003, industrial laundry cleaning services are or are to be provided and, on and after August 1, 2003, laundry and dry cleaning services are or are to be provided;

(e) Automatic data processing, computer services, or electronic information services are or are to be provided for use in business when the true object of the transaction is the receipt by the consumer of automatic data processing, computer services, or electronic information services rather than the receipt of personal or professional services to which automatic data processing, computer services, or electronic information services are incidental or supplemental. Notwithstanding any other provision of this chapter, such transactions that occur between members of an affiliated group are not sales. An "affiliated group" means two or more persons related in such a way that one person owns or controls the business operation of another member of the group. In the case of corporations with stock, one corporation owns or controls another if it owns more than fifty per cent of the other corporation's common stock with voting rights.

(f) Telecommunications service, including prepaid calling service, prepaid wireless calling service, or ancillary service, is or is to be provided, but not including coin-operated telephone service;

(g) Landscaping and lawn care service is or is to be provided;

(h) Private investigation and security service is or is to be provided;

(i) Information services or tangible personal property is provided or ordered by means of a nine hundred telephone call;

(j) Building maintenance and janitorial service is or is to be provided;

(k) Employment service is or is to be provided;

(l) Employment placement service is or is to be provided;

(m) Exterminating service is or is to be provided;

(n) Physical fitness facility service is or is to be provided;

(o) Recreation and sports club service is or is to be provided;

(p) On and after August 1, 2003, satellite broadcasting service is or is to be provided;

(q) On and after August 1, 2003, personal care service is or is to be provided to an individual. As used in this division, "personal care service" includes skin care, the application of cosmetics, manicuring, pedicuring, hair removal, tattooing, body piercing, tanning, massage, and other similar services. "Personal care service" does not include a service provided by or on the order of a licensed physician or licensed chiropractor, or the cutting, coloring, or styling of an individual's hair.

(r) On and after August 1, 2003, the transportation of persons by motor vehicle or aircraft is or is to be provided, when the transportation is entirely

within this state, except for transportation provided by an ambulance service, by a transit bus, as defined in section 5735.01 of the Revised Code, and transportation provided by a citizen of the United States holding a certificate of public convenience and necessity issued under 49 U.S.C. 41102;

(s) On and after August 1, 2003, motor vehicle towing service is or is to be provided. As used in this division, "motor vehicle towing service" means the towing or conveyance of a wrecked, disabled, or illegally parked motor vehicle.

(t) On and after August 1, 2003, snow removal service is or is to be provided. As used in this division, "snow removal service" means the removal of snow by any mechanized means, but does not include the providing of such service by a person that has less than five thousand dollars in sales of such service during the calendar year.

(u) Electronic publishing service is or is to be provided to a consumer for use in business, except that such transactions occurring between members of an affiliated group, as defined in division (B)(3)(e) of this section, are not sales.

(4) All transactions by which printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter are or are to be furnished or transferred;

(5) The production or fabrication of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production of fabrication work; and include the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. Except as provided in section 5739.03 of the Revised Code, a construction contract pursuant to which tangible personal property is or is to be incorporated into a structure or improvement on and becoming a part of real property is not a sale of such tangible personal property. The construction contractor is the consumer of such tangible personal property, provided that the sale and installation of carpeting, the sale and installation of agricultural land tile, the sale and erection or installation of portable grain bins, or the provision of landscaping and lawn care service and the transfer of property as part of such service is never a construction contract.

As used in division (B)(5) of this section:

(a) "Agricultural land tile" means fired clay or concrete tile, or flexible or rigid perforated plastic pipe or tubing, incorporated or to be incorporated

into a subsurface drainage system appurtenant to land used or to be used ~~directly~~ primarily in production by farming, agriculture, horticulture, or floriculture. The term does not include such materials when they are or are to be incorporated into a drainage system appurtenant to a building or structure even if the building or structure is used or to be used in such production.

(b) "Portable grain bin" means a structure that is used or to be used by a person engaged in farming or agriculture to shelter the person's grain and that is designed to be disassembled without significant damage to its component parts.

(6) All transactions in which all of the shares of stock of a closely held corporation are transferred, if the corporation is not engaging in business and its entire assets consist of boats, planes, motor vehicles, or other tangible personal property operated primarily for the use and enjoyment of the shareholders;

(7) All transactions in which a warranty, maintenance or service contract, or similar agreement by which the vendor of the warranty, contract, or agreement agrees to repair or maintain the tangible personal property of the consumer is or is to be provided;

(8) The transfer of copyrighted motion picture films used solely for advertising purposes, except that the transfer of such films for exhibition purposes is not a sale;

(9) On and after August 1, 2003, all transactions by which tangible personal property is or is to be stored, except such property that the consumer of the storage holds for sale in the regular course of business;

(10) All transactions in which "guaranteed auto protection" is provided whereby a person promises to pay to the consumer the difference between the amount the consumer receives from motor vehicle insurance and the amount the consumer owes to a person holding title to or a lien on the consumer's motor vehicle in the event the consumer's motor vehicle suffers a total loss under the terms of the motor vehicle insurance policy or is stolen and not recovered, if the protection and its price are included in the purchase or lease agreement;

(11)(a) Except as provided in division (B)(11)(b) of this section, on and after October 1, 2009, all transactions by which health care services are paid for, reimbursed, provided, delivered, arranged for, or otherwise made available by a medicaid health insuring corporation pursuant to the corporation's contract with the state.

(b) If the centers for medicare and medicaid services of the United States department of health and human services determines that the taxation

of transactions described in division (B)(11)(a) of this section constitutes 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, and regulations adopted thereunder, the director of job and family services shall notify the tax commissioner of that determination. Beginning with the first day of the month following that notification, the transactions described in division (B)(11)(a) of this section are not sales for the purposes of this chapter or Chapter 5741. of the Revised Code. The tax commissioner shall order that the collection of taxes under sections 5739.02, 5739.021, 5739.023, 5739.026, 5741.02, 5741.021, 5741.022, and 5741.023 of the Revised Code shall cease for transactions occurring on or after that date.

Except as provided in this section, "sale" and "selling" do not include transfers of interest in leased property where the original lessee and the terms of the original lease agreement remain unchanged, or professional, insurance, or personal service transactions that involve the transfer of tangible personal property as an inconsequential element, for which no separate charges are made.

(C) "Vendor" means the person providing the service or by whom the transfer effected or license given by a sale is or is to be made or given and, for sales described in division (B)(3)(i) of this section, the telecommunications service vendor that provides the nine hundred telephone service; if two or more persons are engaged in business at the same place of business under a single trade name in which all collections on account of sales by each are made, such persons shall constitute a single vendor.

Physicians, dentists, hospitals, and veterinarians who are engaged in selling tangible personal property as received from others, such as eyeglasses, mouthwashes, dentifrices, or similar articles, are vendors. Veterinarians who are engaged in transferring to others for a consideration drugs, the dispensing of which does not require an order of a licensed veterinarian or physician under federal law, are vendors.

(D)(1) "Consumer" means the person for whom the service is provided, to whom the transfer effected or license given by a sale is or is to be made or given, to whom the service described in division (B)(3)(f) or (i) of this section is charged, or to whom the admission is granted.

(2) Physicians, dentists, hospitals, and blood banks operated by nonprofit institutions and persons licensed to practice veterinary medicine, surgery, and dentistry are consumers of all tangible personal property and services purchased by them in connection with the practice of medicine, dentistry, the rendition of hospital or blood bank service, or the practice of veterinary medicine, surgery, and dentistry. In addition to being consumers

of drugs administered by them or by their assistants according to their direction, veterinarians also are consumers of drugs that under federal law may be dispensed only by or upon the order of a licensed veterinarian or physician, when transferred by them to others for a consideration to provide treatment to animals as directed by the veterinarian.

(3) A person who performs a facility management, or similar service contract for a contractee is a consumer of all tangible personal property and services purchased for use in connection with the performance of such contract, regardless of whether title to any such property vests in the contractee. The purchase of such property and services is not subject to the exception for resale under division (E)(1) of this section.

(4)(a) In the case of a person who purchases printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of that printed matter, and the purchase of that printed matter for that purpose is a sale.

(b) In the case of a person who produces, rather than purchases, printed matter for the purpose of distributing it or having it distributed to the public or to a designated segment of the public, free of charge, that person is the consumer of all tangible personal property and services purchased for use or consumption in the production of that printed matter. That person is not entitled to claim exemption under division (B)(42)(f) of section 5739.02 of the Revised Code for any material incorporated into the printed matter or any equipment, supplies, or services primarily used to produce the printed matter.

(c) The distribution of printed matter to the public or to a designated segment of the public, free of charge, is not a sale to the members of the public to whom the printed matter is distributed or to any persons who purchase space in the printed matter for advertising or other purposes.

(5) A person who makes sales of any of the services listed in division (B)(3) of this section is the consumer of any tangible personal property used in performing the service. The purchase of that property is not subject to the resale exception under division (E)(1) of this section.

(6) A person who engages in highway transportation for hire is the consumer of all packaging materials purchased by that person and used in performing the service, except for packaging materials sold by such person in a transaction separate from the service.

(7) In the case of a transaction for health care services under division (B)(11) of this section, a medicaid health insuring corporation is the consumer of such services. The purchase of such services by a medicaid

health insuring corporation is not subject to the exception for resale under division (E)(1) of this section or to the exemptions provided under divisions (B)(12), (18), (19), and (22) of section 5739.02 of the Revised Code.

(E) "Retail sale" and "sales at retail" include all sales, except those in which the purpose of the consumer is to resell the thing transferred or benefit of the service provided, by a person engaging in business, in the form in which the same is, or is to be, received by the person.

(F) "Business" includes any activity engaged in by any person with the object of gain, benefit, or advantage, either direct or indirect. "Business" does not include the activity of a person in managing and investing the person's own funds.

(G) "Engaging in business" means commencing, conducting, or continuing in business, and liquidating a business when the liquidator thereof holds itself out to the public as conducting such business. Making a casual sale is not engaging in business.

(H)(1)(a) "Price," except as provided in divisions (H)(2), (3), and (4) of this section, means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for any of the following:

(i) The vendor's cost of the property sold;

(ii) The cost of materials used, labor or service costs, interest, losses, all costs of transportation to the vendor, all taxes imposed on the vendor, including the tax imposed under Chapter 5751. of the Revised Code, and any other expense of the vendor;

(iii) Charges by the vendor for any services necessary to complete the sale;

(iv) On and after August 1, 2003, delivery charges. As used in this division, "delivery charges" means charges by the vendor for preparation and delivery to a location designated by the consumer of tangible personal property or a service, including transportation, shipping, postage, handling, crating, and packing.

(v) Installation charges;

(vi) Credit for any trade-in.

(b) "Price" includes consideration received by the vendor from a third party, if the vendor actually receives the consideration from a party other than the consumer, and the consideration is directly related to a price reduction or discount on the sale; the vendor has an obligation to pass the price reduction or discount through to the consumer; the amount of the consideration attributable to the sale is fixed and determinable by the vendor

at the time of the sale of the item to the consumer; and one of the following criteria is met:

(i) The consumer presents a coupon, certificate, or other document to the vendor to claim a price reduction or discount where the coupon, certificate, or document is authorized, distributed, or granted by a third party with the understanding that the third party will reimburse any vendor to whom the coupon, certificate, or document is presented;

(ii) The consumer identifies the consumer's self to the seller as a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group or organization.

(iii) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the consumer, or on a coupon, certificate, or other document presented by the consumer.

(c) "Price" does not include any of the following:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a vendor and taken by a consumer on a sale;

(ii) Interest, financing, and carrying charges from credit extended on the sale of tangible personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the consumer. For the purpose of this division, the tax imposed under Chapter 5751. of the Revised Code is not a tax directly on the consumer, even if the tax or a portion thereof is separately stated.

(iv) Notwithstanding divisions (H)(1)(b)(i) to (iii) of this section, any discount allowed by an automobile manufacturer to its employee, or to the employee of a supplier, on the purchase of a new motor vehicle from a new motor vehicle dealer in this state.

(v) The dollar value of a gift card that is not sold by a vendor or purchased by a consumer and that is redeemed by the consumer in purchasing tangible personal property or services if the vendor is not reimbursed and does not receive compensation from a third party to cover all or part of the gift card value. For the purposes of this division, a gift card is not sold by a vendor or purchased by a consumer if it is distributed pursuant to an awards, loyalty, or promotional program. Past and present purchases of tangible personal property or services by the consumer shall not be treated as consideration exchanged for a gift card.

(2) In the case of a sale of any new motor vehicle by a new motor vehicle dealer, as defined in section 4517.01 of the Revised Code, in which another motor vehicle is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the motor vehicle received in trade.

(3) In the case of a sale of any watercraft or outboard motor by a watercraft dealer licensed in accordance with section 1547.543 of the Revised Code, in which another watercraft, watercraft and trailer, or outboard motor is accepted by the dealer as part of the consideration received, "price" has the same meaning as in division (H)(1) of this section, reduced by the credit afforded the consumer by the dealer for the watercraft, watercraft and trailer, or outboard motor received in trade. As used in this division, "watercraft" includes an outdrive unit attached to the watercraft.

(4) In the case of transactions for health care services under division (B)(11) of this section, "price" means the amount of managed care premiums received each month by a medicaid health insuring corporation.

(I) "Receipts" means the total amount of the prices of the sales of vendors, provided that the dollar value of gift cards distributed pursuant to an awards, loyalty, or promotional program, and cash discounts allowed and taken on sales at the time they are consummated are not included, minus any amount deducted as a bad debt pursuant to section 5739.121 of the Revised Code. "Receipts" does not include the sale price of property returned or services rejected by consumers when the full sale price and tax are refunded either in cash or by credit.

(J) "Place of business" means any location at which a person engages in business.

(K) "Premises" includes any real property or portion thereof upon which any person engages in selling tangible personal property at retail or making retail sales and also includes any real property or portion thereof designated for, or devoted to, use in conjunction with the business engaged in by such person.

(L) "Casual sale" means a sale of an item of tangible personal property that was obtained by the person making the sale, through purchase or otherwise, for the person's own use and was previously subject to any state's taxing jurisdiction on its sale or use, and includes such items acquired for the seller's use that are sold by an auctioneer employed directly by the person for such purpose, provided the location of such sales is not the auctioneer's permanent place of business. As used in this division, "permanent place of business" includes any location where such auctioneer

has conducted more than two auctions during the year.

(M) "Hotel" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether the rooms are in one or several structures, except as otherwise provided in division (G) of section 5739.09 of the Revised Code.

(N) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.

(O) "Making retail sales" means the effecting of transactions wherein one party is obligated to pay the price and the other party is obligated to provide a service or to transfer title to or possession of the item sold. "Making retail sales" does not include the preliminary acts of promoting or soliciting the retail sales, other than the distribution of printed matter which displays or describes and prices the item offered for sale, nor does it include delivery of a predetermined quantity of tangible personal property or transportation of property or personnel to or from a place where a service is performed, regardless of whether the vendor is a delivery vendor.

(P) "Used directly in the rendition of a public utility service" means that property that is to be incorporated into and will become a part of the consumer's production, transmission, transportation, or distribution system and that retains its classification as tangible personal property after such incorporation; fuel or power used in the production, transmission, transportation, or distribution system; and tangible personal property used in the repair and maintenance of the production, transmission, transportation, or distribution system, including only such motor vehicles as are specially designed and equipped for such use. Tangible personal property and services used primarily in providing highway transportation for hire are not used directly in the rendition of a public utility service. In this definition, "public utility" includes a citizen of the United States holding, and required to hold, a certificate of public convenience and necessity issued under 49 U.S.C. 41102.

(Q) "Refining" means removing or separating a desirable product from raw or contaminated materials by distillation or physical, mechanical, or chemical processes.

(R) "Assembly" and "assembling" mean attaching or fitting together parts to form a product, but do not include packaging a product.

(S) "Manufacturing operation" means a process in which materials are changed, converted, or transformed into a different state or form from which they previously existed and includes refining materials, assembling parts,

and preparing raw materials and parts by mixing, measuring, blending, or otherwise committing such materials or parts to the manufacturing process. "Manufacturing operation" does not include packaging.

(T) "Fiscal officer" means, with respect to a regional transit authority, the secretary-treasurer thereof, and with respect to a county that is a transit authority, the fiscal officer of the county transit board if one is appointed pursuant to section 306.03 of the Revised Code or the county auditor if the board of county commissioners operates the county transit system.

(U) "Transit authority" means a regional transit authority created pursuant to section 306.31 of the Revised Code or a county in which a county transit system is created pursuant to section 306.01 of the Revised Code. For the purposes of this chapter, a transit authority must extend to at least the entire area of a single county. A transit authority that includes territory in more than one county must include all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(V) "Legislative authority" means, with respect to a regional transit authority, the board of trustees thereof, and with respect to a county that is a transit authority, the board of county commissioners.

(W) "Territory of the transit authority" means all of the area included within the territorial boundaries of a transit authority as they from time to time exist. Such territorial boundaries must at all times include all the area of a single county or all the area of the most populous county that is a part of such transit authority. County population shall be measured by the most recent census taken by the United States census bureau.

(X) "Providing a service" means providing or furnishing anything described in division (B)(3) of this section for consideration.

(Y)(1)(a) "Automatic data processing" means processing of others' data, including keypunching or similar data entry services together with verification thereof, or providing access to computer equipment for the purpose of processing data.

(b) "Computer services" means providing services consisting of specifying computer hardware configurations and evaluating technical processing characteristics, computer programming, and training of computer programmers and operators, provided in conjunction with and to support the sale, lease, or operation of taxable computer equipment or systems.

(c) "Electronic information services" means providing access to computer equipment by means of telecommunications equipment for the purpose of either of the following:

(i) Examining or acquiring data stored in or accessible to the computer equipment;

(ii) Placing data into the computer equipment to be retrieved by designated recipients with access to the computer equipment.

For transactions occurring on or after the effective date of the amendment of this section by H.B. 157 of the 127th general assembly, December 21, 2007, "electronic information services" does not include electronic publishing as defined in division (LLL) of this section.

(d) "Automatic data processing, computer services, or electronic information services" shall not include personal or professional services.

(2) As used in divisions (B)(3)(e) and (Y)(1) of this section, "personal and professional services" means all services other than automatic data processing, computer services, or electronic information services, including but not limited to:

(a) Accounting and legal services such as advice on tax matters, asset management, budgetary matters, quality control, information security, and auditing and any other situation where the service provider receives data or information and studies, alters, analyzes, interprets, or adjusts such material;

(b) Analyzing business policies and procedures;

(c) Identifying management information needs;

(d) Feasibility studies, including economic and technical analysis of existing or potential computer hardware or software needs and alternatives;

(e) Designing policies, procedures, and custom software for collecting business information, and determining how data should be summarized, sequenced, formatted, processed, controlled, and reported so that it will be meaningful to management;

(f) Developing policies and procedures that document how business events and transactions are to be authorized, executed, and controlled;

(g) Testing of business procedures;

(h) Training personnel in business procedure applications;

(i) Providing credit information to users of such information by a consumer reporting agency, as defined in the "Fair Credit Reporting Act," 84 Stat. 1114, 1129 (1970), 15 U.S.C. 1681a(f), or as hereafter amended, including but not limited to gathering, organizing, analyzing, recording, and furnishing such information by any oral, written, graphic, or electronic medium;

(j) Providing debt collection services by any oral, written, graphic, or electronic means.

The services listed in divisions (Y)(2)(a) to (j) of this section are not automatic data processing or computer services.

(Z) "Highway transportation for hire" means the transportation of personal property belonging to others for consideration by any of the following:

(1) The holder of a permit or certificate issued by this state or the United States authorizing the holder to engage in transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare;

(2) A person who engages in the transportation of personal property belonging to others for consideration over or on highways, roadways, streets, or any similar public thoroughfare but who could not have engaged in such transportation on December 11, 1985, unless the person was the holder of a permit or certificate of the types described in division (Z)(1) of this section;

(3) A person who leases a motor vehicle to and operates it for a person described by division (Z)(1) or (2) of this section.

(AA)(1) "Telecommunications service" means the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points. "Telecommunications service" includes such transmission, conveyance, or routing in which computer processing applications are used to act on the form, code, or protocol of the content for purposes of transmission, conveyance, or routing without regard to whether the service is referred to as voice-over internet protocol service or is classified by the federal communications commission as enhanced or value-added. "Telecommunications service" does not include any of the following:

(a) Data processing and information services that allow data to be generated, acquired, stored, processed, or retrieved and delivered by an electronic transmission to a consumer where the consumer's primary purpose for the underlying transaction is the processed data or information;

(b) Installation or maintenance of wiring or equipment on a customer's premises;

(c) Tangible personal property;

(d) Advertising, including directory advertising;

(e) Billing and collection services provided to third parties;

(f) Internet access service;

(g) Radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance, and routing of such services by the programming service provider. Radio and television audio and video programming services include, but are not limited to, cable service, as defined in 47 U.S.C. 522(6),

and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. 20.3;

(h) Ancillary service;

(i) Digital products delivered electronically, including software, music, video, reading materials, or ring tones.

(2) "Ancillary service" means a service that is associated with or incidental to the provision of telecommunications service, including conference bridging service, detailed telecommunications billing service, directory assistance, vertical service, and voice mail service. As used in this division:

(a) "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call, including providing a telephone number. "Conference bridging service" does not include telecommunications services used to reach the conference bridge.

(b) "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

(c) "Directory assistance" means an ancillary service of providing telephone number or address information.

(d) "Vertical service" means an ancillary service that is offered in connection with one or more telecommunications services, which offers advanced calling features that allow customers to identify callers and manage multiple calls and call connections, including conference bridging service.

(e) "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. "Voice mail service" does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

(3) "900 service" means an inbound toll telecommunications service purchased by a subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded announcement or live service, and which is typically marketed under the name "900" service and any subsequent numbers designated by the federal communications commission. "900 service" does not include the charge for collection services provided by the seller of the telecommunications service to the subscriber, or services or products sold by the subscriber to the subscriber's customer.

(4) "Prepaid calling service" means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in

predetermined units of dollars of which the number declines with use in a known amount.

(5) "Prepaid wireless calling service" means a telecommunications service that provides the right to utilize mobile telecommunications service as well as other non-telecommunications services, including the download of digital products delivered electronically, and content and ancillary services, that must be paid for in advance and that is sold in predetermined units of dollars of which the number declines with use in a known amount.

(6) "Value-added non-voice data service" means a telecommunications service in which computer processing applications are used to act on the form, content, code, or protocol of the information or data primarily for a purpose other than transmission, conveyance, or routing.

(7) "Coin-operated telephone service" means a telecommunications service paid for by inserting money into a telephone accepting direct deposits of money to operate.

(8) "Customer" has the same meaning as in section 5739.034 of the Revised Code.

(BB) "Laundry and dry cleaning services" means removing soil or dirt from towels, linens, articles of clothing, or other fabric items that belong to others and supplying towels, linens, articles of clothing, or other fabric items. "Laundry and dry cleaning services" does not include the provision of self-service facilities for use by consumers to remove soil or dirt from towels, linens, articles of clothing, or other fabric items.

(CC) "Magazines distributed as controlled circulation publications" means magazines containing at least twenty-four pages, at least twenty-five per cent editorial content, issued at regular intervals four or more times a year, and circulated without charge to the recipient, provided that such magazines are not owned or controlled by individuals or business concerns which conduct such publications as an auxiliary to, and essentially for the advancement of the main business or calling of, those who own or control them.

(DD) "Landscaping and lawn care service" means the services of planting, seeding, sodding, removing, cutting, trimming, pruning, mulching, aerating, applying chemicals, watering, fertilizing, and providing similar services to establish, promote, or control the growth of trees, shrubs, flowers, grass, ground cover, and other flora, or otherwise maintaining a lawn or landscape grown or maintained by the owner for ornamentation or other nonagricultural purpose. However, "landscaping and lawn care service" does not include the providing of such services by a person who has less than five thousand dollars in sales of such services during the calendar

year.

(EE) "Private investigation and security service" means the performance of any activity for which the provider of such service is required to be licensed pursuant to Chapter 4749. of the Revised Code, or would be required to be so licensed in performing such services in this state, and also includes the services of conducting polygraph examinations and of monitoring or overseeing the activities on or in, or the condition of, the consumer's home, business, or other facility by means of electronic or similar monitoring devices. "Private investigation and security service" does not include special duty services provided by off-duty police officers, deputy sheriffs, and other peace officers regularly employed by the state or a political subdivision.

(FF) "Information services" means providing conversation, giving consultation or advice, playing or making a voice or other recording, making or keeping a record of the number of callers, and any other service provided to a consumer by means of a nine hundred telephone call, except when the nine hundred telephone call is the means by which the consumer makes a contribution to a recognized charity.

(GG) "Research and development" means designing, creating, or formulating new or enhanced products, equipment, or manufacturing processes, and also means conducting scientific or technological inquiry and experimentation in the physical sciences with the goal of increasing scientific knowledge which may reveal the bases for new or enhanced products, equipment, or manufacturing processes.

(HH) "Qualified research and development equipment" means capitalized tangible personal property, and leased personal property that would be capitalized if purchased, used by a person primarily to perform research and development. Tangible personal property primarily used in testing, as defined in division (A)(4) of section 5739.011 of the Revised Code, or used for recording or storing test results, is not qualified research and development equipment unless such property is primarily used by the consumer in testing the product, equipment, or manufacturing process being created, designed, or formulated by the consumer in the research and development activity or in recording or storing such test results.

(II) "Building maintenance and janitorial service" means cleaning the interior or exterior of a building and any tangible personal property located therein or thereon, including any services incidental to such cleaning for which no separate charge is made. However, "building maintenance and janitorial service" does not include the providing of such service by a person who has less than five thousand dollars in sales of such service during the

calendar year.

(JJ) "Employment service" means providing or supplying personnel, on a temporary or long-term basis, to perform work or labor under the supervision or control of another, when the personnel so provided or supplied receive their wages, salary, or other compensation from the provider or supplier of the employment service or from a third party that provided or supplied the personnel to the provider or supplier. "Employment service" does not include:

(1) Acting as a contractor or subcontractor, where the personnel performing the work are not under the direct control of the purchaser.

(2) Medical and health care services.

(3) Supplying personnel to a purchaser pursuant to a contract of at least one year between the service provider and the purchaser that specifies that each employee covered under the contract is assigned to the purchaser on a permanent basis.

(4) Transactions between members of an affiliated group, as defined in division (B)(3)(e) of this section.

(5) Transactions where the personnel so provided or supplied by a provider or supplier to a purchaser of an employment service are then provided or supplied by that purchaser to a third party as an employment service, except "employment service" does include the transaction between that purchaser and the third party.

(KK) "Employment placement service" means locating or finding employment for a person or finding or locating an employee to fill an available position.

(LL) "Exterminating service" means eradicating or attempting to eradicate vermin infestations from a building or structure, or the area surrounding a building or structure, and includes activities to inspect, detect, or prevent vermin infestation of a building or structure.

(MM) "Physical fitness facility service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a physical fitness facility such as an athletic club, health spa, or gymnasium, which entitles the member to use the facility for physical exercise.

(NN) "Recreation and sports club service" means all transactions by which a membership is granted, maintained, or renewed, including initiation fees, membership dues, renewal fees, monthly minimum fees, and other similar fees and dues, by a recreation and sports club, which entitles the member to use the facilities of the organization. "Recreation and sports

club" means an organization that has ownership of, or controls or leases on a continuing, long-term basis, the facilities used by its members and includes an aviation club, gun or shooting club, yacht club, card club, swimming club, tennis club, golf club, country club, riding club, amateur sports club, or similar organization.

(OO) "Livestock" means farm animals commonly raised for food or food production, ~~and includes~~ or other agricultural purposes, including, but is not limited to, cattle, sheep, goats, swine, ~~and~~ poultry, and captive deer. "Livestock" does not include invertebrates, ~~fish,~~ amphibians, reptiles, ~~horses,~~ domestic pets, animals for use in laboratories or for exhibition, or other animals not commonly raised for food or food production.

(PP) "Livestock structure" means a building or structure used exclusively for the housing, raising, feeding, or sheltering of livestock, and includes feed storage or handling structures and structures for livestock waste handling.

(QQ) "Horticulture" means the growing, cultivation, and production of flowers, fruits, herbs, vegetables, sod, mushrooms, and nursery stock. As used in this division, "nursery stock" has the same meaning as in section 927.51 of the Revised Code.

(RR) "Horticulture structure" means a building or structure used exclusively for the commercial growing, raising, or overwintering of horticultural products, and includes the area used for stocking, storing, and packing horticultural products when done in conjunction with the production of those products.

(SS) "Newspaper" means an unbound publication bearing a title or name that is regularly published, at least as frequently as biweekly, and distributed from a fixed place of business to the public in a specific geographic area, and that contains a substantial amount of news matter of international, national, or local events of interest to the general public.

(TT) "Professional racing team" means a person that employs at least twenty full-time employees for the purpose of conducting a motor vehicle racing business for profit. The person must conduct the business with the purpose of racing one or more motor racing vehicles in at least ten competitive professional racing events each year that comprise all or part of a motor racing series sanctioned by one or more motor racing sanctioning organizations. A "motor racing vehicle" means a vehicle for which the chassis, engine, and parts are designed exclusively for motor racing, and does not include a stock or production model vehicle that may be modified for use in racing. For the purposes of this division:

(1) A "competitive professional racing event" is a motor vehicle racing

event sanctioned by one or more motor racing sanctioning organizations, at which aggregate cash prizes in excess of eight hundred thousand dollars are awarded to the competitors.

(2) "Full-time employee" means an individual who is employed for consideration for thirty-five or more hours a week, or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment.

(UU)(1) "Lease" or "rental" means any transfer of the possession or control of tangible personal property for a fixed or indefinite term, for consideration. "Lease" or "rental" includes future options to purchase or extend, and agreements described in 26 U.S.C. 7701(h)(1) covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon the sale or disposition of the property. "Lease" or "rental" does not include:

(a) A transfer of possession or control of tangible personal property under a security agreement or a deferred payment plan that requires the transfer of title upon completion of the required payments;

(b) A transfer of possession or control of tangible personal property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars or one per cent of the total required payments;

(c) Providing tangible personal property along with an operator for a fixed or indefinite period of time, if the operator is necessary for the property to perform as designed. For purposes of this division, the operator must do more than maintain, inspect, or set-up the tangible personal property.

(2) "Lease" and "rental," as defined in division (UU) of this section, shall not apply to leases or rentals that exist before June 26, 2003.

(3) "Lease" and "rental" have the same meaning as in division (UU)(1) of this section regardless of whether a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, Title XIII of the Revised Code, or other federal, state, or local laws.

(VV) "Mobile telecommunications service" has the same meaning as in the "Mobile Telecommunications Sourcing Act," Pub. L. No. 106-252, 114 Stat. 631 (2000), 4 U.S.C.A. 124(7), as amended, and, on and after August 1, 2003, includes related fees and ancillary services, including universal service fees, detailed billing service, directory assistance, service initiation, voice mail service, and vertical services, such as caller ID and three-way

calling.

(WW) "Certified service provider" has the same meaning as in section 5740.01 of the Revised Code.

(XX) "Satellite broadcasting service" means the distribution or broadcasting of programming or services by satellite directly to the subscriber's receiving equipment without the use of ground receiving or distribution equipment, except the subscriber's receiving equipment or equipment used in the uplink process to the satellite, and includes all service and rental charges, premium channels or other special services, installation and repair service charges, and any other charges having any connection with the provision of the satellite broadcasting service.

(YY) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. For purposes of this chapter and Chapter 5741. of the Revised Code, "tangible personal property" includes motor vehicles, electricity, water, gas, steam, and prewritten computer software.

(ZZ) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the consumer or at the direction of the consumer when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the consumer to the direct mail vendor for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

(AAA) "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

(BBB) "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

(CCC) "Delivered electronically" means delivery of computer software from the seller to the purchaser by means other than tangible storage media.

(DDD) "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than

the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software; provided, however, that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for the modification or enhancement, the modification or enhancement shall not constitute prewritten computer software.

(EEE)(1) "Food" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food" does not include alcoholic beverages, dietary supplements, soft drinks, or tobacco.

(2) As used in division (EEE)(1) of this section:

(a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one per cent or more of alcohol by volume.

(b) "Dietary supplements" means any product, other than tobacco, that is intended to supplement the diet and that is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or, if not intended for ingestion in such a form, is not represented as conventional food for use as a sole item of a meal or of the diet; that is required to be labeled as a dietary supplement, identifiable by the "supplement facts" box found on the label, as required by 21 C.F.R. 101.36; and that contains one or more of the following dietary ingredients:

- (i) A vitamin;
- (ii) A mineral;
- (iii) An herb or other botanical;
- (iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake;

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described in divisions (EEE)(2)(b)(i) to (v) of this section.

(c) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or that contains greater than fifty per cent vegetable or fruit juice by volume.

(d) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

(FFF) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food, dietary supplements, or alcoholic beverages that is recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, and supplements to them; is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or is intended to affect the structure or any function of the body.

(GGG) "Prescription" means an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed practitioner authorized by the laws of this state to issue a prescription.

(HHH) "Durable medical equipment" means equipment, including repair and replacement parts for such equipment, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, generally is not useful to a person in the absence of illness or injury, and is not worn in or on the body. "Durable medical equipment" does not include mobility enhancing equipment.

(III) "Mobility enhancing equipment" means equipment, including repair and replacement parts for such equipment, that is primarily and customarily used to provide or increase the ability to move from one place to another and is appropriate for use either in a home or a motor vehicle, that is not generally used by persons with normal mobility, and that does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer. "Mobility enhancing equipment" does not include durable medical equipment.

(JJJ) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts for the device, worn on or in the human body to artificially replace a missing portion of the body, prevent or correct physical deformity or malfunction, or support a weak or deformed portion of the body. As used in this division, "prosthetic device" does not include corrective eyeglasses, contact lenses, or dental prosthesis.

(KKK)(1) "Fractional aircraft ownership program" means a program in which persons within an affiliated group sell and manage fractional ownership program aircraft, provided that at least one hundred airworthy aircraft are operated in the program and the program meets all of the following criteria:

(a) Management services are provided by at least one program manager within an affiliated group on behalf of the fractional owners.

(b) Each program aircraft is owned or possessed by at least one fractional owner.

(c) Each fractional owner owns or possesses at least a one-sixteenth interest in at least one fixed-wing program aircraft.

(d) A dry-lease aircraft interchange arrangement is in effect among all of the fractional owners.

(e) Multi-year program agreements are in effect regarding the fractional ownership, management services, and dry-lease aircraft interchange arrangement aspects of the program.

(2) As used in division (KKK)(1) of this section:

(a) "Affiliated group" has the same meaning as in division (B)(3)(e) of this section.

(b) "Fractional owner" means a person that owns or possesses at least a one-sixteenth interest in a program aircraft and has entered into the agreements described in division (KKK)(1)(e) of this section.

(c) "Fractional ownership program aircraft" or "program aircraft" means a turbojet aircraft that is owned or possessed by a fractional owner and that has been included in a dry-lease aircraft interchange arrangement and agreement under divisions (KKK)(1)(d) and (e) of this section, or an aircraft a program manager owns or possesses primarily for use in a fractional aircraft ownership program.

(d) "Management services" means administrative and aviation support services furnished under a fractional aircraft ownership program in accordance with a management services agreement under division (KKK)(1)(e) of this section, and offered by the program manager to the fractional owners, including, at a minimum, the establishment and implementation of safety guidelines; the coordination of the scheduling of the program aircraft and crews; program aircraft maintenance; program aircraft insurance; crew training for crews employed, furnished, or contracted by the program manager or the fractional owner; the satisfaction of record-keeping requirements; and the development and use of an operations manual and a maintenance manual for the fractional aircraft ownership program.

(e) "Program manager" means the person that offers management services to fractional owners pursuant to a management services agreement under division (KKK)(1)(e) of this section.

(LLL) "Electronic publishing" means providing access to one or more of the following primarily for business customers, including the federal government or a state government or a political subdivision thereof, to conduct research: news; business, financial, legal, consumer, or credit

materials; editorials, columns, reader commentary, or features; photos or images; archival or research material; legal notices, identity verification, or public records; scientific, educational, instructional, technical, professional, trade, or other literary materials; or other similar information which has been gathered and made available by the provider to the consumer in an electronic format. Providing electronic publishing includes the functions necessary for the acquisition, formatting, editing, storage, and dissemination of data or information that is the subject of a sale.

(MMM) "Medicaid health insuring corporation" means a health insuring corporation that holds a certificate of authority under Chapter 1751. of the Revised Code and is under contract with the department of job and family services pursuant to section 5111.17 of the Revised Code.

(NNN) "Managed care premium" means any premium, capitation, or other payment a medicaid health insuring corporation receives for providing or arranging for the provision of health care services to its members or enrollees residing in this state.

(OOO) "Captive deer" means deer and other cervidae that have been legally acquired, or their offspring, that are privately owned for agricultural or farming purposes.

(PPP) "Gift card" means a document, card, certificate, or other record, whether tangible or intangible, that may be redeemed by a consumer for a dollar value when making a purchase of tangible personal property or services.

Sec. 5739.02. For the purpose of providing revenue with which to meet the needs of the state, for the use of the general revenue fund of the state, for the purpose of securing a thorough and efficient system of common schools throughout the state, for the purpose of affording revenues, in addition to those from general property taxes, permitted under constitutional limitations, and from other sources, for the support of local governmental functions, and for the purpose of reimbursing the state for the expense of administering this chapter, an excise tax is hereby levied on each retail sale made in this state.

(A)(1) The tax shall be collected as provided in section 5739.025 of the Revised Code. The rate of the tax shall be five and one-half per cent. The tax applies and is collectible when the sale is made, regardless of the time when the price is paid or delivered.

(2) In the case of the lease or rental, with a fixed term of more than thirty days or an indefinite term with a minimum period of more than thirty days, of any motor vehicles designed by the manufacturer to carry a load of not more than one ton, watercraft, outboard motor, or aircraft, or of any

tangible personal property, other than motor vehicles designed by the manufacturer to carry a load of more than one ton, to be used by the lessee or renter primarily for business purposes, the tax shall be collected by the vendor at the time the lease or rental is consummated and shall be calculated by the vendor on the basis of the total amount to be paid by the lessee or renter under the lease agreement. If the total amount of the consideration for the lease or rental includes amounts that are not calculated at the time the lease or rental is executed, the tax shall be calculated and collected by the vendor at the time such amounts are billed to the lessee or renter. In the case of an open-end lease or rental, the tax shall be calculated by the vendor on the basis of the total amount to be paid during the initial fixed term of the lease or rental, and for each subsequent renewal period as it comes due. As used in this division, "motor vehicle" has the same meaning as in section 4501.01 of the Revised Code, and "watercraft" includes an outdrive unit attached to the watercraft.

A lease with a renewal clause and a termination penalty or similar provision that applies if the renewal clause is not exercised is presumed to be a sham transaction. In such a case, the tax shall be calculated and paid on the basis of the entire length of the lease period, including any renewal periods, until the termination penalty or similar provision no longer applies. The taxpayer shall bear the burden, by a preponderance of the evidence, that the transaction or series of transactions is not a sham transaction.

(3) Except as provided in division (A)(2) of this section, in the case of a sale, the price of which consists in whole or in part of the lease or rental of tangible personal property, the tax shall be measured by the installments of that lease or rental.

(4) In the case of a sale of a physical fitness facility service or recreation and sports club service, the price of which consists in whole or in part of a membership for the receipt of the benefit of the service, the tax applicable to the sale shall be measured by the installments thereof.

(B) The tax does not apply to the following:

(1) Sales to the state or any of its political subdivisions, or to any other state or its political subdivisions if the laws of that state exempt from taxation sales made to this state and its political subdivisions;

(2) Sales of food for human consumption off the premises where sold;

(3) Sales of food sold to students only in a cafeteria, dormitory, fraternity, or sorority maintained in a private, public, or parochial school, college, or university;

(4) Sales of newspapers and of magazine subscriptions and sales or transfers of magazines distributed as controlled circulation publications;

(5) The furnishing, preparing, or serving of meals without charge by an employer to an employee provided the employer records the meals as part compensation for services performed or work done;

(6) Sales of motor fuel upon receipt, use, distribution, or sale of which in this state a tax is imposed by the law of this state, but this exemption shall not apply to the sale of motor fuel on which a refund of the tax is allowable under division (A) of section 5735.14 of the Revised Code; and the tax commissioner may deduct the amount of tax levied by this section applicable to the price of motor fuel when granting a refund of motor fuel tax pursuant to division (A) of section 5735.14 of the Revised Code and shall cause the amount deducted to be paid into the general revenue fund of this state;

(7) Sales of natural gas by a natural gas company, of water by a water-works company, or of steam by a heating company, if in each case the thing sold is delivered to consumers through pipes or conduits, and all sales of communications services by a telegraph company, all terms as defined in section 5727.01 of the Revised Code, and sales of electricity delivered through wires;

(8) Casual sales by a person, or auctioneer employed directly by the person to conduct such sales, except as to such sales of motor vehicles, watercraft or outboard motors required to be titled under section 1548.06 of the Revised Code, watercraft documented with the United States coast guard, snowmobiles, and all-purpose vehicles as defined in section 4519.01 of the Revised Code;

(9)(a) Sales of services or tangible personal property, other than motor vehicles, mobile homes, and manufactured homes, by churches, organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, or nonprofit organizations operated exclusively for charitable purposes as defined in division (B)(12) of this section, provided that the number of days on which such tangible personal property or services, other than items never subject to the tax, are sold does not exceed six in any calendar year, except as otherwise provided in division (B)(9)(b) of this section. If the number of days on which such sales are made exceeds six in any calendar year, the church or organization shall be considered to be engaged in business and all subsequent sales by it shall be subject to the tax. In counting the number of days, all sales by groups within a church or within an organization shall be considered to be sales of that church or organization.

(b) The limitation on the number of days on which tax-exempt sales may be made by a church or organization under division (B)(9)(a) of this

section does not apply to sales made by student clubs and other groups of students of a primary or secondary school, or a parent-teacher association, booster group, or similar organization that raises money to support or fund curricular or extracurricular activities of a primary or secondary school.

(c) Divisions (B)(9)(a) and (b) of this section do not apply to sales by a noncommercial educational radio or television broadcasting station.

(10) Sales not within the taxing power of this state under the Constitution of the United States;

(11) Except for transactions that are sales under division (B)(3)(r) of section 5739.01 of the Revised Code, the transportation of persons or property, unless the transportation is by a private investigation and security service;

(12) Sales of tangible personal property or services to churches, to organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, and to any other nonprofit organizations operated exclusively for charitable purposes in this state, no part of the net income of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which consists of carrying on propaganda or otherwise attempting to influence legislation; sales to offices administering one or more homes for the aged or one or more hospital facilities exempt under section 140.08 of the Revised Code; and sales to organizations described in division (D) of section 5709.12 of the Revised Code.

"Charitable purposes" means the relief of poverty; the improvement of health through the alleviation of illness, disease, or injury; the operation of an organization exclusively for the provision of professional, laundry, printing, and purchasing services to hospitals or charitable institutions; the operation of a home for the aged, as defined in section 5701.13 of the Revised Code; the operation of a radio or television broadcasting station that is licensed by the federal communications commission as a noncommercial educational radio or television station; the operation of a nonprofit animal adoption service or a county humane society; the promotion of education by an institution of learning that maintains a faculty of qualified instructors, teaches regular continuous courses of study, and confers a recognized diploma upon completion of a specific curriculum; the operation of a parent-teacher association, booster group, or similar organization primarily engaged in the promotion and support of the curricular or extracurricular activities of a primary or secondary school; the operation of a community or area center in which presentations in music, dramatics, the arts, and related fields are made in order to foster public interest and education therein; the

production of performances in music, dramatics, and the arts; or the promotion of education by an organization engaged in carrying on research in, or the dissemination of, scientific and technological knowledge and information primarily for the public.

Nothing in this division shall be deemed to exempt sales to any organization for use in the operation or carrying on of a trade or business, or sales to a home for the aged for use in the operation of independent living facilities as defined in division (A) of section 5709.12 of the Revised Code.

(13) Building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property under a construction contract with this state or a political subdivision of this state, or with the United States government or any of its agencies; building and construction materials and services sold to construction contractors for incorporation into a structure or improvement to real property that are accepted for ownership by this state or any of its political subdivisions, or by the United States government or any of its agencies at the time of completion of the structures or improvements; building and construction materials sold to construction contractors for incorporation into a horticulture structure or livestock structure for a person engaged in the business of horticulture or producing livestock; building materials and services sold to a construction contractor for incorporation into a house of public worship or religious education, or a building used exclusively for charitable purposes under a construction contract with an organization whose purpose is as described in division (B)(12) of this section; building materials and services sold to a construction contractor for incorporation into a building under a construction contract with an organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 when the building is to be used exclusively for the organization's exempt purposes; building and construction materials sold for incorporation into the original construction of a sports facility under section 307.696 of the Revised Code; building and construction materials and services sold to a construction contractor for incorporation into real property outside this state if such materials and services, when sold to a construction contractor in the state in which the real property is located for incorporation into real property in that state, would be exempt from a tax on sales levied by that state; and, until one calendar year after the construction of a convention center that qualifies for property tax exemption under section 5709.084 of the Revised Code is completed, building and construction materials and services sold to a construction contractor for incorporation into the real property comprising that convention center;

(14) Sales of ships or vessels or rail rolling stock used or to be used principally in interstate or foreign commerce, and repairs, alterations, fuel, and lubricants for such ships or vessels or rail rolling stock;

(15) Sales to persons primarily engaged in any of the activities mentioned in division (B)(42)(a) ~~or~~, (g), or (h) of this section, to persons engaged in making retail sales, or to persons who purchase for sale from a manufacturer tangible personal property that was produced by the manufacturer in accordance with specific designs provided by the purchaser, of packages, including material, labels, and parts for packages, and of machinery, equipment, and material for use primarily in packaging tangible personal property produced for sale, including any machinery, equipment, and supplies used to make labels or packages, to prepare packages or products for labeling, or to label packages or products, by or on the order of the person doing the packaging, or sold at retail. "Packages" includes bags, baskets, cartons, crates, boxes, cans, bottles, bindings, wrappings, and other similar devices and containers, but does not include motor vehicles or bulk tanks, trailers, or similar devices attached to motor vehicles. "Packaging" means placing in a package. Division (B)(15) of this section does not apply to persons engaged in highway transportation for hire.

(16) Sales of food to persons using supplemental nutrition assistance program benefits to purchase the food. As used in this division, "food" has the same meaning as in 7 U.S.C. 2012 and federal regulations adopted pursuant to the Food and Nutrition Act of 2008.

(17) Sales to persons engaged in farming, agriculture, horticulture, or floriculture, of tangible personal property for use or consumption ~~directly~~ primarily in the production by farming, agriculture, horticulture, or floriculture of other tangible personal property for use or consumption ~~directly~~ primarily in the production of tangible personal property for sale by farming, agriculture, horticulture, or floriculture; or material and parts for incorporation into any such tangible personal property for use or consumption in production; and of tangible personal property for such use or consumption in the conditioning or holding of products produced by and for such use, consumption, or sale by persons engaged in farming, agriculture, horticulture, or floriculture, except where such property is incorporated into real property;

(18) Sales of drugs for a human being that may be dispensed only pursuant to a prescription; insulin as recognized in the official United States pharmacopoeia; urine and blood testing materials when used by diabetics or persons with hypoglycemia to test for glucose or acetone; hypodermic syringes and needles when used by diabetics for insulin injections; epoetin

alfa when purchased for use in the treatment of persons with medical disease; hospital beds when purchased by hospitals, nursing homes, or other medical facilities; and medical oxygen and medical oxygen-dispensing equipment when purchased by hospitals, nursing homes, or other medical facilities;

(19) Sales of prosthetic devices, durable medical equipment for home use, or mobility enhancing equipment, when made pursuant to a prescription and when such devices or equipment are for use by a human being.

(20) Sales of emergency and fire protection vehicles and equipment to nonprofit organizations for use solely in providing fire protection and emergency services, including trauma care and emergency medical services, for political subdivisions of the state;

(21) Sales of tangible personal property manufactured in this state, if sold by the manufacturer in this state to a retailer for use in the retail business of the retailer outside of this state and if possession is taken from the manufacturer by the purchaser within this state for the sole purpose of immediately removing the same from this state in a vehicle owned by the purchaser;

(22) Sales of services provided by the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities, or by governmental entities of the state or any of its political subdivisions, agencies, instrumentalities, institutions, or authorities;

(23) Sales of motor vehicles to nonresidents of this state under the circumstances described in division (B) of section 5739.029 of the Revised Code;

(24) Sales to persons engaged in the preparation of eggs for sale of tangible personal property used or consumed directly in such preparation, including such tangible personal property used for cleaning, sanitizing, preserving, grading, sorting, and classifying by size; packages, including material and parts for packages, and machinery, equipment, and material for use in packaging eggs for sale; and handling and transportation equipment and parts therefor, except motor vehicles licensed to operate on public highways, used in intraplant or interplant transfers or shipment of eggs in the process of preparation for sale, when the plant or plants within or between which such transfers or shipments occur are operated by the same person. "Packages" includes containers, cases, baskets, flats, fillers, filler flats, cartons, closure materials, labels, and labeling materials, and "packaging" means placing therein.

(25)(a) Sales of water to a consumer for residential use, except the sale of bottled water, distilled water, mineral water, carbonated water, or ice;

(b) Sales of water by a nonprofit corporation engaged exclusively in the treatment, distribution, and sale of water to consumers, if such water is delivered to consumers through pipes or tubing.

(26) Fees charged for inspection or reinspection of motor vehicles under section 3704.14 of the Revised Code;

(27) Sales to persons licensed to conduct a food service operation pursuant to section 3717.43 of the Revised Code, of tangible personal property primarily used directly for the following:

(a) To prepare food for human consumption for sale;

(b) To preserve food that has been or will be prepared for human consumption for sale by the food service operator, not including tangible personal property used to display food for selection by the consumer;

(c) To clean tangible personal property used to prepare or serve food for human consumption for sale.

(28) Sales of animals by nonprofit animal adoption services or county humane societies;

(29) Sales of services to a corporation described in division (A) of section 5709.72 of the Revised Code, and sales of tangible personal property that qualifies for exemption from taxation under section 5709.72 of the Revised Code;

(30) Sales and installation of agricultural land tile, as defined in division (B)(5)(a) of section 5739.01 of the Revised Code;

(31) Sales and erection or installation of portable grain bins, as defined in division (B)(5)(b) of section 5739.01 of the Revised Code;

(32) The sale, lease, repair, and maintenance of, parts for, or items attached to or incorporated in, motor vehicles that are primarily used for transporting tangible personal property belonging to others by a person engaged in highway transportation for hire, except for packages and packaging used for the transportation of tangible personal property;

(33) Sales to the state headquarters of any veterans' organization in this state that is either incorporated and issued a charter by the congress of the United States or is recognized by the United States veterans administration, for use by the headquarters;

(34) Sales to a telecommunications service vendor, mobile telecommunications service vendor, or satellite broadcasting service vendor of tangible personal property and services used directly and primarily in transmitting, receiving, switching, or recording any interactive, one- or two-way electromagnetic communications, including voice, image, data, and information, through the use of any medium, including, but not limited to, poles, wires, cables, switching equipment, computers, and record storage

devices and media, and component parts for the tangible personal property. The exemption provided in this division shall be in lieu of all other exemptions under division (B)(42)(a) or (n) of this section to which the vendor may otherwise be entitled, based upon the use of the thing purchased in providing the telecommunications, mobile telecommunications, or satellite broadcasting service.

(35)(a) Sales where the purpose of the consumer is to use or consume the things transferred in making retail sales and consisting of newspaper inserts, catalogues, coupons, flyers, gift certificates, or other advertising material that prices and describes tangible personal property offered for retail sale.

(b) Sales to direct marketing vendors of preliminary materials such as photographs, artwork, and typesetting that will be used in printing advertising material; of printed matter that offers free merchandise or chances to win sweepstake prizes and that is mailed to potential customers with advertising material described in division (B)(35)(a) of this section; and of equipment such as telephones, computers, facsimile machines, and similar tangible personal property primarily used to accept orders for direct marketing retail sales.

(c) Sales of automatic food vending machines that preserve food with a shelf life of forty-five days or less by refrigeration and dispense it to the consumer.

For purposes of division (B)(35) of this section, "direct marketing" means the method of selling where consumers order tangible personal property by United States mail, delivery service, or telecommunication and the vendor delivers or ships the tangible personal property sold to the consumer from a warehouse, catalogue distribution center, or similar fulfillment facility by means of the United States mail, delivery service, or common carrier.

(36) Sales to a person engaged in the business of horticulture or producing livestock of materials to be incorporated into a horticulture structure or livestock structure;

(37) Sales of personal computers, computer monitors, computer keyboards, modems, and other peripheral computer equipment to an individual who is licensed or certified to teach in an elementary or a secondary school in this state for use by that individual in preparation for teaching elementary or secondary school students;

(38) Sales to a professional racing team of any of the following:

(a) Motor racing vehicles;

(b) Repair services for motor racing vehicles;

(c) Items of property that are attached to or incorporated in motor racing vehicles, including engines, chassis, and all other components of the vehicles, and all spare, replacement, and rebuilt parts or components of the vehicles; except not including tires, consumable fluids, paint, and accessories consisting of instrumentation sensors and related items added to the vehicle to collect and transmit data by means of telemetry and other forms of communication.

(39) Sales of used manufactured homes and used mobile homes, as defined in section 5739.0210 of the Revised Code, made on or after January 1, 2000;

(40) Sales of tangible personal property and services to a provider of electricity used or consumed directly and primarily in generating, transmitting, or distributing electricity for use by others, including property that is or is to be incorporated into and will become a part of the consumer's production, transmission, or distribution system and that retains its classification as tangible personal property after incorporation; fuel or power used in the production, transmission, or distribution of electricity; energy conversion equipment as defined in section 5727.01 of the Revised Code; and tangible personal property and services used in the repair and maintenance of the production, transmission, or distribution system, including only those motor vehicles as are specially designed and equipped for such use. The exemption provided in this division shall be in lieu of all other exemptions in division (B)(42)(a) or (n) of this section to which a provider of electricity may otherwise be entitled based on the use of the tangible personal property or service purchased in generating, transmitting, or distributing electricity.

(41) Sales to a person providing services under division (B)(3)(r) of section 5739.01 of the Revised Code of tangible personal property and services used directly and primarily in providing taxable services under that section.

(42) Sales where the purpose of the purchaser is to do any of the following:

(a) To incorporate the thing transferred as a material or a part into tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining; or to use or consume the thing transferred directly in producing tangible personal property for sale by mining, including, without limitation, the extraction from the earth of all substances that are classed geologically as minerals, production of crude oil and natural gas, ~~farming, agriculture, horticulture, or floriculture~~, or directly in the rendition of a public utility service, except that the sales tax levied by

this section shall be collected upon all meals, drinks, and food for human consumption sold when transporting persons. Persons engaged in rendering ~~farming, agricultural, horticultural, or floricultural services, and~~ services in the exploration for, and production of, crude oil and natural gas; for others are deemed engaged directly in ~~farming, agriculture, horticulture, and floriculture, or~~ the exploration for, and production of, crude oil and natural gas. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(b) To hold the thing transferred as security for the performance of an obligation of the vendor;

(c) To resell, hold, use, or consume the thing transferred as evidence of a contract of insurance;

(d) To use or consume the thing directly in commercial fishing;

(e) To incorporate the thing transferred as a material or a part into, or to use or consume the thing transferred directly in the production of, magazines distributed as controlled circulation publications;

(f) To use or consume the thing transferred in the production and preparation in suitable condition for market and sale of printed, imprinted, overprinted, lithographic, multilithic, blueprinted, photostatic, or other productions or reproductions of written or graphic matter;

(g) To use the thing transferred, as described in section 5739.011 of the Revised Code, primarily in a manufacturing operation to produce tangible personal property for sale;

(h) To use the benefit of a warranty, maintenance or service contract, or similar agreement, as described in division (B)(7) of section 5739.01 of the Revised Code, to repair or maintain tangible personal property, if all of the property that is the subject of the warranty, contract, or agreement would not be subject to the tax imposed by this section;

(i) To use the thing transferred as qualified research and development equipment;

(j) To use or consume the thing transferred primarily in storing, transporting, mailing, or otherwise handling purchased sales inventory in a warehouse, distribution center, or similar facility when the inventory is primarily distributed outside this state to retail stores of the person who owns or controls the warehouse, distribution center, or similar facility, to retail stores of an affiliated group of which that person is a member, or by means of direct marketing. This division does not apply to motor vehicles registered for operation on the public highways. As used in this division, "affiliated group" has the same meaning as in division (B)(3)(e) of section

5739.01 of the Revised Code and "direct marketing" has the same meaning as in division (B)(35) of this section.

(k) To use or consume the thing transferred to fulfill a contractual obligation incurred by a warrantor pursuant to a warranty provided as a part of the price of the tangible personal property sold or by a vendor of a warranty, maintenance or service contract, or similar agreement the provision of which is defined as a sale under division (B)(7) of section 5739.01 of the Revised Code;

(l) To use or consume the thing transferred in the production of a newspaper for distribution to the public;

(m) To use tangible personal property to perform a service listed in division (B)(3) of section 5739.01 of the Revised Code, if the property is or is to be permanently transferred to the consumer of the service as an integral part of the performance of the service;

(n) To use or consume the thing transferred primarily in producing tangible personal property for sale by farming, agriculture, horticulture, or floriculture. Persons engaged in rendering farming, agriculture, horticulture, or floriculture services for others are deemed engaged primarily in farming, agriculture, horticulture, or floriculture. This paragraph does not exempt from "retail sale" or "sales at retail" the sale of tangible personal property that is to be incorporated into a structure or improvement to real property.

(o) To use or consume the thing transferred in acquiring, formatting, editing, storing, and disseminating data or information by electronic publishing.

As used in division (B)(42) of this section, "thing" includes all transactions included in divisions (B)(3)(a), (b), and (e) of section 5739.01 of the Revised Code.

(43) Sales conducted through a coin operated device that activates vacuum equipment or equipment that dispenses water, whether or not in combination with soap or other cleaning agents or wax, to the consumer for the consumer's use on the premises in washing, cleaning, or waxing a motor vehicle, provided no other personal property or personal service is provided as part of the transaction.

(44) Sales of replacement and modification parts for engines, airframes, instruments, and interiors in, and paint for, aircraft used primarily in a fractional aircraft ownership program, and sales of services for the repair, modification, and maintenance of such aircraft, and machinery, equipment, and supplies primarily used to provide those services.

(45) Sales of telecommunications service that is used directly and primarily to perform the functions of a call center. As used in this division,

"call center" means any physical location where telephone calls are placed or received in high volume for the purpose of making sales, marketing, customer service, technical support, or other specialized business activity, and that employs at least fifty individuals that engage in call center activities on a full-time basis, or sufficient individuals to fill fifty full-time equivalent positions.

(46) Sales by a telecommunications service vendor of 900 service to a subscriber. This division does not apply to information services, as defined in division (FF) of section 5739.01 of the Revised Code.

(47) Sales of value-added non-voice data service. This division does not apply to any similar service that is not otherwise a telecommunications service.

(48)(a) Sales of machinery, equipment, and software to a qualified direct selling entity for use in a warehouse or distribution center primarily for storing, transporting, or otherwise handling inventory that is held for sale to independent salespersons who operate as direct sellers and that is held primarily for distribution outside this state;

(b) As used in division (B)(48)(a) of this section:

(i) "Direct seller" means a person selling consumer products to individuals for personal or household use and not from a fixed retail location, including selling such product at in-home product demonstrations, parties, and other one-on-one selling.

(ii) "Qualified direct selling entity" means an entity selling to direct sellers at the time the entity enters into a tax credit agreement with the tax credit authority pursuant to section 122.17 of the Revised Code, provided that the agreement was entered into on or after January 1, 2007. Neither contingencies relevant to the granting of, nor later developments with respect to, the tax credit shall impair the status of the qualified direct selling entity under division (B)(48) of this section after execution of the tax credit agreement by the tax credit authority.

(c) Division (B)(48) of this section is limited to machinery, equipment, and software first stored, used, or consumed in this state within the period commencing June 24, 2008, and ending on the date that is five years after that date.

(49) Sales of materials, parts, equipment, or engines used in the repair or maintenance of aircraft or avionics systems of such aircraft, and sales of repair, remodeling, replacement, or maintenance services in this state performed on aircraft or on an aircraft's avionics, engine, or component materials or parts. As used in division (B)(49) of this section, "aircraft" means aircraft of more than six thousand pounds maximum certified takeoff

weight or used exclusively in general aviation.

(50) Sales of full flight simulators that are used for pilot or flight-crew training, sales of repair or replacement parts or components, and sales of repair or maintenance services for such full flight simulators. "Full flight simulator" means a replica of a specific type, or make, model, and series of aircraft cockpit. It includes the assemblage of equipment and computer programs necessary to represent aircraft operations in ground and flight conditions, a visual system providing an out-of-the-cockpit view, and a system that provides cues at least equivalent to those of a three-degree-of-freedom motion system, and has the full range of capabilities of the systems installed in the device as described in appendices A and B of part 60 of chapter 1 of title 14 of the Code of Federal Regulations.

(51) Any transfer or lease of tangible personal property between the state and a successful proposer in accordance with sections 126.60 to 126.605 of the Revised Code, provided the property is part of a project as defined in section 126.60 of the Revised Code and the state retains ownership of the project or part thereof that is being transferred or leased, between the state and JobsOhio in accordance with section 4313.02 of the Revised Code.

(C) For the purpose of the proper administration of this chapter, and to prevent the evasion of the tax, it is presumed that all sales made in this state are subject to the tax until the contrary is established.

(D) The levy of this tax on retail sales of recreation and sports club service shall not prevent a municipal corporation from levying any tax on recreation and sports club dues or on any income generated by recreation and sports club dues.

(E) The tax collected by the vendor from the consumer under this chapter is not part of the price, but is a tax collection for the benefit of the state, and of counties levying an additional sales tax pursuant to section 5739.021 or 5739.026 of the Revised Code and of transit authorities levying an additional sales tax pursuant to section 5739.023 of the Revised Code. Except for the discount authorized under section 5739.12 of the Revised Code and the effects of any rounding pursuant to section 5703.055 of the Revised Code, no person other than the state or such a county or transit authority shall derive any benefit from the collection or payment of the tax levied by this section or section 5739.021, 5739.023, or 5739.026 of the Revised Code.

Sec. 5739.021. (A) For the purpose of providing additional general revenues for the county or supporting criminal and administrative justice

services in the county, or both, and to pay the expenses of administering such levy, any county may levy a tax at the rate of not more than one per cent at any multiple of one-fourth of one per cent upon every retail sale made in the county, except sales of watercraft and outboard motors required to be titled pursuant to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase the rate of an existing tax to not more than one per cent at any multiple of one-fourth of one per cent.

The tax shall be levied and the rate increased pursuant to a resolution of the board of county commissioners. The resolution shall state the purpose for which the tax is to be levied and the number of years for which the tax is to be levied, or that it is for a continuing period of time. If the tax is to be levied for the purpose of providing additional general revenues and for the purpose of supporting criminal and administrative justice services, the resolution shall state the rate or amount of the tax to be apportioned to each such purpose. The rate or amount may be different for each year the tax is to be levied, but the rates or amounts actually apportioned each year shall not be different from that stated in the resolution for that year. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for such necessity. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of the calendar quarter.

Prior to the adoption of any resolution under this section, the board of county commissioners shall conduct two public hearings on the resolution, 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 the 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.

Except as provided in division (B)(3) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code.

If a petition for a referendum is filed, the county auditor with whom the petition was filed shall, within five days, notify the board of county commissioners and the tax commissioner of the filing of the petition by certified mail. If the board of elections with which the petition was filed declares the petition invalid, the board of elections, within five days, shall

notify the board of county commissioners and the tax commissioner of that declaration by certified mail. If the petition is declared to be invalid, the effective date of the tax or increased rate of tax levied by this section shall be the first day of a calendar quarter following the expiration of sixty-five days from the date the commissioner receives notice from the board of elections that the petition is invalid.

(B)(1) A resolution that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than ninety days after a certified copy of such resolution is transmitted to the board of elections and the election is not held in February or August of any year. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under this division shall go into effect unless approved by a majority of those voting upon it, and, except as provided in division (B)(3) of this section, shall become effective on the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(2) A resolution that is adopted as an emergency measure shall go into effect as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after a certified copy of the resolution is transmitted to the board of elections. Upon transmission of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner receive notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the

tax at the rate at which it was imposed immediately prior to the increase in rate.

(3) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (H) of this section.

(C) If a resolution is rejected at a referendum or if a resolution adopted after January 1, 1982, as an emergency measure is repealed by the electors pursuant to division (B)(2) of this section or section 5739.022 of the Revised Code, then for one year after the date of the election at which the resolution was rejected or repealed the board of county commissioners may not adopt any resolution authorized by this section as an emergency measure.

(D) The board of county commissioners, at any time while a tax levied under this section is in effect, may by resolution reduce the rate at which the tax is levied to a lower rate authorized by this section. Any reduction in the rate at which the tax is levied shall be made effective on the first day of a calendar quarter next following the sixty-fifth day after a certified copy of the resolution is delivered to the tax commissioner.

(E) The tax on every retail sale subject to a tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.023 or 5739.026 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.021 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code. If the additional tax or some portion thereof is levied for the purpose of criminal and administrative justice services, the revenue from the tax, or the amount or rate apportioned to that purpose, shall be credited to a special fund created in the county treasury for receipt of that revenue.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(F) For purposes of this section, a copy of a resolution is "certified" when it contains a written statement attesting that the copy is a true and

exact reproduction of the original resolution.

(G) If a board of commissioners intends to adopt a resolution to levy a tax in whole or in part for the purpose of criminal and administrative justice services, the board shall prepare and make available at the first public hearing at which the resolution is considered a statement containing the following information:

(1) For each of the two preceding fiscal years, the amount of expenditures made by the county from the county general fund for the purpose of criminal and administrative justice services;

(2) For the fiscal year in which the resolution is adopted, the board's estimate of the amount of expenditures to be made by the county from the county general fund for the purpose of criminal and administrative justice services;

(3) For each of the two fiscal years after the fiscal year in which the resolution is adopted, the board's preliminary plan for expenditures to be made from the county general fund for the purpose of criminal and administrative justice services, both under the assumption that the tax will be imposed for that purpose and under the assumption that the tax would not be imposed for that purpose, and for expenditures to be made from the special fund created under division (E) of this section under the assumption that the tax will be imposed for that purpose.

The board shall prepare the statement and the preliminary plan using the best information available to the board at the time the statement is prepared. Neither the statement nor the preliminary plan shall be used as a basis to challenge the validity of the tax in any court of competent jurisdiction, nor shall the statement or preliminary plan limit the authority of the board to appropriate, pursuant to section 5705.38 of the Revised Code, an amount different from that specified in the preliminary plan.

(H) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) or (D) of this section, or from the board of elections of a notice of the results of an election required by division (A) or (B)(1) or (2) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(I) As used in this section, "criminal and administrative justice services" means the exercise by the county sheriff of all powers and duties vested in that office by law; the exercise by the county prosecuting attorney of all powers and duties vested in that office by law; the exercise by any court in

the county of all powers and duties vested in that court; the exercise by the clerk of the court of common pleas, any clerk of a municipal court having jurisdiction throughout the county, or the clerk of any county court of all powers and duties vested in the clerk by law except, in the case of the clerk of the court of common pleas, the titling of motor vehicles or watercraft pursuant to Chapter 1548. or 4505. of the Revised Code; the exercise by the county coroner of all powers and duties vested in that office by law; making payments to any other public agency or a private, nonprofit agency, the purposes of which in the county include the diversion, adjudication, detention, or rehabilitation of criminals or juvenile offenders; the operation and maintenance of any detention facility, as defined in section 2921.01 of the Revised Code; and the construction, acquisition, equipping, or repair of such a detention facility, including the payment of any debt charges incurred in the issuance of securities pursuant to Chapter 133. of the Revised Code for the purpose of constructing, acquiring, equipping, or repairing such a facility.

Sec. 5739.022. (A) The question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax that was adopted as an emergency measure pursuant to section 5739.021 or 5739.026 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 the question. The question of repealing an increase in the rate of the county permissive tax shall be submitted to the electors as a separate question from the repeal of the tax in effect prior to the increase in the rate. Any petition filed under this section 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 the 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. The board of elections shall notify the tax commissioner, in writing, of the election upon determining that the petition is valid. Notice of the election shall also be published in a newspaper of general circulation in the 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 purpose, time, and place of the election. The form of the ballot cast

at the election shall be prescribed by the secretary of state; however, the ballot question shall read, "shall the tax (or, increase in the rate of the tax) be retained?"

	Yes
	No

The question covered by the 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.

(B) If a majority of the qualified electors voting on the question of repeal of either a county permissive tax or an increase in the rate of a county permissive tax approve the repeal, the board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has been declared. The board of county commissioners shall, on the first day of the calendar quarter following the expiration of sixty-five days after the date the board and the tax commissioner receive the notice, in the case of a repeal of a county permissive tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of a county permissive tax, levy the tax at the rate at which it was imposed immediately prior to the increase in rate and cease to levy the increased rate.

(C) Upon receipt from a board of elections of a notice of the results of an election required by division (B) of this section, the tax commissioner shall provide notice of a tax repeal or rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

(D) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (C) of this section.

Sec. 5739.026. (A) A board of county commissioners may levy a tax of one-fourth or one-half of one per cent on every retail sale in the county, except sales of watercraft and outboard motors required to be titled pursuant

to Chapter 1548. of the Revised Code and sales of motor vehicles, and may increase an existing rate of one-fourth of one per cent to one-half of one per cent, to pay the expenses of administering the tax and, except as provided in division (A)(6) of this section, for any one or more of the following purposes provided that the aggregate levy for all such purposes does not exceed one-half of one per cent:

(1) To provide additional revenues for the payment of bonds or notes issued in anticipation of bonds issued by a convention facilities authority established by the board of county commissioners under Chapter 351. of the Revised Code and to provide additional operating revenues for the convention facilities authority;

(2) To provide additional revenues for a transit authority operating in the county;

(3) To provide additional revenue for the county's general fund;

(4) To provide additional revenue for permanent improvements within the county to be distributed by the community improvements board in accordance with section 307.283 and to pay principal, interest, and premium on bonds issued under section 307.284 of the Revised Code;

(5) To provide additional revenue for the acquisition, construction, equipping, or repair of any specific permanent improvement or any class or group of permanent improvements, which improvement or class or group of improvements shall be enumerated in the resolution required by division (D) of this section, and to pay principal, interest, premium, and other costs associated with the issuance of bonds or notes in anticipation of bonds issued pursuant to Chapter 133. of the Revised Code for the acquisition, construction, equipping, or repair of the specific permanent improvement or class or group of permanent improvements;

(6) To provide revenue for the implementation and operation of a 9-1-1 system in the county. If the tax is levied or the rate increased exclusively for such purpose, the tax shall not be levied or the rate increased for more than five years. At the end of the last year the tax is levied or the rate increased, any balance remaining in the special fund established for such purpose shall remain in that fund and be used exclusively for such purpose until the fund is completely expended, and, notwithstanding section 5705.16 of the Revised Code, the board of county commissioners shall not petition for the transfer of money from such special fund, and the tax commissioner shall not approve such a petition.

If the tax is levied or the rate increased for such purpose for more than five years, the board of county commissioners also shall levy the tax or increase the rate of the tax for one or more of the purposes described in

divisions (A)(1) to (5) of this section and shall prescribe the method for allocating the revenues from the tax each year in the manner required by division (C) of this section.

(7) To provide additional revenue for the operation or maintenance of a detention facility, as that term is defined under division (F) of section 2921.01 of the Revised Code;

(8) To provide revenue to finance the construction or renovation of a sports facility, but only if the tax is levied for that purpose in the manner prescribed by section 5739.028 of the Revised Code.

As used in division (A)(8) of this section:

(a) "Sports facility" means a facility intended to house major league professional athletic teams.

(b) "Constructing" or "construction" includes providing fixtures, furnishings, and equipment.

(9) To provide additional revenue for the acquisition of agricultural easements, as defined in section 5301.67 of the Revised Code; to pay principal, interest, and premium on bonds issued under section 133.60 of the Revised Code; and for the supervision and enforcement of agricultural easements held by the county;

(10) To provide revenue for the provision of ambulance, paramedic, or other emergency medical services.

Pursuant to section 755.171 of the Revised Code, a board of county commissioners may pledge and contribute revenue from a tax levied for the purpose of division (A)(5) of this section to the payment of debt charges on bonds issued under section 755.17 of the Revised Code.

The rate of tax shall be a multiple of one-fourth of one per cent, unless a portion of the rate of an existing tax levied under section 5739.023 of the Revised Code has been reduced, and the rate of tax levied under this section has been increased, pursuant to section 5739.028 of the Revised Code, in which case the aggregate of the rates of tax levied under this section and section 5739.023 of the Revised Code shall be a multiple of one-fourth of one per cent. The tax shall be levied and the rate increased pursuant to a resolution adopted by a majority of the members of the board. The board shall deliver a certified copy of the resolution to the tax commissioner, not later than the sixty-fifth day prior to the date on which the tax is to become effective, which shall be the first day of a calendar quarter.

Prior to the adoption of any resolution to levy the tax or to increase the rate of tax exclusively for the purpose set forth in division (A)(3) of this section, the board of county commissioners shall conduct two public hearings on the resolution, the second hearing to be no fewer than three nor

more than ten days after the first. Notice of the date, time, and place of the 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~~. The second publication shall be no fewer than ten nor more than thirty days prior to the first hearing. Except as provided in division (E) of this section, the resolution shall be subject to a referendum as provided in sections 305.31 to 305.41 of the Revised Code. If the resolution is adopted as an emergency measure necessary for the immediate preservation of the public peace, health, or safety, it must receive an affirmative vote of all of the members of the board of county commissioners and shall state the reasons for the necessity.

If the tax is for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, or is exclusively for one of the purposes set forth in division (A)(1), (2), (4), (5), (6), (7), (9), or (10) of this section, the resolution shall not go into effect unless it is approved by a majority of the electors voting on the question of the tax.

(B) The board of county commissioners shall adopt a resolution under section 351.02 of the Revised Code creating the convention facilities authority, or under section 307.283 of the Revised Code creating the community improvements board, before adopting a resolution levying a tax for the purpose of a convention facilities authority under division (A)(1) of this section or for the purpose of a community improvements board under division (A)(4) of this section.

(C)(1) If the tax is to be used for more than one of the purposes set forth in divisions (A)(1) to (7), (9), and (10) of this section, the board of county commissioners shall establish the method that will be used to determine the amount or proportion of the tax revenue received by the county during each year that will be distributed for each of those purposes, including, if applicable, provisions governing the reallocation of a convention facilities authority's allocation if the authority is dissolved while the tax is in effect. The allocation method may provide that different proportions or amounts of the tax shall be distributed among the purposes in different years, but it shall clearly describe the method that will be used for each year. Except as otherwise provided in division (C)(2) of this section, the allocation method established by the board is not subject to amendment during the life of the tax.

(2) Subsequent to holding a public hearing on the proposed amendment, the board of county commissioners may amend the allocation method established under division (C)(1) of this section for any year, if the

amendment is approved by the governing board of each entity whose allocation for the year would be reduced by the proposed amendment. In the case of a tax that is levied for a continuing period of time, the board may not so amend the allocation method for any year before the sixth year that the tax is in effect.

(a) If the additional revenues provided to the convention facilities authority are pledged by the authority for the payment of convention facilities authority revenue bonds for as long as such bonds are outstanding, no reduction of the authority's allocation of the tax shall be made for any year except to the extent that the reduced authority allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(b) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes described in division (A)(4) or (5) of this section, for as long as such bonds or notes are outstanding, no reduction of the county's or the community improvements board's allocation of the tax shall be made for any year, except to the extent that the reduced county or community improvements board allocation is sufficient to meet the debt service requirements for that year on such bonds or notes.

(c) If the additional revenues provided to the transit authority are pledged by the authority for the payment of revenue bonds issued under section 306.37 of the Revised Code, for as long as such bonds are outstanding, no reduction of the authority's allocation of tax shall be made for any year, except to the extent that the authority's reduced allocation, when combined with the authority's other revenues pledged for that purpose, is sufficient to meet the debt service requirements for that year on such bonds.

(d) If the additional revenues provided to the county are pledged by the county for the payment of bonds or notes issued under section 133.60 of the Revised Code, for so long as the bonds or notes are outstanding, no reduction of the county's allocation of the tax shall be made for any year, except to the extent that the reduced county allocation is sufficient to meet the debt service requirements for that year on the bonds or notes.

(D)(1) The resolution levying the tax or increasing the rate of tax shall state the rate of the tax or the rate of the increase; the purpose or purposes for which it is to be levied; the number of years for which it is to be levied or that it is for a continuing period of time; the allocation method required by division (C) of this section; and if required to be submitted to the electors of the county under division (A) of this section, the date of the election at which the proposal shall be submitted to the electors of the county, which

shall be not less than ninety days after the certification of a copy of the resolution to the board of elections and, if the tax is to be levied exclusively for the purpose set forth in division (A)(3) of this section, shall not occur in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. If approved by a majority of the electors, the tax shall become effective on the first day of a calendar quarter next following the sixty-fifth day following the date the board of county commissioners and tax commissioner receive from the board of elections the certification of the results of the election, except as provided in division (E) of this section.

(2)(a) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is not adopted as an emergency measure may direct the board of elections to submit the question of levying the tax or increasing the rate of the tax to the electors of the county at a special election held on the date specified by the board of county commissioners in the resolution, provided that the election occurs not less than ninety days after the resolution is certified to the board of elections and the election is not held in February or August of any year. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. No resolution adopted under division (D)(2)(a) of this section shall go into effect unless approved by a majority of those voting upon it and, except as provided in division (E) of this section, not until the first day of a calendar quarter following the expiration of sixty-five days from the date the tax commissioner receives notice from the board of elections of the affirmative vote.

(b) A resolution specifying that the tax is to be used exclusively for the purpose set forth in division (A)(3) of this section that is adopted as an emergency measure shall become effective as provided in division (A) of this section, but may direct the board of elections to submit the question of repealing the tax or increase in the rate of the tax to the electors of the county at the next general election in the county occurring not less than ninety days after the resolution is certified to the board of elections. Upon certification of the resolution to the board of elections, the board of county commissioners shall notify the tax commissioner in writing of the levy question to be submitted to the electors. The ballot question shall be the same as that prescribed in section 5739.022 of the Revised Code. The board of elections shall notify the board of county commissioners and the tax commissioner of the result of the election immediately after the result has

been declared. If a majority of the qualified electors voting on the question of repealing the tax or increase in the rate of the tax vote for repeal of the tax or repeal of the increase, the board of county commissioners, on the first day of a calendar quarter following the expiration of sixty-five days after the date the board and tax commissioner received notice of the result of the election, shall, in the case of a repeal of the tax, cease to levy the tax, or, in the case of a repeal of an increase in the rate of the tax, cease to levy the increased rate and levy the tax at the rate at which it was imposed immediately prior to the increase in rate.

(c) A board of county commissioners, by resolution, may reduce the rate of a tax levied exclusively for the purpose set forth in division (A)(3) of this section to a lower rate authorized by this section. Any such reduction shall be made effective on the first day of the calendar quarter next following the sixty-fifth day after the tax commissioner receives a certified copy of the resolution from the board.

(E) If a vendor that is registered with the central electronic registration system provided for in section 5740.05 of the Revised Code makes a sale in this state by printed catalog and the consumer computed the tax on the sale based on local rates published in the catalog, any tax levied or repealed or rate changed under this section shall not apply to such a sale until the first day of a calendar quarter following the expiration of one hundred twenty days from the date of notice by the tax commissioner pursuant to division (G) of this section.

(F) The tax levied pursuant to this section shall be in addition to the tax levied by section 5739.02 of the Revised Code and any tax levied pursuant to section 5739.021 or 5739.023 of the Revised Code.

A county that levies a tax pursuant to this section shall levy a tax at the same rate pursuant to section 5741.023 of the Revised Code.

The additional tax levied by the county shall be collected pursuant to section 5739.025 of the Revised Code.

Any tax levied pursuant to this section is subject to the exemptions provided in section 5739.02 of the Revised Code and in addition shall not be applicable to sales not within the taxing power of a county under the Constitution of the United States or the Ohio Constitution.

(G) Upon receipt from a board of county commissioners of a certified copy of a resolution required by division (A) of this section, or from the board of elections a notice of the results of an election required by division (D)(1), (2)(a), (b), or (c) of this section, the tax commissioner shall provide notice of a tax rate change in a manner that is reasonably accessible to all affected vendors. The commissioner shall provide this notice at least sixty

days prior to the effective date of the rate change. The commissioner, by rule, may establish the method by which notice will be provided.

Sec. 5739.07. (A) When, pursuant to this chapter, a vendor has paid taxes to the treasurer of state or the treasurer of state's agent, or to the tax commissioner or the commissioner's agent, the commissioner shall refund to the vendor the amount of taxes paid if the vendor has refunded to the consumer the full amount of taxes the consumer paid illegally or erroneously or if the vendor has illegally or erroneously billed the consumer but has not collected the taxes from the consumer.

(B) When, pursuant to this chapter, a consumer has paid taxes directly to the treasurer of state or the treasurer of state's agent, or to the tax commissioner or the commissioner's agent, and the payment or assessment was illegal or erroneous, the commissioner shall refund to the consumer the full amount of illegal or erroneous taxes paid.

(C) The commissioner shall refund to the consumer taxes paid illegally or erroneously to a vendor only if:

(1) The commissioner has not refunded the tax to the vendor and the vendor has not refunded the tax to the consumer; or

(2) The consumer has received a refund from a manufacturer or other person, other than the vendor, of the full purchase price, but not the tax, paid to the vendor in settlement of a complaint by the consumer about the property or service purchased.

The commissioner may require the consumer to obtain or the vendor to provide a written statement confirming that the vendor has not refunded the tax to the consumer and has not filed an application for refund of the tax with the commissioner.

(D) ~~An~~ Subject to division (E) of this section, an application for refund shall be filed with the tax commissioner on the form prescribed by the commissioner within four years from the date of the illegal or erroneous payment of the tax, unless the vendor or consumer waives the time limitation under division (A)(3) of section 5739.16 of the Revised Code. If the time limitation is waived, the refund application period shall be extended for the same period as the waiver.

(E) An application for refund shall be filed in accordance with division (D) of this section unless a person is subject to an assessment that is subject to the time limit of division (B) of section 5703.58 of the Revised Code for a tax not reported and paid between the four-year time limit described in division (D) of this section and the seven-year limit described in division (B) of section 5703.58 of the Revised Code, in which case the person may file an application within six months after the date the assessment is issued.

Any refund allowed under this division shall not exceed the amount of the assessment due for the same period.

(F) On the filing of an application for a refund, the commissioner shall determine the amount of refund to which the applicant is entitled. If the amount is not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created by section 5703.052 of the Revised Code. If the amount is less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

~~(F)~~(G) When a refund is granted under this section, it shall include interest thereon as provided by section 5739.132 of the Revised Code.

Sec. 5739.101. (A) The legislative authority of a municipal corporation, by ordinance, or of a township, by resolution, may declare the municipal corporation or township to be a resort area for the purposes of this section, if all of the following criteria are met:

(1) According to statistics published by the federal government based on data compiled during the most recent decennial census of the United States, at least sixty-two per cent of total housing units in the municipal corporation or township are classified as "for seasonal, recreational, or occasional use";

(2) Entertainment and recreation facilities are provided within the municipal corporation or township that are primarily intended to provide seasonal leisure time activities for persons other than permanent residents of the municipal corporation or township;

(3) The municipal corporation or township experiences seasonal peaks of employment and demand for government services as a direct result of the seasonal population increase.

(B) For the purpose of providing revenue for its general fund, the legislative authority of a municipal corporation or township, in its ordinance or resolution declaring itself a resort area under this section, may levy a tax on the privilege of engaging in the business of either of the following:

(1) Making sales in the municipal corporation or township, whether wholesale or retail, but including sales of food only to the extent such sales are subject to the tax levied under section 5739.02 of the Revised Code;

(2) Intrastate transportation of passengers or property primarily to or from the municipal corporation or township by a railroad, watercraft, or motor vehicle subject to regulation by the public utilities commission, except not including transportation of passengers as part of a tour or cruise in which the passengers will stay in the municipal corporation or township for no more than one hour.

The tax is imposed upon and shall be paid by the person making the

sales or transporting the passengers or property. The rate of the tax shall be one-half, one, or one and one-half per cent of the person's gross receipts derived from making the sales or transporting the passengers or property to or from the municipal corporation or township.

(C) The tax shall take effect on the first day of the month that begins at least sixty days after the effective date of the ordinance or resolution in which it is levied. The legislative authority shall certify copies of the ordinance or resolution to the tax commissioner and treasurer of state within five days after its adoption. In addition, one time each week during the two weeks following the adoption of the ordinance or resolution, the legislative authority shall cause to be published in a newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, a notice explaining the tax and stating the rate of the tax, the date it will take effect, and that persons subject to the tax must register with the tax commissioner under section 5739.103 of the Revised Code.

(D) No more than once a year, and subject to the rates prescribed in division (B) of this section, the legislative authority of the municipal corporation or township, by ordinance or resolution, may increase or decrease the rate of a tax levied under this section. The legislative authority, by ordinance or resolution, at any time may repeal such a tax. The legislative authority shall certify to the tax commissioner and treasurer of state copies of the ordinance or resolution repealing or changing the rate of the tax within five days after its adoption. In addition, one time each week during the two weeks following the adoption of the ordinance or resolution, the legislative authority shall cause to be published in a newspaper of general circulation in the municipal corporation or township or as provided in section 7.16 of the Revised Code, notice of the repeal or change.

Sec. 5739.19. The tax commissioner may revoke any retail vendor's license upon ascertaining that the vendor has no need for the license because the vendor is not engaged in making taxable retail sales. Notice of the revocation shall be delivered to the vendor personally or by certified mail; ~~return receipt requested~~ or by an alternative delivery service as authorized under section 5703.37 of the Revised Code. The revocation shall be effective on the first day of the month following the expiration of fifteen days after the vendor received the notice of the revocation.

The revocation of the vendor's license shall be stayed if, within fifteen days after receiving notice of the revocation, the vendor objects, in writing, to the revocation. The commissioner shall consider the written objections of the vendor and issue a final determination on the revocation of the vendor's license. The commissioner's final determination may be appealed to the

board of tax appeals pursuant to section 5717.02 of the Revised Code. The revocation shall be effective on the first day of the month following the expiration of all time limits for appeal.

Sec. 5739.30. (A) No person, including any officer, employee, or trustee of a corporation or business trust, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false or fraudulent return, report, or statement, or aid or abet another in the filing of any false or fraudulent return, report, or statement.

(B) If any vendor required to file monthly returns under section 5739.12 of the Revised Code fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the tax thereon, or if any vendor authorized by the tax commissioner to file semiannual returns fails on two or more occasions within a twenty-four month period, to file such returns when due or to pay the tax due thereon, the commissioner may do any of the following:

(1) Require the vendor to furnish security in an amount equal to the average tax liability of the vendor for a period of one year, as determined by the commissioner from a review of returns or other information pertaining to the vendor, which amount shall in no event be less than one thousand dollars. The security may be in the form of a corporate surety bond, satisfactory to the commissioner, conditioned upon payment of the tax due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the commissioner of its requirements.

(2) Suspend the license issued to the vendor pursuant to section 5739.17 of the Revised Code. The suspension shall be effective ten days after service of written notice to the vendor of the commissioner's intention to do so. The notice shall be served upon the vendor personally ~~or~~, by certified mail, or by an alternative delivery service as authorized under section 5703.37 of the Revised Code. On the first day of the suspension, the commissioner shall cause to be posted, at every public entrance of the vendor's premises, a notice identifying the vendor and the location and informing the public that the vendor's license is under suspension and that no retail sales may be transacted at that location. No person, other than the commissioner or the commissioner's agent or employee, shall remove, cover, or deface the posted notice. No license which has been suspended under this section shall be reinstated, and no posted notice shall be removed, until the vendor has filed complete and correct returns for all periods in which no return had been filed and paid the full amount of the tax, penalties, and other charges due on those returns.

A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment with them within the time prescribed in section 5739.12 of the Revised Code.

Sec. 5747.01. Except as otherwise expressly provided or clearly appearing from the context, any term used in this chapter that is not otherwise defined in this section has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes or if not used in a comparable context in those laws, has the same meaning as in section 5733.40 of the Revised Code. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

As used in this chapter:

(A) "Adjusted gross income" or "Ohio adjusted gross income" means federal adjusted gross income, as defined and used in the Internal Revenue Code, adjusted as provided in this section:

(1) Add interest or dividends on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities.

(2) Add interest or dividends on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes.

(3) Deduct interest or dividends on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are included in federal adjusted gross income but exempt from state income taxes under the laws of the United States.

(4) Deduct disability and survivor's benefits to the extent included in federal adjusted gross income.

(5) Deduct benefits under Title II of the Social Security Act and tier 1 railroad retirement benefits to the extent included in federal adjusted gross income under section 86 of the Internal Revenue Code.

(6) In the case of a taxpayer who is a beneficiary of a trust that makes an accumulation distribution as defined in section 665 of the Internal Revenue Code, add, for the beneficiary's taxable years beginning before 2002, the portion, if any, of such distribution that does not exceed the undistributed net income of the trust for the three taxable years preceding the taxable year in which the distribution is made to the extent that the portion was not included in the trust's taxable income for any of the trust's taxable years

beginning in 2002 or thereafter. "Undistributed net income of a trust" means the taxable income of the trust increased by (a)(i) the additions to adjusted gross income required under division (A) of this section and (ii) the personal exemptions allowed to the trust pursuant to section 642(b) of the Internal Revenue Code, and decreased by (b)(i) the deductions to adjusted gross income required under division (A) of this section, (ii) the amount of federal income taxes attributable to such income, and (iii) the amount of taxable income that has been included in the adjusted gross income of a beneficiary by reason of a prior accumulation distribution. Any undistributed net income included in the adjusted gross income of a beneficiary shall reduce the undistributed net income of the trust commencing with the earliest years of the accumulation period.

(7) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal adjusted gross income for the taxable year, had the targeted jobs credit allowed and determined under sections 38, 51, and 52 of the Internal Revenue Code not been in effect.

(8) Deduct any interest or interest equivalent on public obligations and purchase obligations to the extent that the interest or interest equivalent is included in federal adjusted gross income.

(9) Add any loss or deduct any gain resulting from the sale, exchange, or other disposition of public obligations to the extent that the loss has been deducted or the gain has been included in computing federal adjusted gross income.

(10) Deduct or add amounts, as provided under section 5747.70 of the Revised Code, related to contributions to variable college savings program accounts made or tuition units purchased pursuant to Chapter 3334. of the Revised Code.

(11)(a) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer paid during the taxable year for medical care insurance and qualified long-term care insurance for the taxpayer, the taxpayer's spouse, and dependents. No deduction for medical care insurance under division (A)(11) of this section shall be allowed either to any taxpayer who is eligible to participate in any subsidized health plan maintained by any employer of the taxpayer or of the taxpayer's spouse, or to any taxpayer who is entitled to, or on application would be entitled to, benefits under part A of Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended. For the purposes of division (A)(11)(a) of this section, "subsidized health plan" means a health plan for

which the employer pays any portion of the plan's cost. The deduction allowed under division (A)(11)(a) of this section shall be the net of any related premium refunds, related premium reimbursements, or related insurance premium dividends received during the taxable year.

(b) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income during the taxable year, the amount the taxpayer paid during the taxable year, not compensated for by any insurance or otherwise, for medical care of the taxpayer, the taxpayer's spouse, and dependents, to the extent the expenses exceed seven and one-half per cent of the taxpayer's federal adjusted gross income.

(c) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income, any amount included in federal adjusted gross income under section 105 or not excluded under section 106 of the Internal Revenue Code solely because it relates to an accident and health plan for a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(d) For purposes of division (A)(11) of this section, "medical care" has the meaning given in section 213 of the Internal Revenue Code, subject to the special rules, limitations, and exclusions set forth therein, and "qualified long-term care" has the same meaning given in section 7702B(c) of the Internal Revenue Code. Solely for purposes of divisions (A)(11)(a) and (c) of this section, "dependent" includes a person who otherwise would be a "qualifying relative" and thus a "dependent" under section 152 of the Internal Revenue Code but for the fact that the person fails to meet the income and support limitations under section 152(d)(1)(B) and (C) of the Internal Revenue Code.

(12)(a) Deduct any amount included in federal adjusted gross income solely because the amount represents a reimbursement or refund of expenses that in any year the taxpayer had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable United States department of the treasury regulations. The deduction otherwise allowed under division (A)(12)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio adjusted gross income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in

computing federal or Ohio adjusted gross income in any taxable year.

(13) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year;

(b) It does not otherwise reduce the taxpayer's adjusted gross income for the current or any other taxable year.

(14) Deduct an amount equal to the deposits made to, and net investment earnings of, a medical savings account during the taxable year, in accordance with section 3924.66 of the Revised Code. The deduction allowed by division (A)(14) of this section does not apply to medical savings account deposits and earnings otherwise deducted or excluded for the current or any other taxable year from the taxpayer's federal adjusted gross income.

(15)(a) Add an amount equal to the funds withdrawn from a medical savings account during the taxable year, and the net investment earnings on those funds, when the funds withdrawn were used for any purpose other than to reimburse an account holder for, or to pay, eligible medical expenses, in accordance with section 3924.66 of the Revised Code;

(b) Add the amounts distributed from a medical savings account under division (A)(2) of section 3924.68 of the Revised Code during the taxable year.

(16) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that such amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal adjusted gross income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction of the taxpayer's federal adjusted gross income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(17) Deduct the amount contributed by the taxpayer to an individual development account program established by a county department of job and family services pursuant to sections 329.11 to 329.14 of the Revised Code for the purpose of matching funds deposited by program participants. On request of the tax commissioner, the taxpayer shall provide any

information that, in the tax commissioner's opinion, is necessary to establish the amount deducted under division (A)(17) of this section.

(18) Beginning in taxable year 2001 but not for any taxable year beginning after December 31, 2005, if the taxpayer is married and files a joint return and the combined federal adjusted gross income of the taxpayer and the taxpayer's spouse for the taxable year does not exceed one hundred thousand dollars, or if the taxpayer is single and has a federal adjusted gross income for the taxable year not exceeding fifty thousand dollars, deduct amounts paid during the taxable year for qualified tuition and fees paid to an eligible institution for the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer, who is a resident of this state and is enrolled in or attending a program that culminates in a degree or diploma at an eligible institution. The deduction may be claimed only to the extent that qualified tuition and fees are not otherwise deducted or excluded for any taxable year from federal or Ohio adjusted gross income. The deduction may not be claimed for educational expenses for which the taxpayer claims a credit under section 5747.27 of the Revised Code.

(19) Add any reimbursement received during the taxable year of any amount the taxpayer deducted under division (A)(18) of this section in any previous taxable year to the extent the amount is not otherwise included in Ohio adjusted gross income.

(20)(a)(i) Add five-sixths of the amount of depreciation expense allowed by subsection (k) of section 168 of the Internal Revenue Code, including the taxpayer's proportionate or distributive share of the amount of depreciation expense allowed by that subsection to a pass-through entity in which the taxpayer has a direct or indirect ownership interest.

(ii) Add five-sixths of the amount of qualifying section 179 depreciation expense, including a person's proportionate or distributive share of the amount of qualifying section 179 depreciation expense allowed to any pass-through entity in which the person has a direct or indirect ownership. For the purposes of this division, "qualifying section 179 depreciation expense" means the difference between (I) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code, and (II) the amount of depreciation expense directly or indirectly allowed to the taxpayer under section 179 of the Internal Revenue Code as that section existed on December 31, 2002.

The tax commissioner, under procedures established by the commissioner, may waive the add-backs related to a pass-through entity if the taxpayer owns, directly or indirectly, less than five per cent of the pass-through entity.

(b) Nothing in division (A)(20) of this section shall be construed to adjust or modify the adjusted basis of any asset.

(c) To the extent the add-back required under division (A)(20)(a) of this section is attributable to property generating nonbusiness income or loss allocated under section 5747.20 of the Revised Code, the add-back shall be situated to the same location as the nonbusiness income or loss generated by the property for the purpose of determining the credit under division (A) of section 5747.05 of the Revised Code. Otherwise, the add-back shall be apportioned, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(d) For the purposes of division (A) of this section, net operating loss carryback and carryforward shall not include five-sixths of the allowance of any net operating loss deduction carryback or carryforward to the taxable year to the extent such loss resulted from depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount.

(21)(a) If the taxpayer was required to add an amount under division (A)(20)(a) of this section for a taxable year, deduct one-fifth of the amount so added for each of the five succeeding taxable years.

(b) If the amount deducted under division (A)(21)(a) of this section is attributable to an add-back allocated under division (A)(20)(c) of this section, the amount deducted shall be situated to the same location. Otherwise, the add-back shall be apportioned using the apportionment factors for the taxable year in which the deduction is taken, subject to one or more of the four alternative methods of apportionment enumerated in section 5747.21 of the Revised Code.

(c) No deduction is available under division (A)(21)(a) of this section with regard to any depreciation allowed by section 168(k) of the Internal Revenue Code and by the qualifying section 179 depreciation expense amount to the extent that such depreciation resulted in or increased a federal net operating loss carryback or carryforward to a taxable year to which division (A)(20)(d) of this section does not apply.

(22) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as reimbursement for life insurance premiums under section 5919.31 of the Revised Code.

(23) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year as a death benefit paid by the adjutant general under section 5919.33 of the Revised Code.

(24) Deduct, to the extent included in federal adjusted gross income and not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year, military pay and allowances received by the taxpayer during the taxable year for active duty service in the United States army, air force, navy, marine corps, or coast guard or reserve components thereof or the national guard. The deduction may not be claimed for military pay and allowances received by the taxpayer while the taxpayer is stationed in this state.

(25) Deduct, to the extent not otherwise allowable as a deduction or exclusion in computing federal or Ohio adjusted gross income for the taxable year and not otherwise compensated for by any other source, the amount of qualified organ donation expenses incurred by the taxpayer during the taxable year, not to exceed ten thousand dollars. A taxpayer may deduct qualified organ donation expenses only once for all taxable years beginning with taxable years beginning in 2007.

For the purposes of division (A)(25) of this section:

(a) "Human organ" means all or any portion of a human liver, pancreas, kidney, intestine, or lung, and any portion of human bone marrow.

(b) "Qualified organ donation expenses" means travel expenses, lodging expenses, and wages and salary forgone by a taxpayer in connection with the taxpayer's donation, while living, of one or more of the taxpayer's human organs to another human being.

(26) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, amounts received by the taxpayer as retired military personnel pay for service in the United States army, navy, air force, coast guard, or marine corps or reserve components thereof, or the national guard, or received by the surviving spouse or former spouse of such a taxpayer under the survivor benefit plan on account of such a taxpayer's death. If the taxpayer receives income on account of retirement paid under the federal civil service retirement system or federal employees retirement system, or under any successor retirement program enacted by the congress of the United States that is established and maintained for retired employees of the United States government, and such retirement income is based, in whole or in part, on credit for the taxpayer's military service, the deduction allowed under this division shall include only that portion of such retirement income that is attributable to the taxpayer's military service, to the extent that portion of such retirement income is otherwise included in federal adjusted gross income and is not otherwise deducted under this section. Any amount deducted under division (A)(26) of this section is not included in a

taxpayer's adjusted gross income for the purposes of section 5747.055 of the Revised Code. No amount may be deducted under division (A)(26) of this section on the basis of which a credit was claimed under section 5747.055 of the Revised Code.

(27) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received during the taxable year from the military injury relief fund created in section 5101.98 of the Revised Code.

(28) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, the amount the taxpayer received as a veterans bonus during the taxable year from the Ohio department of veterans services as authorized by Section 2r of Article VIII, Ohio Constitution.

(29) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any loss from wagering transactions that is allowed as an itemized deduction under section 165 of the Internal Revenue Code and that the taxpayer deducted in computing federal taxable income.

(30) Deduct, to the extent not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the taxable year, any income derived from providing public services under a contract through a project owned by the state, as described in section 126.604 of the Revised Code or derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(B) "Business income" means income, including gain or loss, arising from transactions, activities, and sources in the regular course of a trade or business and includes income, gain, or loss from real property, tangible property, and intangible property if the acquisition, rental, management, and disposition of the property constitute integral parts of the regular course of a trade or business operation. "Business income" includes income, including gain or loss, from a partial or complete liquidation of a business, including, but not limited to, gain or loss from the sale or other disposition of goodwill.

(C) "Nonbusiness income" means all income other than business income and may include, but is not limited to, compensation, rents and royalties from real or tangible personal property, capital gains, interest, dividends and distributions, patent or copyright royalties, or lottery winnings, prizes, and awards.

(D) "Compensation" means any form of remuneration paid to an employee for personal services.

(E) "Fiduciary" means a guardian, trustee, executor, administrator,

receiver, conservator, or any other person acting in any fiduciary capacity for any individual, trust, or estate.

(F) "Fiscal year" means an accounting period of twelve months ending on the last day of any month other than December.

(G) "Individual" means any natural person.

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

(I) "Resident" means any of the following, provided that division (I)(3) of this section applies only to taxable years of a trust beginning in 2002 or thereafter:

(1) An individual who is domiciled in this state, subject to section 5747.24 of the Revised Code;

(2) The estate of a decedent who at the time of death was domiciled in this state. The domicile tests of section 5747.24 of the Revised Code are not controlling for purposes of division (I)(2) of this section.

(3) A trust that, in whole or part, resides in this state. If only part of a trust resides in this state, the trust is a resident only with respect to that part.

For the purposes of division (I)(3) of this section:

(a) A trust resides in this state for the trust's current taxable year to the extent, as described in division (I)(3)(d) of this section, that the trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred, or caused to be transferred, directly or indirectly, to the trust by any of the following:

(i) A person, a court, or a governmental entity or instrumentality on account of the death of a decedent, but only if the trust is described in division (I)(3)(e)(i) or (ii) of this section;

(ii) A person who was domiciled in this state for the purposes of this chapter when the person directly or indirectly transferred assets to an irrevocable trust, but only if at least one of the trust's qualifying beneficiaries is domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year;

(iii) A person who was domiciled in this state for the purposes of this chapter when the trust document or instrument or part of the trust document or instrument became irrevocable, but only if at least one of the trust's qualifying beneficiaries is a resident domiciled in this state for the purposes of this chapter during all or some portion of the trust's current taxable year. If a trust document or instrument became irrevocable upon the death of a person who at the time of death was domiciled in this state for purposes of this chapter, that person is a person described in division (I)(3)(a)(iii) of this section.

(b) A trust is irrevocable to the extent that the transferor is not considered to be the owner of the net assets of the trust under sections 671 to 678 of the Internal Revenue Code.

(c) With respect to a trust other than a charitable lead trust, "qualifying beneficiary" has the same meaning as "potential current beneficiary" as defined in section 1361(e)(2) of the Internal Revenue Code, and with respect to a charitable lead trust "qualifying beneficiary" is any current, future, or contingent beneficiary, but with respect to any trust "qualifying beneficiary" excludes a person or a governmental entity or instrumentality to any of which a contribution would qualify for the charitable deduction under section 170 of the Internal Revenue Code.

(d) For the purposes of division (I)(3)(a) of this section, the extent to which a trust consists directly or indirectly, in whole or in part, of assets, net of any related liabilities, that were transferred directly or indirectly, in whole or part, to the trust by any of the sources enumerated in that division shall be ascertained by multiplying the fair market value of the trust's assets, net of related liabilities, by the qualifying ratio, which shall be computed as follows:

(i) The first time the trust receives assets, the numerator of the qualifying ratio is the fair market value of those assets at that time, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the qualifying ratio is the fair market value of all the trust's assets at that time, net of any related liabilities.

(ii) Each subsequent time the trust receives assets, a revised qualifying ratio shall be computed. The numerator of the revised qualifying ratio is the sum of (1) the fair market value of the trust's assets immediately prior to the subsequent transfer, net of any related liabilities, multiplied by the qualifying ratio last computed without regard to the subsequent transfer, and (2) the fair market value of the subsequently transferred assets at the time transferred, net of any related liabilities, from sources enumerated in division (I)(3)(a) of this section. The denominator of the revised qualifying ratio is the fair market value of all the trust's assets immediately after the subsequent transfer, net of any related liabilities.

(iii) Whether a transfer to the trust is by or from any of the sources enumerated in division (I)(3)(a) of this section shall be ascertained without regard to the domicile of the trust's beneficiaries.

(e) For the purposes of division (I)(3)(a)(i) of this section:

(i) A trust is described in division (I)(3)(e)(i) of this section if the trust is a testamentary trust and the testator of that testamentary trust was domiciled in this state at the time of the testator's death for purposes of the taxes levied

under Chapter 5731. of the Revised Code.

(ii) A trust is described in division (I)(3)(e)(ii) of this section if the transfer is a qualifying transfer described in any of divisions (I)(3)(f)(i) to (vi) of this section, the trust is an irrevocable inter vivos trust, and at least one of the trust's qualifying beneficiaries is domiciled in this state for purposes of this chapter during all or some portion of the trust's current taxable year.

(f) For the purposes of division (I)(3)(e)(ii) of this section, a "qualifying transfer" is a transfer of assets, net of any related liabilities, directly or indirectly to a trust, if the transfer is described in any of the following:

(i) The transfer is made to a trust, created by the decedent before the decedent's death and while the decedent was domiciled in this state for the purposes of this chapter, and, prior to the death of the decedent, the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(ii) The transfer is made to a trust to which the decedent, prior to the decedent's death, had directly or indirectly transferred assets, net of any related liabilities, while the decedent was domiciled in this state for the purposes of this chapter, and prior to the death of the decedent the trust became irrevocable while the decedent was domiciled in this state for the purposes of this chapter.

(iii) The transfer is made on account of a contractual relationship existing directly or indirectly between the transferor and either the decedent or the estate of the decedent at any time prior to the date of the decedent's death, and the decedent was domiciled in this state at the time of death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(iv) The transfer is made to a trust on account of a contractual relationship existing directly or indirectly between the transferor and another person who at the time of the decedent's death was domiciled in this state for purposes of this chapter.

(v) The transfer is made to a trust on account of the will of a testator who was domiciled in this state at the time of the testator's death for purposes of the taxes levied under Chapter 5731. of the Revised Code.

(vi) The transfer is made to a trust created by or caused to be created by a court, and the trust was directly or indirectly created in connection with or as a result of the death of an individual who, for purposes of the taxes levied under Chapter 5731. of the Revised Code, was domiciled in this state at the time of the individual's death.

(g) The tax commissioner may adopt rules to ascertain the part of a trust residing in this state.

(J) "Nonresident" means an individual or estate that is not a resident. An individual who is a resident for only part of a taxable year is a nonresident for the remainder of that taxable year.

(K) "Pass-through entity" has the same meaning as in section 5733.04 of the Revised Code.

(L) "Return" means the notifications and reports required to be filed pursuant to this chapter for the purpose of reporting the tax due and includes declarations of estimated tax when so required.

(M) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the adjusted gross income is calculated pursuant to this chapter.

(N) "Taxpayer" means any person subject to the tax imposed by section 5747.02 of the Revised Code or any pass-through entity that makes the election under division (D) of section 5747.08 of the Revised Code.

(O) "Dependents" means dependents as defined in the Internal Revenue Code and as claimed in the taxpayer's federal income tax return for the taxable year or which the taxpayer would have been permitted to claim had the taxpayer filed a federal income tax return.

(P) "Principal county of employment" means, in the case of a nonresident, the county within the state in which a taxpayer performs services for an employer or, if those services are performed in more than one county, the county in which the major portion of the services are performed.

(Q) As used in sections 5747.50 to 5747.55 of the Revised Code:

(1) "Subdivision" means any county, municipal corporation, park district, or township.

(2) "Essential local government purposes" includes all functions that any subdivision is required by general law to exercise, including like functions that are exercised under a charter adopted pursuant to the Ohio Constitution.

(R) "Overpayment" means any amount already paid that exceeds the figure determined to be the correct amount of the tax.

(S) "Taxable income" or "Ohio taxable income" applies only to estates and trusts, and means federal taxable income, as defined and used in the Internal Revenue Code, adjusted as follows:

(1) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations or securities of any state or of any political subdivision or authority of any state, other than this state and its subdivisions and authorities, but only to the extent that such net amount is not otherwise includible in Ohio taxable

income and is described in either division (S)(1)(a) or (b) of this section:

(a) The net amount is not attributable to the S portion of an electing small business trust and has not been distributed to beneficiaries for the taxable year;

(b) The net amount is attributable to the S portion of an electing small business trust for the taxable year.

(2) Add interest or dividends, net of ordinary, necessary, and reasonable expenses not deducted in computing federal taxable income, on obligations of any authority, commission, instrumentality, territory, or possession of the United States to the extent that the interest or dividends are exempt from federal income taxes but not from state income taxes, but only to the extent that such net amount is not otherwise includible in Ohio taxable income and is described in either division (S)(1)(a) or (b) of this section;

(3) Add the amount of personal exemption allowed to the estate pursuant to section 642(b) of the Internal Revenue Code;

(4) Deduct interest or dividends, net of related expenses deducted in computing federal taxable income, on obligations of the United States and its territories and possessions or of any authority, commission, or instrumentality of the United States to the extent that the interest or dividends are exempt from state taxes under the laws of the United States, but only to the extent that such amount is included in federal taxable income and is described in either division (S)(1)(a) or (b) of this section;

(5) Deduct the amount of wages and salaries, if any, not otherwise allowable as a deduction but that would have been allowable as a deduction in computing federal taxable income for the taxable year, had the targeted jobs credit allowed under sections 38, 51, and 52 of the Internal Revenue Code not been in effect, but only to the extent such amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(6) Deduct any interest or interest equivalent, net of related expenses deducted in computing federal taxable income, on public obligations and purchase obligations, but only to the extent that such net amount relates either to income included in federal taxable income for the taxable year or to income of the S portion of an electing small business trust for the taxable year;

(7) Add any loss or deduct any gain resulting from sale, exchange, or other disposition of public obligations to the extent that such loss has been deducted or such gain has been included in computing either federal taxable income or income of the S portion of an electing small business trust for the taxable year;

(8) Except in the case of the final return of an estate, add any amount deducted by the taxpayer on both its Ohio estate tax return pursuant to section 5731.14 of the Revised Code, and on its federal income tax return in determining federal taxable income;

(9)(a) Deduct any amount included in federal taxable income solely because the amount represents a reimbursement or refund of expenses that in a previous year the decedent had deducted as an itemized deduction pursuant to section 63 of the Internal Revenue Code and applicable treasury regulations. The deduction otherwise allowed under division (S)(9)(a) of this section shall be reduced to the extent the reimbursement is attributable to an amount the taxpayer or decedent deducted under this section in any taxable year.

(b) Add any amount not otherwise included in Ohio taxable income for any taxable year to the extent that the amount is attributable to the recovery during the taxable year of any amount deducted or excluded in computing federal or Ohio taxable income in any taxable year, but only to the extent such amount has not been distributed to beneficiaries for the taxable year.

(10) Deduct any portion of the deduction described in section 1341(a)(2) of the Internal Revenue Code, for repaying previously reported income received under a claim of right, that meets both of the following requirements:

(a) It is allowable for repayment of an item that was included in the taxpayer's taxable income or the decedent's adjusted gross income for a prior taxable year and did not qualify for a credit under division (A) or (B) of section 5747.05 of the Revised Code for that year.

(b) It does not otherwise reduce the taxpayer's taxable income or the decedent's adjusted gross income for the current or any other taxable year.

(11) Add any amount claimed as a credit under section 5747.059 of the Revised Code to the extent that the amount satisfies either of the following:

(a) The amount was deducted or excluded from the computation of the taxpayer's federal taxable income as required to be reported for the taxpayer's taxable year under the Internal Revenue Code;

(b) The amount resulted in a reduction in the taxpayer's federal taxable income as required to be reported for any of the taxpayer's taxable years under the Internal Revenue Code.

(12) Deduct any amount, net of related expenses deducted in computing federal taxable income, that a trust is required to report as farm income on its federal income tax return, but only if the assets of the trust include at least ten acres of land satisfying the definition of "land devoted exclusively to agricultural use" under section 5713.30 of the Revised Code, regardless

of whether the land is valued for tax purposes as such land under sections 5713.30 to 5713.38 of the Revised Code. If the trust is a pass-through entity investor, section 5747.231 of the Revised Code applies in ascertaining if the trust is eligible to claim the deduction provided by division (S)(12) of this section in connection with the pass-through entity's farm income.

Except for farm income attributable to the S portion of an electing small business trust, the deduction provided by division (S)(12) of this section is allowed only to the extent that the trust has not distributed such farm income. Division (S)(12) of this section applies only to taxable years of a trust beginning in 2002 or thereafter.

(13) Add the net amount of income described in section 641(c) of the Internal Revenue Code to the extent that amount is not included in federal taxable income.

(14) Add or deduct the amount the taxpayer would be required to add or deduct under division (A)(20) or (21) of this section if the taxpayer's Ohio taxable income were computed in the same manner as an individual's Ohio adjusted gross income is computed under this section. In the case of a trust, division (S)(14) of this section applies only to any of the trust's taxable years beginning in 2002 or thereafter.

(T) "School district income" and "school district income tax" have the same meanings as in section 5748.01 of the Revised Code.

(U) As used in divisions (A)(8), (A)(9), (S)(6), and (S)(7) of this section, "public obligations," "purchase obligations," and "interest or interest equivalent" have the same meanings as in section 5709.76 of the Revised Code.

(V) "Limited liability company" means any limited liability company formed under Chapter 1705. of the Revised Code or under the laws of any other state.

(W) "Pass-through entity investor" means any person who, during any portion of a taxable year of a pass-through entity, is a partner, member, shareholder, or equity investor in that pass-through entity.

(X) "Banking day" has the same meaning as in section 1304.01 of the Revised Code.

(Y) "Month" means a calendar month.

(Z) "Quarter" means the first three months, the second three months, the third three months, or the last three months of the taxpayer's taxable year.

(AA)(1) "Eligible institution" means a state university or state institution of higher education as defined in section 3345.011 of the Revised Code, or a private, nonprofit college, university, or other post-secondary institution located in this state that possesses a certificate of authorization

issued by the Ohio board of regents pursuant to Chapter 1713. of the Revised Code or a certificate of registration issued by the state board of career colleges and schools under Chapter 3332. of the Revised Code.

(2) "Qualified tuition and fees" means tuition and fees imposed by an eligible institution as a condition of enrollment or attendance, not exceeding two thousand five hundred dollars in each of the individual's first two years of post-secondary education. If the individual is a part-time student, "qualified tuition and fees" includes tuition and fees paid for the academic equivalent of the first two years of post-secondary education during a maximum of five taxable years, not exceeding a total of five thousand dollars. "Qualified tuition and fees" does not include:

(a) Expenses for any course or activity involving sports, games, or hobbies unless the course or activity is part of the individual's degree or diploma program;

(b) The cost of books, room and board, student activity fees, athletic fees, insurance expenses, or other expenses unrelated to the individual's academic course of instruction;

(c) Tuition, fees, or other expenses paid or reimbursed through an employer, scholarship, grant in aid, or other educational benefit program.

(BB)(1) "Modified business income" means the business income included in a trust's Ohio taxable income after such taxable income is first reduced by the qualifying trust amount, if any.

(2) "Qualifying trust amount" of a trust means capital gains and losses from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, a qualifying investee to the extent included in the trust's Ohio taxable income, but only if the following requirements are satisfied:

(a) The book value of the qualifying investee's physical assets in this state and everywhere, as of the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, is available to the trust.

(b) The requirements of section 5747.011 of the Revised Code are satisfied for the trust's taxable year in which the trust recognizes the gain or loss.

Any gain or loss that is not a qualifying trust amount is modified business income, qualifying investment income, or modified nonbusiness income, as the case may be.

(3) "Modified nonbusiness income" means a trust's Ohio taxable income other than modified business income, other than the qualifying trust amount, and other than qualifying investment income, as defined in section 5747.012

of the Revised Code, to the extent such qualifying investment income is not otherwise part of modified business income.

(4) "Modified Ohio taxable income" applies only to trusts, and means the sum of the amounts described in divisions (BB)(4)(a) to (c) of this section:

(a) The fraction, calculated under section 5747.013, and applying section 5747.231 of the Revised Code, multiplied by the sum of the following amounts:

(i) The trust's modified business income;

(ii) The trust's qualifying investment income, as defined in section 5747.012 of the Revised Code, but only to the extent the qualifying investment income does not otherwise constitute modified business income and does not otherwise constitute a qualifying trust amount.

(b) The qualifying trust amount multiplied by a fraction, the numerator of which is the sum of the book value of the qualifying investee's physical assets in this state on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount, and the denominator of which is the sum of the book value of the qualifying investee's total physical assets everywhere on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the day on which the trust recognizes the qualifying trust amount. If, for a taxable year, the trust recognizes a qualifying trust amount with respect to more than one qualifying investee, the amount described in division (BB)(4)(b) of this section shall equal the sum of the products so computed for each such qualifying investee.

(c)(i) With respect to a trust or portion of a trust that is a resident as ascertained in accordance with division (I)(3)(d) of this section, its modified nonbusiness income.

(ii) With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the amount of its modified nonbusiness income satisfying the descriptions in divisions (B)(2) to (5) of section 5747.20 of the Revised Code, except as otherwise provided in division (BB)(4)(c)(ii) of this section. With respect to a trust or portion of a trust that is not a resident as ascertained in accordance with division (I)(3)(d) of this section, the trust's portion of modified nonbusiness income recognized from the sale, exchange, or other disposition of a debt interest in or equity interest in a section 5747.212 entity, as defined in section 5747.212 of the Revised Code, without regard to division (A) of that section, shall not be allocated to this state in accordance with section 5747.20 of the Revised Code but shall be apportioned to this state in

accordance with division (B) of section 5747.212 of the Revised Code without regard to division (A) of that section.

If the allocation and apportionment of a trust's income under divisions (BB)(4)(a) and (c) of this section do not fairly represent the modified Ohio taxable income of the trust in this state, the alternative methods described in division (C) of section 5747.21 of the Revised Code may be applied in the manner and to the same extent provided in that section.

(5)(a) Except as set forth in division (BB)(5)(b) of this section, "qualifying investee" means a person in which a trust has an equity or ownership interest, or a person or unit of government the debt obligations of either of which are owned by a trust. For the purposes of division (BB)(2)(a) of this section and for the purpose of computing the fraction described in division (BB)(4)(b) of this section, all of the following apply:

(i) If the qualifying investee is a member of a qualifying controlled group on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, then "qualifying investee" includes all persons in the qualifying controlled group on such last day.

(ii) If the qualifying investee, or if the qualifying investee and any members of the qualifying controlled group of which the qualifying investee is a member on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the gain or loss, separately or cumulatively own, directly or indirectly, on the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount, more than fifty per cent of the equity of a pass-through entity, then the qualifying investee and the other members are deemed to own the proportionate share of the pass-through entity's physical assets which the pass-through entity directly or indirectly owns on the last day of the pass-through entity's calendar or fiscal year ending within or with the last day of the qualifying investee's fiscal or calendar year ending immediately prior to the date on which the trust recognizes the qualifying trust amount.

(iii) For the purposes of division (BB)(5)(a)(iii) of this section, "upper level pass-through entity" means a pass-through entity directly or indirectly owning any equity of another pass-through entity, and "lower level pass-through entity" means that other pass-through entity.

An upper level pass-through entity, whether or not it is also a qualifying investee, is deemed to own, on the last day of the upper level pass-through entity's calendar or fiscal year, the proportionate share of the lower level pass-through entity's physical assets that the lower level pass-through entity

directly or indirectly owns on the last day of the lower level pass-through entity's calendar or fiscal year ending within or with the last day of the upper level pass-through entity's fiscal or calendar year. If the upper level pass-through entity directly and indirectly owns less than fifty per cent of the equity of the lower level pass-through entity on each day of the upper level pass-through entity's calendar or fiscal year in which or with which ends the calendar or fiscal year of the lower level pass-through entity and if, based upon clear and convincing evidence, complete information about the location and cost of the physical assets of the lower pass-through entity is not available to the upper level pass-through entity, then solely for purposes of ascertaining if a gain or loss constitutes a qualifying trust amount, the upper level pass-through entity shall be deemed as owning no equity of the lower level pass-through entity for each day during the upper level pass-through entity's calendar or fiscal year in which or with which ends the lower level pass-through entity's calendar or fiscal year. Nothing in division (BB)(5)(a)(iii) of this section shall be construed to provide for any deduction or exclusion in computing any trust's Ohio taxable income.

(b) With respect to a trust that is not a resident for the taxable year and with respect to a part of a trust that is not a resident for the taxable year, "qualifying investee" for that taxable year does not include a C corporation if both of the following apply:

(i) During the taxable year the trust or part of the trust recognizes a gain or loss from the sale, exchange, or other disposition of equity or ownership interests in, or debt obligations of, the C corporation.

(ii) Such gain or loss constitutes nonbusiness income.

(6) "Available" means information is such that a person is able to learn of the information by the due date plus extensions, if any, for filing the return for the taxable year in which the trust recognizes the gain or loss.

(CC) "Qualifying controlled group" has the same meaning as in section 5733.04 of the Revised Code.

(DD) "Related member" has the same meaning as in section 5733.042 of the Revised Code.

(EE)(1) For the purposes of division (EE) of this section:

(a) "Qualifying person" means any person other than a qualifying corporation.

(b) "Qualifying corporation" means any person classified for federal income tax purposes as an association taxable as a corporation, except either of the following:

(i) A corporation that has made an election under subchapter S, chapter one, subtitle A, of the Internal Revenue Code for its taxable year ending

within, or on the last day of, the investor's taxable year;

(ii) A subsidiary that is wholly owned by any corporation that has made an election under subchapter S, chapter one, subtitle A of the Internal Revenue Code for its taxable year ending within, or on the last day of, the investor's taxable year.

(2) For the purposes of this chapter, unless expressly stated otherwise, no qualifying person indirectly owns any asset directly or indirectly owned by any qualifying corporation.

(FF) For purposes of this chapter and Chapter 5751. of the Revised Code:

(1) "Trust" does not include a qualified pre-income tax trust.

(2) A "qualified pre-income tax trust" is any pre-income tax trust that makes a qualifying pre-income tax trust election as described in division (FF)(3) of this section.

(3) A "qualifying pre-income tax trust election" is an election by a pre-income tax trust to subject to the tax imposed by section 5751.02 of the Revised Code the pre-income tax trust and all pass-through entities of which the trust owns or controls, directly, indirectly, or constructively through related interests, five per cent or more of the ownership or equity interests. The trustee shall notify the tax commissioner in writing of the election on or before April 15, 2006. The election, if timely made, shall be effective on and after January 1, 2006, and shall apply for all tax periods and tax years until revoked by the trustee of the trust.

(4) A "pre-income tax trust" is a trust that satisfies all of the following requirements:

(a) The document or instrument creating the trust was executed by the grantor before January 1, 1972;

(b) The trust became irrevocable upon the creation of the trust; and

(c) The grantor was domiciled in this state at the time the trust was created.

Sec. 5747.058. (A) A refundable income tax credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the taxable year. The refundable credit shall not be claimed for any taxable years ending with or following the calendar year in which a relocation of employment positions occurs in violation of an agreement entered into under section 122.171 of the Revised Code.

(B) A nonrefundable income tax credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter, in the order required under section 5747.98 of the Revised Code.

Sec. 5747.113. (A) Any taxpayer claiming a refund under section 5747.11 of the Revised Code ~~for taxable years ending on or after October 14, 1983,~~ who wishes to contribute any part of the taxpayer's refund to the natural areas and preserves fund created in section 1517.11 of the Revised Code, the nongame and endangered wildlife fund created in section 1531.26 of the Revised Code, the military injury relief fund created in section 5101.98 of the Revised Code, the Ohio historical society income tax contribution fund created in section 149.308 of the Revised Code, or all of those funds; may designate on the taxpayer's income tax return the amount that the taxpayer wishes to contribute to the fund or funds. A designated contribution is irrevocable upon the filing of the return and shall be made in the full amount designated if the refund found due the taxpayer upon the initial processing of the taxpayer's return, after any deductions including those required by section 5747.12 of the Revised Code, is greater than or equal to the designated contribution. If the refund due as initially determined is less than the designated contribution, the contribution shall be made in the full amount of the refund. The tax commissioner shall subtract the amount of the contribution from the amount of the refund initially found due the taxpayer and shall certify the difference to the director of budget and management and treasurer of state for payment to the taxpayer in accordance with section 5747.11 of the Revised Code. For the purpose of any subsequent determination of the taxpayer's net tax payment, the contribution shall be considered a part of the refund paid to the taxpayer.

(B) The tax commissioner shall provide a space on the income tax return form in which a taxpayer may indicate that the taxpayer wishes to make a donation in accordance with this section. The tax commissioner shall also print in the instructions accompanying the income tax return form a description of the purposes for which the natural areas and preserves fund, the nongame and endangered wildlife fund, ~~and~~ the military injury relief fund, and the Ohio historical society income tax contribution fund were created and the use of moneys from the income tax refund contribution system established in this section. No person shall designate on the person's income tax return any part of a refund claimed under section 5747.11 of the Revised Code as a contribution to any fund other than the natural areas and preserves fund, the nongame and endangered wildlife fund, the military injury relief fund, ~~or all of those funds~~ the Ohio historical society income

tax contribution fund.

(C) The money collected under the income tax refund contribution system established in this section shall be deposited by the tax commissioner into the natural areas and preserves fund, the nongame and endangered wildlife fund, ~~and~~ the military injury relief fund, and the Ohio historical society income tax contribution fund in the amounts designated on the tax returns.

(D) No later than the thirtieth day of September each year, the tax commissioner shall determine the total amount contributed to each fund under this section during the preceding eight months, any adjustments to prior months, and the cost to the department of taxation of administering the income tax refund contribution system during that eight-month period. The commissioner shall make an additional determination no later than the thirty-first day of January of each year of the total amount contributed to each fund under this section during the preceding four calendar months, any adjustments to prior years made during that four-month period, and the cost to the department of taxation of administering the income tax contribution system during that period. The cost of administering the income tax contribution system shall be certified by the tax commissioner to the director of budget and management, who shall transfer an amount equal to ~~one-third~~ one-fourth of such administrative costs from the natural areas and preserves fund, ~~one-third~~ one-fourth of such costs from the nongame and endangered wildlife fund, ~~and one-third~~ one-fourth of such costs from the military injury relief fund, and one-fourth of such costs from the Ohio historical society income tax contribution fund to the litter control and natural resource tax administration fund, which is hereby created, provided that the moneys that the department receives to pay the cost of administering the income tax refund contribution system in any year shall not exceed two and one-half per cent of the total amount contributed under that system during that year.

(E)(1) The director of natural resources, in January of every odd-numbered year, shall report to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the natural areas and preserves fund and the nongame and endangered wildlife fund. The report shall include the amount of money contributed to each fund in each of the previous five years, the amount of money contributed directly to each fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

(2) The director of job and family services and the director of the Ohio historical society, in January of every odd-numbered year, each shall report

to the general assembly on the effectiveness of the income tax refund contribution system as it pertains to the military injury relief fund and the Ohio historical society income tax contribution fund, respectively. The report shall include the amount of money contributed to the fund in each of the previous five years, the amount of money contributed directly to the fund in addition to or independently of the income tax refund contribution system in each of the previous five years, and the purposes for which the money was expended.

Sec. 5747.451. (A) The mere retirement from business or voluntary dissolution of a domestic or foreign qualifying entity does not exempt it from the requirements to make reports as required under sections 5747.42 to 5747.44 or to pay the taxes imposed under section 5733.41 or 5747.41 of the Revised Code. If any qualifying entity subject to the taxes imposed under section 5733.41 or 5747.41 of the Revised Code sells its business or stock of merchandise or quits its business, the taxes required to be paid prior to that time, together with any interest or penalty thereon, become due and payable immediately, and the qualifying entity shall make a final return within fifteen days after the date of selling or quitting business. The successor of the qualifying entity shall withhold a sufficient amount of the purchase money to cover the amount of such taxes, interest, and penalties due and unpaid until the qualifying entity produces a receipt from the tax commissioner showing that the taxes, interest, and penalties have been paid, or a certificate indicating that no taxes are due. If the purchaser of the business or stock of goods fails to withhold purchase money, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid during the operation of the business by the qualifying entity. If the amount of those taxes, interest, and penalty unpaid at the time of the purchase exceeds the total purchase money, the tax commissioner may adjust the qualifying entity's liability for those taxes, interest, and penalty, or adjust the responsibility of the purchaser to pay that liability, in a manner calculated to maximize the collection of those liabilities.

(B) Annually, on the last day of each qualifying taxable year of a qualifying entity, the taxes imposed under section 5733.41 or 5747.41 of the Revised Code, together with any penalties subsequently accruing thereon, become a lien on all property in this state of the qualifying entity, whether such property is employed by the qualifying entity in the prosecution of its business or is in the hands of an assignee, trustee, or receiver for the benefit of the qualifying entity's creditors and investors. The lien shall continue until those taxes, together with any penalties subsequently accruing, are paid.

Upon failure of such a qualifying entity to pay those taxes on the day fixed for payment, the treasurer of state shall thereupon notify the tax commissioner, and the commissioner may file in the office of the county recorder in each county in this state in which the qualifying entity owns or has a beneficial interest in real estate, notice of the lien containing a brief description of such real estate. No fee shall be charged for such a filing. The lien is not valid as against any mortgagee, purchaser, or judgment creditor whose rights have attached prior to the time the notice is so filed in the county in which the real estate which is the subject of such mortgage, purchase, or judgment lien is located. The notice shall be recorded in a book kept by the recorder, called the qualifying entity tax lien record, and indexed under the name of the qualifying entity charged with the tax. When the tax, together with any penalties subsequently accruing thereon, have been paid, the tax commissioner shall furnish to the qualifying entity an acknowledgment of such payment that the qualifying entity may record with the recorder of each county in which notice of such lien has been filed, for which recording the recorder shall charge and receive a fee of two dollars.

(C) In addition to all other remedies for the collection of any taxes or penalties due under law, whenever any taxes, interest, or penalties due from any qualifying entity under section 5733.41 of the Revised Code or this chapter have remained unpaid for a period of ninety days, or whenever any qualifying entity has failed for a period of ninety days to make any report or return required by law, or to pay any penalty for failure to make or file such report or return, the attorney general, upon the request of the tax commissioner, shall file a petition in the court of common pleas in the county of the state in which such qualifying entity has its principal place of business for a judgment for the amount of the taxes, interest, or penalties appearing to be due, the enforcement of any lien in favor of the state, and an injunction to restrain such qualifying entity and its officers, directors, and managing agents from the transaction of any business within this state, other than such acts as are incidental to liquidation or winding up, until the payment of such taxes, interest, and penalties, and the costs of the proceeding fixed by the court, or the making and filing of such report or return.

The petition shall be in the name of the state. Any of the qualifying entities having its principal places of business in the county may be joined in one suit. On the motion of the attorney general, the court of common pleas shall enter an order requiring all defendants to answer by a day certain, and may appoint a special master commissioner to take testimony, with such other power and authority as the court confers, and permitting process to be

served by registered mail and by publication in a newspaper of general circulation ~~published~~ in the county, which publication need not be made more than once, setting forth the name of each delinquent qualifying entity, the matter in which the qualifying entity is delinquent, the names of its officers, directors, and managing agents, if set forth in the petition, and the amount of any taxes, fees, or penalties claimed to be owing by the qualifying entity.

All or any of the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of any qualifying entity may be joined as defendants with the qualifying entity.

If it appears to the court upon hearing that any qualifying entity that is a party to the proceeding is indebted to the state for taxes imposed under section 5733.41 or 5747.41 of the Revised Code, or interest or penalties thereon, judgment shall be entered therefor with interest; and if it appears that any qualifying entity has failed to make or file any report or return, a mandatory injunction may be issued against the qualifying entity, its trustees or other fiduciaries, officers, directors, and managing agents, enjoining them from the transaction of any business within this state, other than acts incidental to liquidation or winding up, until the making and filing of all proper reports or returns and until the payment in full of all taxes, interest, and penalties.

If the trustees or other fiduciaries, officers, directors, investors, beneficiaries, or managing agents of a qualifying entity are not made parties in the first instance, and a judgment or an injunction is rendered or issued against the qualifying entity, those officers, directors, investors, or managing agents may be made parties to such proceedings upon the motion of the attorney general, and, upon notice to them of the form and terms of such injunction, they shall be bound thereby as fully as if they had been made parties in the first instance.

In any action authorized by this division, a statement of the tax commissioner, or the secretary of state, when duly certified, shall be prima-facie evidence of the amount of taxes, interest, or penalties due from any qualifying entity, or of the failure of any qualifying entity to file with the commissioner or the secretary of state any report required by law, and any such certificate of the commissioner or the secretary of state may be required in evidence in any such proceeding.

On the application of any defendant and for good cause shown, the court may order a separate hearing of the issues as to any defendant.

The costs of the proceeding shall be apportioned among the parties as the court deems proper.

The court in such proceeding may make, enter, and enforce such other judgments and orders and grant such other relief as is necessary or incidental to the enforcement of the claims and lien of the state.

In the performance of the duties enjoined upon the attorney general by this division, the attorney general may direct any prosecuting attorney to bring an action, as authorized by this division, in the name of the state with respect to any delinquent qualifying entities within the prosecuting attorney's county, and like proceedings and orders shall be had as if such action were instituted by the attorney general.

(D) If any qualifying entity fails to make and file the reports or returns required under this chapter, or to pay the penalties provided by law for failure to make and file such reports or returns for a period of ninety days after the time prescribed by this chapter, the attorney general, on the request of the tax commissioner, shall commence an action in quo warranto in the court of appeals of the county in which that qualifying entity has its principal place of business to forfeit and annul its privileges and franchises. If the court is satisfied that any such qualifying entity is in default, it shall render judgment ousting such qualifying entity from the exercise of its privileges and franchises within this state, and shall otherwise proceed as provided in sections 2733.02 to 2733.39 of the Revised Code.

Sec. 5747.46. As used in sections 5747.46 and 5747.47 of the Revised Code:

(A) "Year's fund balance" means the amount credited to the public library fund during a calendar year.

(B) "Distribution year" means the calendar year during which a year's fund balance is distributed under section 5747.47 of the Revised Code.

(C) "CPI" means the consumer price index for all urban consumers (United States city average, all items), prepared by the United States department of labor, bureau of labor statistics.

(D) "Inflation factor" means the quotient obtained by dividing the CPI for May of the year preceding the distribution year by the CPI for May of the second preceding year. If the quotient so obtained is less than one, the inflation factor shall equal one.

(E) "Population" means whichever of the following has most recently been issued, as of the first day of June preceding the distribution year:

(1) The most recent decennial census figures that include population figures for each county in the state;

(2) The most current issue of "Current Population Reports: Local Population Estimates" issued by the United States bureau of the census that contains population estimates for each county in the state and the state.

(F) "County's equalization ratio for a distribution year" means a percentage computed for that county as follows:

(1) Square the per cent that the county's population is of the state's population;

(2) Divide the product so obtained by the per cent that the county's total entitlement for the preceding year is of all counties' total entitlements for the preceding year;

(3) Divide the quotient so obtained by the sum of the quotients so obtained for all counties.

(G) "Total entitlement" means, with respect to a distribution year, the sum of a county's guaranteed share plus its share of the excess. For the 2012 distribution year, "total entitlement" equals the sum of payments made to a county public library fund during that year.

(1) "Guaranteed share" means, for a distribution year, the product obtained by multiplying a county's total entitlement for the preceding distribution year by the ~~inflation~~ inflation factor. If the sum of the guaranteed shares for all counties exceeds the year's fund balance, the guaranteed shares of all counties shall be reduced by a percentage that will result in the sum of such guaranteed shares being equal to the year's fund balance.

(2) "Share of excess" means, for a distribution year, the product obtained by multiplying a county's equalization ratio by the difference between the year's fund balance and the sum of the guaranteed shares for all counties. If the sum of the guaranteed shares for all counties exceeds the year's fund balance the share of the excess for all counties is zero.

(H) "Net distribution" means the sum of the payments made to a county's public library fund during a distribution year, adjusted as follows:

(1) If the county received an overpayment during the preceding distribution year, add the amount of the overpayment;

(2) If the county received an underpayment during the preceding distribution year, deduct the amount of the underpayment.

(I) "Overpayment" or "underpayment" for a distribution year means the amount by which the net distribution to a county's public library fund during that distribution year exceeded or was less than the county's total entitlement for that year.

All computations made under this section shall be rounded to the nearest one-hundredth of one per cent.

Sec. 5747.51. (A) On or before the twenty-fifth day of July of each year, the tax commissioner shall make and certify to the county auditor of each county an estimate of the amount of the local government fund to be

allocated to the undivided local government fund of each county for the ensuing calendar year ~~and the estimated amount to be received by the undivided local government fund of each county from the taxes levied pursuant to section 5707.03 of the Revised Code for the ensuing calendar year.~~

(B) At each annual regular session of the county budget commission convened pursuant to section 5705.27 of the Revised Code, each auditor shall present to the commission the certificate of the commissioner, the annual tax budget and estimates, and the records showing the action of the commission in its last preceding regular session. ~~The estimates shown on the certificate of the commissioner of the amount to be allocated from the local government fund and the amount to be received from taxes levied pursuant to section 5707.03 of the Revised Code shall be combined into one total comprising the estimate of the undivided local government fund of the county.~~ The commission, after extending to the representatives of each subdivision an opportunity to be heard, under oath administered by any member of the commission, and considering all the facts and information presented to it by the auditor, shall determine the amount of the undivided local government fund needed by and to be apportioned to each subdivision for current operating expenses, as shown in the tax budget of the subdivision. This determination shall be made pursuant to divisions (C) to (I) of this section, unless the commission has provided for a formula pursuant to section 5747.53 of the Revised Code.

Nothing in this section prevents the budget commission, for the purpose of apportioning the undivided local government fund, from inquiring into the claimed needs of any subdivision as stated in its tax budget, or from adjusting claimed needs to reflect actual needs. For the purposes of this section, "current operating expenses" means the lawful expenditures of a subdivision, except those for permanent improvements and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(C) The commission shall determine the combined total of the estimated expenditures, including transfers, from the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities operated by a subdivision, as shown in the subdivision's tax budget for the ensuing calendar year.

(D) From the combined total of expenditures calculated pursuant to division (C) of this section, the commission shall deduct the following expenditures, if included in these funds in the tax budget:

(1) Expenditures for permanent improvements as defined in division (E) of section 5705.01 of the Revised Code;

(2) In the case of counties and townships, transfers to the road and bridge fund, and in the case of municipalities, transfers to the street construction, maintenance, and repair fund and the state highway improvement fund;

(3) Expenditures for the payment of debt charges;

(4) Expenditures for the payment of judgments.

(E) In addition to the deductions made pursuant to division (D) of this section, revenues accruing to the general fund and any special fund considered under division (C) of this section from the following sources shall be deducted from the combined total of expenditures calculated pursuant to division (C) of this section:

(1) Taxes levied within the ten-mill limitation, as defined in section 5705.02 of the Revised Code;

(2) The budget commission allocation of estimated county public library fund revenues to be distributed pursuant to section 5747.48 of the Revised Code;

(3) Estimated unencumbered balances as shown on the tax budget as of the thirty-first day of December of the current year in the general fund, but not any estimated balance in any special fund considered in division (C) of this section;

(4) Revenue, including transfers, shown in the general fund and any special funds other than special funds established for road and bridge; street construction, maintenance, and repair; state highway improvement; and gas, water, sewer, and electric public utilities, from all other sources except those that a subdivision receives from an additional tax or service charge voted by its electorate or receives from special assessment or revenue bond collection. For the purposes of this division, where the charter of a municipal corporation prohibits the levy of an income tax, an income tax levied by the legislative authority of such municipal corporation pursuant to an amendment of the charter of that municipal corporation to authorize such a levy represents an additional tax voted by the electorate of that municipal corporation. For the purposes of this division, any measure adopted by a board of county commissioners pursuant to section 322.02, 324.02, 4504.02, or 5739.021 of the Revised Code, including those measures upheld by the electorate in a referendum conducted pursuant to section 322.021, 324.021, 4504.021, or 5739.022 of the Revised Code, shall not be considered an additional tax voted by the electorate.

Subject to division (G) of section 5705.29 of the Revised Code, money

in a reserve balance account established by a county, township, or municipal corporation under section 5705.13 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Money in a reserve balance account established by a township under section 5705.132 of the Revised Code shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section.

If a county, township, or municipal corporation has created and maintains a nonexpendable trust fund under section 5705.131 of the Revised Code, the principal of the fund, and any additions to the principal arising from sources other than the reinvestment of investment earnings arising from such a fund, shall not be considered an unencumbered balance or revenue under division (E)(3) or (4) of this section. Only investment earnings arising from investment of the principal or investment of such additions to principal may be considered an unencumbered balance or revenue under those divisions.

(F) The total expenditures calculated pursuant to division (C) of this section, less the deductions authorized in divisions (D) and (E) of this section, shall be known as the "relative need" of the subdivision, for the purposes of this section.

(G) The budget commission shall total the relative need of all participating subdivisions in the county, and shall compute a relative need factor by dividing the total estimate of the undivided local government fund by the total relative need of all participating subdivisions.

(H) The relative need of each subdivision shall be multiplied by the relative need factor to determine the proportionate share of the subdivision in the undivided local government fund of the county; provided, that the maximum proportionate share of a county shall not exceed the following maximum percentages of the total estimate of the undivided local government fund governed by the relationship of the percentage of the population of the county that resides within municipal corporations within the county to the total population of the county as reported in the reports on population in Ohio by the department of development as of the twentieth day of July of the year in which the tax budget is filed with the budget commission:

Percentage of municipal population within the county:	Percentage share of the county shall not exceed:
Less than forty-one per cent	Sixty per cent
Forty-one per cent or more but less than eighty-one per cent	Fifty per cent

Eighty-one per cent or more Thirty per cent

Where the proportionate share of the county exceeds the limitations established in this division, the budget commission shall adjust the proportionate shares determined pursuant to this division so that the proportionate share of the county does not exceed these limitations, and it shall increase the proportionate shares of all other subdivisions on a pro rata basis. In counties having a population of less than one hundred thousand, not less than ten per cent shall be distributed to the townships therein.

(I) The proportionate share of each subdivision in the undivided local government fund determined pursuant to division (H) of this section for any calendar year shall not be less than the product of the average of the percentages of the undivided local government fund of the county as apportioned to that subdivision for the calendar years 1968, 1969, and 1970, multiplied by the total amount of the undivided local government fund of the county apportioned pursuant to former section 5735.23 of the Revised Code for the calendar year 1970. For the purposes of this division, the total apportioned amount for the calendar year 1970 shall be the amount actually allocated to the county in 1970 from the state collected intangible tax as levied by section 5707.03 of the Revised Code and distributed pursuant to section 5725.24 of the Revised Code, plus the amount received by the county in the calendar year 1970 pursuant to division (B)(1) of former section 5739.21 of the Revised Code, and distributed pursuant to former section 5739.22 of the Revised Code. If the total amount of the undivided local government fund for any calendar year is less than the amount of the undivided local government fund apportioned pursuant to former section 5739.23 of the Revised Code for the calendar year 1970, the minimum amount guaranteed to each subdivision for that calendar year pursuant to this division shall be reduced on a basis proportionate to the amount by which the amount of the undivided local government fund for that calendar year is less than the amount of the undivided local government fund apportioned for the calendar year 1970.

(J) On the basis of such apportionment, the county auditor shall compute the percentage share of each such subdivision in the undivided local government fund and shall at the same time certify to the tax commissioner the percentage share of the county as a subdivision. No payment shall be made from the undivided local government fund, except in accordance with such percentage shares.

Within ten days after the budget commission has made its apportionment, whether conducted pursuant to section 5747.51 or 5747.53 of the Revised Code, the auditor shall publish a list of the subdivisions and

the amount each is to receive from the undivided local government fund and the percentage share of each subdivision, in a newspaper or newspapers of countywide circulation, and send a copy of such allocation to the tax commissioner.

The county auditor shall also send by certified mail, return receipt requested, a copy of such allocation to the fiscal officer of each subdivision entitled to participate in the allocation of the undivided local government fund of the county. This copy shall constitute the official notice of the commission action referred to in section 5705.37 of the Revised Code.

All money received into the treasury of a subdivision from the undivided local government fund in a county treasury shall be paid into the general fund and used for the current operating expenses of the subdivision.

If a municipal corporation maintains a municipal university, such municipal university, when the board of trustees so requests the legislative authority of the municipal corporation, shall participate in the money apportioned to such municipal corporation from the total local government fund, however created and constituted, in such amount as requested by the board of trustees, provided such sum does not exceed nine per cent of the total amount paid to the municipal corporation.

If any public official fails to maintain the records required by sections 5747.50 to 5747.55 of the Revised Code or by the rules issued by the tax commissioner, the auditor of state, or the treasurer of state pursuant to such sections, or fails to comply with any law relating to the enforcement of such sections, the local government fund money allocated to the county may be withheld until such time as the public official has complied with such sections or such law or the rules issued pursuant thereto.

Sec. 5747.81. (A) Any term used in this section that is defined in section 122.86 of the Revised Code has the same meaning as defined in that section.

(B) For the purpose of encouraging new capital investment in small businesses in this state and thereby promoting the economic welfare of all Ohioans, a nonrefundable credit is allowed against the tax imposed by section 5747.02 of the Revised Code for a taxpayer to whom a small business investment certificate was issued under section 122.86 of the Revised Code if the taxpayer did not sell or otherwise dispose of the qualifying investment before the conclusion of the applicable holding period and if the small business enterprise on the basis of which the certificate was issued is included in the register maintained under division (D) of section 122.86 of the Revised Code.

The credit shall be claimed for the taxpayer's taxable year that includes the last day of the holding period of the qualifying investment. If the

certificate was issued to a pass-through entity that made the qualifying investment, a taxpayer that holds a direct or indirect equity interest in the pass-through entity on the last day of the entity's taxable year that includes the last day of the holding period may claim the taxpayer's distributive or proportionate share of the credit for the taxpayer's taxable year that includes the last day of the entity's taxable year.

The credit equals the amount of the taxpayer's qualifying investment as indicated on the certificate multiplied by ten per cent. If a taxpayer claims a credit on the basis of more than one small business investment certificate issued for the same fiscal biennium, including a certificate issued to a pass-through entity in which the taxpayer owns an equity interest, the total amount of credit claimed by the taxpayer on the basis of all such certificates shall not exceed one million dollars. If a taxpayer and the taxpayer's spouse file a joint return under section 5747.08 of the Revised Code, the credit shall be computed on the basis of the total qualifying investments made by both spouses or by any pass-through entities in which either spouse owns an equity interest, but the total amount of credit claimed on the basis of all certificates issued to the spouses or to such pass-through entities for a fiscal biennium shall not exceed two million dollars.

The credit shall be claimed in the order prescribed by section 5747.98 of the Revised Code. If the credit exceeds the amount of tax otherwise due for the taxable year, the excess may be carried forward and applied against the tax due for not more than seven succeeding taxable years, provided that the amount applied to the tax due for any taxable year shall be subtracted from the amount available to carry forward to succeeding years.

Sec. 5747.98. (A) To provide a uniform procedure for calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

- (1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;
- (2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;
- (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;
- (4) The dependent care credit under section 5747.054 of the Revised Code;
- (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (6) The lump sum retirement income credit under division (D) of section

5747.055 of the Revised Code;

(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;

(8) The low-income credit under section 5747.056 of the Revised Code;

(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;

(10) The campaign contribution credit under section 5747.29 of the Revised Code;

(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;

(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;

(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;

(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;

(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;

(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;

(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;

(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;

(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;

(21) The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;

(22) The job training credit under section 5747.39 of the Revised Code;

(23) The enterprise zone credit under section 5709.66 of the Revised Code;

(24) The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;

(25) The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;

(26) The ethanol plant investment credit under section 5747.75 of the Revised Code;

(27) The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;

(28) The ~~export sales credit under section 5747.057~~ small business investment credit under section 5747.81 of the Revised Code;

(29) The credit for research and development and technology transfer investors under section 5747.33 of the Revised Code;

(30) The enterprise zone credits under section 5709.65 of the Revised Code;

(31) The research and development credit under section 5747.331 of the Revised Code;

(32) The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(33) The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;

(34) The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;

(35) The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;

(36) The refundable credits for taxes paid by a qualifying pass-through entity granted under division (J) of section 5747.08 of the Revised Code;

(37) The refundable credit for tax withheld under division (B)(1) of section 5747.062 of the Revised Code;

(38) The refundable credit for tax withheld under section 5747.063 of the Revised Code;

(39) The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code;

(40) The refundable motion picture production credit under section 5747.66 of the Revised Code.

(B) For any credit, except the refundable credits enumerated in this section and the credit granted under division (I) of section 5747.08 of the Revised Code, the amount of the credit for a taxable year shall not exceed the tax due after allowing for any other credit that precedes it in the order required under this section. Any excess amount of a particular credit may be carried forward if authorized under the section creating that credit. Nothing in this chapter shall be construed to allow a taxpayer to claim, directly or indirectly, a credit more than once for a taxable year.

Sec. 5748.01. As used in this chapter:

(A) "School district income tax" means an income tax adopted under one of the following:

(1) Former section 5748.03 of the Revised Code as it existed prior to its repeal by Amended Substitute House Bill No. 291 of the 115th general assembly;

(2) Section 5748.03 of the Revised Code as enacted in Substitute Senate Bill No. 28 of the 118th general assembly;

(3) Section 5748.08 of the Revised Code as enacted in Amended Substitute Senate Bill No. 17 of the 122nd general assembly;

(4) Section 5748.021 of the Revised Code;

(5) Section 5748.081 of the Revised Code;

(6) Section 5748.09 of the Revised Code.

(B) "Individual" means an individual subject to the tax levied by section 5747.02 of the Revised Code.

(C) "Estate" means an estate subject to the tax levied by section 5747.02 of the Revised Code.

(D) "Taxable year" means a taxable year as defined in division (M) of section 5747.01 of the Revised Code.

(E) "Taxable income" means:

(1) In the case of an individual, one of the following, as specified in the resolution imposing the tax:

(a) Ohio adjusted gross income for the taxable year as defined in division (A) of section 5747.01 of the Revised Code, less the exemptions provided by section 5747.02 of the Revised Code;

(b) Wages, salaries, tips, and other employee compensation to the extent included in Ohio adjusted gross income as defined in section 5747.01 of the Revised Code, and net earnings from self-employment, as defined in section 1402(a) of the Internal Revenue Code, to the extent included in Ohio adjusted gross income.

(2) In the case of an estate, taxable income for the taxable year as defined in division (S) of section 5747.01 of the Revised Code.

(F) "Resident" of the school district means:

(1) An individual who is a resident of this state as defined in division (I) of section 5747.01 of the Revised Code during all or a portion of the taxable year and who, during all or a portion of such period of state residency, is domiciled in the school district or lives in and maintains a permanent place of abode in the school district;

(2) An estate of a decedent who, at the time of death, was domiciled in the school district.

(G) "School district income" means:

(1) With respect to an individual, the portion of the taxable income of an individual that is received by the individual during the portion of the taxable

year that the individual is a resident of the school district and the school district income tax is in effect in that school district. An individual may have school district income with respect to more than one school district.

(2) With respect to an estate, the taxable income of the estate for the portion of the taxable year that the school district income tax is in effect in that school district.

(H) "Taxpayer" means an individual or estate having school district income upon which a school district income tax is imposed.

(I) "School district purposes" means any of the purposes for which a tax may be levied pursuant to section 5705.21 of the Revised Code, including the combined purposes authorized by section 5705.217 of the Revised Code.

Sec. 5748.02. (A) The board of education of any school district, except a joint vocational school district, may declare, by resolution, the necessity of raising annually a specified amount of money for school district purposes. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. A copy of the resolution shall be certified to the tax commissioner no later than one hundred days prior to the date of the election at which the board intends to propose a levy under this section. Upon receipt of the copy of the resolution, the tax commissioner shall estimate both of the following:

(1) The property tax rate that would have to be imposed in the current year by the district to produce an equivalent amount of money;

(2) The income tax rate that would have had to have been in effect for the current year to produce an equivalent amount of money from a school district income tax.

Within ten days of receiving the copy of the board's resolution, the commissioner shall prepare these estimates and certify them to the board. Upon receipt of the certification, the board may adopt a resolution proposing an income tax under division (B) of this section at the estimated rate contained in the certification rounded to the nearest one-fourth of one per cent. The commissioner's certification applies only to the board's proposal to levy an income tax at the election for which the board requested the certification. If the board intends to submit a proposal to levy an income tax at any other election, it shall request another certification for that election in the manner prescribed in this division.

(B)(1) Upon the receipt of a certification from the tax commissioner under division (A) of this section, a majority of the members of a board of education may adopt a resolution proposing the levy of an annual tax for

school district purposes on school district income. The proposed levy may be for a continuing period of time or for a specified number of years. The resolution shall set forth the purpose for which the tax is to be imposed, the rate of the tax, which shall be the rate set forth in the commissioner's certification rounded to the nearest one-fourth of one per cent, the number of years the tax will be levied or that it will be levied for a continuing period of time, the date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted, and the date of the election at which the proposal shall be submitted to the electors of the district, which shall be on the date of a primary, general, or special election the date of which is consistent with section 3501.01 of the Revised Code. The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

If the tax is to be levied for current expenses and permanent improvements, the resolution shall apportion the annual rate of the tax. The apportionment may be the same or different for each year the tax is levied, but the respective portions of the rate actually levied each year for current expenses and for permanent improvements shall be limited by the apportionment.

If the board of education currently imposes an income tax pursuant to this chapter that is due to expire and a question is submitted under this section for a proposed income tax to take effect upon the expiration of the existing tax, the board may specify in the resolution that the proposed tax renews the expiring tax. Two or more expiring income taxes may be renewed under this paragraph if the taxes are due to expire on the same date. If the tax rate being proposed is no higher than the total tax rate imposed by the expiring tax or taxes, the resolution may state that the proposed tax is not an additional income tax.

(2) A board of education adopting a resolution under division (B)(1) of this section proposing a school district income tax for a continuing period of time and limited to the purpose of current expenses may propose in that resolution to reduce the rate or rates of one or more of the school district's property taxes levied for a continuing period of time in excess of the ten-mill limitation for the purpose of current expenses. The reduction in the rate of a property tax may be any amount, expressed in mills per one dollar in valuation, not exceeding the rate at which the tax is authorized to be

levied. The reduction in the rate of a tax shall first take effect for the tax year that includes the day on which the school district income tax first takes effect, and shall continue for each tax year that both the school district income tax and the property tax levy are in effect.

In addition to the matters required to be set forth in the resolution under division (B)(1) of this section, a resolution containing a proposal to reduce the rate of one or more property taxes shall state for each such tax the maximum rate at which it currently may be levied and the maximum rate at which the tax could be levied after the proposed reduction, expressed in mills per one dollar in valuation, and that the tax is levied for a continuing period of time.

If a board of education proposes to reduce the rate of one or more property taxes under division (B)(2) of this section, the board, when it makes the certification required under division (A) of this section, shall designate the specific levy or levies to be reduced, the maximum rate at which each levy currently is authorized to be levied, and the rate by which each levy is proposed to be reduced. The tax commissioner, when making the certification to the board under division (A) of this section, also shall certify the reduction in the total effective tax rate for current expenses for each class of property that would have resulted if the proposed reduction in the rate or rates had been in effect the previous tax year. As used in this paragraph, "effective tax rate" has the same meaning as in section 323.08 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, a copy of the resolution shall be certified to the board of elections of the proper county, which shall submit the proposal to the electors on the date specified in the resolution. The form of the ballot shall be as provided in section 5748.03 of the Revised Code. Publication of notice of the election shall be made 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, ~~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 contain the time and place of the election and the question to be submitted to the electors. The question covered by the resolution shall be submitted as a separate proposition, but may be printed on the same ballot with any other

proposition submitted at the same election, other than the election of officers.

(D) No board of education shall submit the question of a tax on school district income to the electors of the district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(E)(1) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of that section.

(2) No board of education may submit to the electors of the district the question of a tax on school district income on the taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code if that tax would be in addition to an existing tax on the taxable income of individuals as defined in division (E)(1)(b) of that section.

Sec. 5748.021. A board of education that levies a tax under section 5748.02 of the Revised Code on the school district income of individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code may declare, at any time, by a resolution adopted by a majority of its members, the necessity of raising annually a specified amount of money for school district purposes by replacing the existing tax with a tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. The specified amount of money to be raised annually may be the same as, or more or less than, the amount of money raised annually by the existing tax.

The board shall certify a copy of the resolution to the tax commissioner not later than the eighty-fifth day before the date of the election at which the board intends to propose the replacement to the electors of the school district. Not later than the tenth day after receiving the resolution, the tax commissioner shall estimate the tax rate that would be required in the school district annually to raise the amount of money specified in the resolution. The tax commissioner shall certify the estimate to the board.

Upon receipt of the tax commissioner's estimate, the board may propose, by a resolution adopted by a majority of its members, to replace the existing tax on the school district income of individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code with the levy of an annual tax on the school district income of

individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code. In the resolution, the board shall specify the rate of the replacement tax, whether the replacement tax is to be levied for a specified number of years or for a continuing time, the specific school district purposes for which the replacement tax is to be levied, the date on which the replacement tax will begin to be levied, the date of the election at which the question of the replacement is to be submitted to the electors of the school district, that the existing tax will cease to be levied and the replacement tax will begin to be levied if the replacement is approved by a majority of the electors voting on the replacement, and that if the replacement is not approved by a majority of the electors voting on the replacement the existing tax will remain in effect under its original authority for the remainder of its previously approved term. The resolution goes into immediate effect upon its adoption. Publication of the resolution is not necessary, and the information that will be provided in the notice of election is sufficient notice. At least seventy-five days before the date of the election at which the question of the replacement will be submitted to the electors of the school district, the board shall certify a copy of the resolution to the board of elections.

The replacement tax shall have the same specific school district purposes as the existing tax, and its rate shall be the same as the tax commissioner's estimate rounded to the nearest one-fourth of one per cent. The replacement tax shall begin to be levied on the first day of January of the year following the year in which the question of the replacement is submitted to and approved by the electors of the school district or on the first day of January of a later year, as specified in the resolution. The date of the election shall be the date of an otherwise scheduled primary, general, or special election.

The board of elections shall make arrangements to submit the question of the replacement to the electors of the school district on the date specified in the resolution. The board of elections shall publish notice of the election on the question of the replacement in ~~one or more newspapers~~ newspaper of general circulation in the school district once a week for four consecutive weeks or as provided in section 7.16 of the Revised Code. The notice shall set forth the question to be submitted to the electors and the time and place of the election thereon.

The question shall be submitted to the electors of the school district as a separate proposition, but may be printed on the same ballot with other propositions that are submitted at the same election, other than the election of officers. The form of the ballot shall be substantially as follows:

"Shall the existing tax of (state the rate) on the school district income of individuals and estates imposed by (state the name of the school district) be replaced by a tax of (state the rate) on the earned income of individuals residing in the school district for (state the number of years the tax is to be in effect or that it will be in effect for a continuing time), beginning (state the date the new tax will take effect), for the purpose of (state the specific school district purposes of the tax)? If the new tax is not approved, the existing tax will remain in effect under its original authority, for the remainder of its previously approved term.

	For replacing the existing tax with the new tax
	Against replacing the existing tax " with the new tax

The board of elections shall conduct and canvass the election in the same manner as regular elections in the school district for the election of county officers. The board shall certify the results of the election to the board of education and to the tax commissioner. If a majority of the electors voting on the question vote in favor of the replacement, the existing tax shall cease to be levied, and the replacement tax shall begin to be levied, on the date specified in the ballot question. If a majority of the electors voting on the question vote against the replacement, the existing tax shall continue to be levied under its original authority, for the remainder of its previously approved term.

A board of education may not submit the question of replacing a tax more than twice in a calendar year. If a board submits the question more than once, one of the elections at which the question is submitted shall be on the date of a general election.

If a board of education later intends to renew a replacement tax levied under this section, it shall repeat the procedure outlined in this section to do so, the replacement tax then being levied being the "existing tax" and the renewed replacement tax being the "replacement tax."

Sec. 5748.04. (A) The question of the repeal of a school district income tax levied for more than five years may be initiated not more than once in any five-year period by filing with the board of elections of the appropriate counties not later than ninety days before the general election in any year after the year in which it is approved by the electors a petition requesting that an election be held on the question. The petition shall be signed by qualified electors residing in the school district levying the income tax equal in number to ten per cent of those voting for governor at the most recent gubernatorial election.

The board of elections shall determine whether the petition is valid, and if it so determines, it shall submit the question to the electors of the district 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 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 purpose, time, and place of the election. The form of the ballot cast at the election shall be as follows:

"Shall the annual income tax of per cent, currently levied on the school district income of individuals and estates by (state the name of the school district) for the purpose of (state purpose of the tax), be repealed?"

	For repeal of the income tax
	Against repeal of the income tax

(B)(1) If the tax is imposed on taxable income as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax currently is levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and estates."

(2) If the rate of one or more property tax levies was reduced for the duration of the income tax levy pursuant to division (B)(2) of section 5748.02 of the Revised Code, the form of the ballot shall be modified by adding the following language immediately after "repealed": ", and shall the rate of an existing tax on property for the purpose of current expenses, which rate was reduced for the duration of the income tax, be INCREASED from mills to mills per one dollar of valuation beginning in (state the first year for which the rate of the property tax will increase)." In lieu of "for repeal of the income tax" and "against repeal of the income tax," the phrases "for the issue" and "against the issue," respectively, shall be substituted.

(3) If the rate of more than one property tax was reduced for the duration of the income tax, the ballot language shall be modified accordingly to express the rates at which those taxes currently are levied and the rates to which the taxes would be increased.

(C) The question covered by the 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 vote in favor of it, the result shall be certified immediately after the canvass by the board of elections to the board of education of the school district and the tax commissioner, who shall thereupon, after the current year, cease to levy the tax, except that if notes have been issued pursuant to section 5748.05 of the Revised Code the tax commissioner shall continue to levy and collect under authority of the election authorizing the levy an annual amount, rounded upward to the nearest one-fourth of one per cent, as will be sufficient to pay the debt charges on the notes as they fall due.

(D) If a school district income tax repealed pursuant to this section was approved in conjunction with a reduction in the rate of one or more school district property taxes as provided in division (B)(2) of section 5748.02 of the Revised Code, then each such property tax may be levied after the current year at the rate at which it could be levied prior to the reduction, subject to any adjustments required by the county budget commission pursuant to Chapter 5705. of the Revised Code. Upon the repeal of a school district income tax under this section, the board of education may resume levying a property tax, the rate of which has been reduced pursuant to a question approved under section 5748.02 of the Revised Code, at the rate the board originally was authorized to levy the tax. A reduction in the rate of a property tax under section 5748.02 of the Revised Code is a reduction in the rate at which a board of education may levy that tax only for the period during which a school district income tax is levied prior to any repeal pursuant to this section. The resumption of the authority to levy the tax upon such a repeal does not constitute a tax levied in excess of the one per cent limitation prescribed by Section 2 of Article XII, Ohio Constitution, or in excess of the ten-mill limitation.

(E) This section does not apply to school district income tax levies that are levied for five or fewer years.

Sec. 5748.05. After the approval by the electors of a resolution under section 5748.03 ~~or~~, 5748.08, or 5748.09 of the Revised Code to impose a school district income tax to provide an increase in current operating revenues or in current revenues for permanent improvements and prior to the time when the first payment to the district from the tax can be made, a board of education may anticipate a fraction of the proceeds of the tax and issue anticipation notes in an amount not exceeding fifty per cent of the total estimated proceeds of the tax to be collected for its first year of collection as estimated by the tax commissioner. The anticipation notes are Chapter 133.

securities and shall be issued as provided in section 133.24 of the Revised Code as if property tax anticipation notes. The notes shall have principal payments during each year after their year of issuance over a period not to exceed five years and, if determined by the board of education, during the year of their issuance. The legislation authorizing issuance of the notes may also provide for the annual levy and collection of voted ad valorem property taxes levied for the applicable purpose for which the notes are issued and for the application of the proceeds of the levy to the extent necessary to pay annual debt charges on the notes.

Sec. 5748.08. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to do all of the following:

(1) Raise a specified amount of money for school district purposes by levying an annual tax on school district income;

(2) Issue general obligation bonds for permanent improvements, stating in the resolution the necessity and purpose of the bond issue and the amount, approximate date, estimated rate of interest, and maximum number of years over which the principal of the bonds may be paid;

(3) Levy a tax outside the ten-mill limitation to pay debt charges on the bonds and any anticipatory securities;

(4) Submit the question of the school district income tax and bond issue to the electors of the district at a special election.

The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor no later than one hundred five days prior to the date of the special election at which the board intends to propose the income tax and bond issue. Not later than ten days of receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A)(1) and (2) of that section and certify them to the board. Not later than ten days of receipt of the resolution, the county auditor shall estimate and certify to the board the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds, in the same manner as under division (C) of section 133.18 of the Revised Code.

(B) On receipt of the tax commissioner's and county auditor's

certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of two-thirds of all its members, may adopt a resolution proposing for a specified number of years or for a continuing period of time the levy of an annual tax for school district purposes on school district income and declaring that the amount of taxes that can be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district; that it is necessary to issue general obligation bonds of the school district for specified permanent improvements and to levy an additional tax in excess of the ten-mill limitation to pay the debt charges on the bonds and any anticipatory securities; and that the question of the bonds and taxes shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the tax will be levied, or that it will be levied for a continuing period of time;

(4) The date on which the tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

(5) The county auditor's estimate of the average annual property tax rate required throughout the stated maturity of the bonds to pay debt charges on the bonds.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the auditor's estimate

and its resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, 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.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax, the bond issue, and the levy to pay debt charges on the bonds and any anticipatory securities. The board of elections shall publish the notice of the election in ~~one or more newspapers~~ 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, it also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

- (1) The questions to be submitted to the electors;
- (2) The rate of the school district income tax;
- (3) The principal amount of the proposed bond issue;
- (4) The permanent improvements for which the bonds are to be issued;
- (5) The maximum number of years over which the principal of the bonds may be paid;
- (6) The estimated additional average annual property tax rate to pay the debt charges on the bonds, as certified by the county auditor;
- (7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the school district be authorized to do both of the following:

(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

(2) Issue bonds for the purpose of in the principal amount of \$....., to be repaid annually over a maximum period of years, and levy a property tax outside the ten-mill limitation estimated by the county auditor to average over the bond repayment period mills for each one dollar of tax valuation, which amounts to (rate expressed in cents or dollars and cents, such as "36 cents" or "\$1.41") for each \$100 of tax valuation, to pay the annual debt charges on the bonds, and to pay debt charges on any notes issued in anticipation of those bonds?

	FOR THE INCOME TAX AND BOND ISSUE
	AGAINST THE INCOME TAX AND BOND ISSUE

(E) If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(F) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it, the income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution, and the board of education may proceed with issuance of the bonds and with the levy and collection of the property taxes to pay debt charges on the bonds, at the additional rate or any lesser rate in excess of the ten-mill limitation. Any securities issued by the board of education under this section are Chapter 133. securities, as that term is defined in section 133.01 of the Revised Code.

(G) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(H) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

(I) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

Sec. 5748.081. A board of education of a school district that, under divisions (A)(1), (D)(1), and (E) of section 5748.08 or under section 5748.09 of the Revised Code, levies a tax on the school district income of

individuals and estates as defined in divisions (G) and (E)(1)(a) and (2) of section 5748.01 of the Revised Code may replace that tax with a tax on the school district income of individuals as defined in divisions (G)(1) and (E)(1)(b) of section 5748.01 of the Revised Code by following the procedure outlined in, and subject to the conditions specified in, section 5748.021 of the Revised Code, as if the existing tax levied under section 5748.08 or 5748.09 were levied under section 5748.02 of the Revised Code. The tax commissioner and the board of elections shall perform duties in response to the actions of the board of education under this section as directed in section 5748.021 of the Revised Code.

Sec. 5748.09. (A) The board of education of a city, local, or exempted village school district, at any time by a vote of two-thirds of all its members, may declare by resolution that it may be necessary for the school district to do all of the following:

(1) Raise a specified amount of money for school district purposes by levying an annual tax on school district income;

(2) Levy an additional property tax in excess of the ten-mill limitation for the purpose of providing for the necessary requirements of the district, stating in the resolution the amount of money to be raised each year for such purpose;

(3) Submit the question of the school district income tax and property tax to the electors of the district at a special election.

The resolution shall specify whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section.

On adoption of the resolution, the board shall certify a copy of it to the tax commissioner and the county auditor not later than one hundred days prior to the date of the special election at which the board intends to propose the income tax and property tax. Not later than ten days after receipt of the resolution, the tax commissioner, in the same manner as required by division (A) of section 5748.02 of the Revised Code, shall estimate the rates designated in divisions (A)(1) and (2) of that section and certify them to the board. Not later than ten days after receipt of the resolution, the county auditor, in the same manner as required by section 5705.195 of the Revised Code, shall make the calculation specified in that section and certify it to the board.

(B) On receipt of the tax commissioner's and county auditor's certifications prepared under division (A) of this section, the board of education of the city, local, or exempted village school district, by a vote of

two-thirds of all its members, may adopt a resolution declaring that the amount of taxes that can be raised by all tax levies the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide an adequate amount for the present and future requirements of the school district, and that it is therefore necessary to levy, for a specified number of years or for a continuing period of time, an annual tax for school district purposes on school district income, and to levy, for a specified number of years not exceeding ten or for a continuing period of time, an additional property tax in excess of the ten-mill limitation for the purpose of providing for the necessary requirements of the district, and declaring that the question of the school district income tax and property tax shall be submitted to the electors of the school district at a special election, which shall not be earlier than ninety days after certification of the resolution to the board of elections, and the date of which shall be consistent with section 3501.01 of the Revised Code. The resolution shall specify all of the following:

(1) The purpose for which the school district income tax is to be imposed and the rate of the tax, which shall be the rate set forth in the tax commissioner's certification rounded to the nearest one-fourth of one per cent;

(2) Whether the income that is to be subject to the tax is taxable income of individuals and estates as defined in divisions (E)(1)(a) and (2) of section 5748.01 of the Revised Code or taxable income of individuals as defined in division (E)(1)(b) of that section. The specification shall be the same as the specification in the resolution adopted and certified under division (A) of this section.

(3) The number of years the school district income tax will be levied, or that it will be levied for a continuing period of time;

(4) The date on which the school district income tax shall take effect, which shall be the first day of January of any year following the year in which the question is submitted;

(5) The amount of money it is necessary to raise for the purpose of providing for the necessary requirements of the district for each year the property tax is to be imposed;

(6) The number of years the property tax will be levied, or that it will be levied for a continuing period of time;

(7) The tax list upon which the property tax shall be first levied, which may be the current year's tax list;

(8) The amount of the average tax levy, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one

dollar of valuation, estimated by the county auditor under division (A) of this section.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Immediately after its adoption and at least ninety days prior to the election at which the question will appear on the ballot, the board of education shall certify a copy of the resolution, along with copies of the county auditor's certification and the resolution under division (A) of this section, to the board of elections of the proper county. The board of education shall make the arrangements for the submission of the question to the electors of the school district, 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.

The resolution shall be put before the electors as one ballot question, with a majority vote indicating approval of the school district income tax and the property tax. The board of elections shall publish the notice of the election 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. If the board of elections operates and maintains a web site, also shall post notice of the election on its web site for thirty days prior to the election. The notice of election shall state all of the following:

(1) The questions to be submitted to the electors as a single ballot question;

(2) The rate of the school district income tax;

(3) The number of years the school district income tax will be levied or that it will be levied for a continuing period of time;

(4) The annual proceeds of the proposed property tax levy for the purpose of providing for the necessary requirements of the district;

(5) The number of years during which the property tax levy shall be levied, or that it shall be levied for a continuing period of time;

(6) The estimated average additional tax rate of the property tax, expressed in dollars and cents for each one hundred dollars of valuation as well as in mills for each one dollar of valuation, outside the limitation imposed by Section 2 of Article XII, Ohio Constitution, as certified by the county auditor;

(7) The time and place of the special election.

(D) The form of the ballot on a question submitted to the electors under this section shall be as follows:

"Shall the school district be authorized to do both of the following:

(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates, for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

(2) Impose a property tax levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of (here insert annual amount the levy is to produce), estimated by the county auditor to average (here insert number of mills) mills for each one dollar of valuation, which amounts to (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation, for (state the number of years the tax is to be imposed or that it will be imposed for a continuing period of time), commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)?

	<u>FOR THE INCOME TAX AND PROPERTY TAX</u>	
	<u>AGAINST THE INCOME TAX AND PROPERTY TAX</u>	" -

If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

(E) The board of elections promptly shall certify the results of the election to the tax commissioner and the county auditor of the county in which the school district is located. If a majority of the electors voting on the question vote in favor of it:

(1) The income tax and the applicable provisions of Chapter 5747. of the Revised Code shall take effect on the date specified in the resolution.

(2) The board of education of the school district may make the additional property tax levy necessary to raise the amount specified on the ballot for the purpose of providing for the necessary requirements of the district. The property tax levy shall be included in the next tax budget that is certified to the county budget commission.

(F)(1) After approval of a question under this section, the board of education may anticipate a fraction of the proceeds of the school district income tax in accordance with section 5748.05 of the Revised Code. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(2) After the approval of a question under this section and prior to the time when the first tax collection from the property tax levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy. Any anticipation notes under this division shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(G)(1) The question of repeal of a school district income tax levied for more than five years may be initiated and submitted in accordance with section 5748.04 of the Revised Code.

(2) A property tax levy for a continuing period of time may be reduced in the manner provided under section 5705.261 of the Revised Code.

(H) No board of education shall submit a question under this section to the electors of the school district more than twice in any calendar year. If a board submits the question twice in any calendar year, one of the elections on the question shall be held on the date of the general election.

(I) If the electors of the school district approve a question under this section, and if the last calendar year the school district income tax is in effect and the last calendar year of collection of the property tax are the same, the board of education of the school district may propose to submit under this section the combined question of a school district income tax to take effect upon the expiration of the existing income tax and a property tax to be first collected in the calendar year after the calendar year of last collection of the existing property tax, and specify in the resolutions adopted under this section that the proposed taxes would renew the existing taxes. The form of the ballot on a question submitted to the electors under division (I) of this section shall be as follows:

"Shall the school district be authorized to do both of the following:

(1) Impose an annual income tax of (state the proposed rate of tax) on the school district income of individuals and of estates to renew an income tax expiring at the end of (state the last year the existing

income tax may be levied) for (state the number of years the tax would be levied, or that it would be levied for a continuing period of time), beginning (state the date the tax would first take effect), for the purpose of (state the purpose of the tax)?

(2) Impose a property tax levy renewing an existing levy outside of the ten-mill limitation for the purpose of providing for the necessary requirements of the district in the sum of (here insert annual amount the levy is to produce), estimated by the county auditor to average (here insert number of mills) mills for each one dollar of valuation, which amounts to (here insert rate expressed in dollars and cents) for each one hundred dollars of valuation, for (state the number of years the tax is to be imposed or that it will be imposed for a continuing period of time), commencing in (first year the tax is to be levied), first due in calendar year (first calendar year in which the tax shall be due)?

	<u>FOR THE INCOME TAX AND PROPERTY TAX</u>	
	<u>AGAINST THE INCOME TAX AND PROPERTY TAX</u>	" -

If the question submitted to electors proposes a school district income tax only on the taxable income of individuals as defined in division (E)(1)(b) of section 5748.01 of the Revised Code, the form of the ballot shall be modified by stating that the tax is to be levied on the "earned income of individuals residing in the school district" in lieu of the "school district income of individuals and of estates."

The question of a renewal levy under this division shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in February and August, during the last year the property tax levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year.

(J) If the electors of the school district approve a question under this section, the board of education of the school district may propose to renew either or both of the existing taxes as individual ballot questions in accordance with section 5748.02 of the Revised Code for the school district income tax, or section 5705.194 of the Revised Code for the property tax.

Sec. 5751.01. As used in this chapter:

(A) "Person" means, but is not limited to, individuals, combinations of individuals of any form, receivers, assignees, trustees in bankruptcy, firms, companies, joint-stock companies, business trusts, estates, partnerships, limited liability partnerships, limited liability companies, associations, joint ventures, clubs, societies, for-profit corporations, S corporations, qualified subchapter S subsidiaries, qualified subchapter S trusts, trusts, entities that are disregarded for federal income tax purposes, and any other entities.

(B) "Consolidated elected taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter as the result of an election made under section 5751.011 of the Revised Code.

(C) "Combined taxpayer" means a group of two or more persons treated as a single taxpayer for purposes of this chapter under section 5751.012 of the Revised Code.

(D) "Taxpayer" means any person, or any group of persons in the case of a consolidated elected taxpayer or combined taxpayer treated as one taxpayer, required to register or pay tax under this chapter. "Taxpayer" does not include excluded persons.

(E) "Excluded person" means any of the following:

(1) Any person with not more than one hundred fifty thousand dollars of taxable gross receipts during the calendar year. Division (E)(1) of this section does not apply to a person that is a member of a consolidated elected taxpayer;

(2) A public utility that paid the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter, except that a public utility that is a combined company is a taxpayer with regard to the following gross receipts:

(a) Taxable gross receipts directly attributed to a public utility activity, but not directly attributed to an activity that is subject to the excise tax imposed by section 5727.24 or 5727.30 of the Revised Code;

(b) Taxable gross receipts that cannot be directly attributed to any activity, multiplied by a fraction whose numerator is the taxable gross receipts described in division (E)(2)(a) of this section and whose denominator is the total taxable gross receipts that can be directly attributed to any activity;

(c) Except for any differences resulting from the use of an accrual basis method of accounting for purposes of determining gross receipts under this chapter and the use of the cash basis method of accounting for purposes of determining gross receipts under section 5727.24 of the Revised Code, the

gross receipts directly attributed to the activity of a natural gas company shall be determined in a manner consistent with division (D) of section 5727.03 of the Revised Code.

As used in division (E)(2) of this section, "combined company" and "public utility" have the same meanings as in section 5727.01 of the Revised Code.

(3) A financial institution, as defined in section 5725.01 of the Revised Code, that paid the corporation franchise tax charged by division (D) of section 5733.06 of the Revised Code based on one or more taxable years that include the entire tax period under this chapter;

(4) A dealer in intangibles, as defined in section 5725.01 of the Revised Code, that paid the dealer in intangibles tax levied by division (D) of section 5707.03 of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(5) A financial holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(p);

(6) A bank holding company as defined in the "Bank Holding Company Act," 12 U.S.C. 1841(a);

(7) A savings and loan holding company as defined in the "Home Owners Loan Act," 12 U.S.C. 1467a(a)(1)(D) that is engaging only in activities or investments permissible for a financial holding company under 12 U.S.C. 1843(k);

(8) A person directly or indirectly owned by one or more financial institutions, financial holding companies, bank holding companies, or savings and loan holding companies described in division (E)(3), (5), (6), or (7) of this section that is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k), except that any such person held pursuant to merchant banking authority under 12 U.S.C. 1843(k)(4)(H) or 12 U.S.C. 1843(k)(4)(I) is not an excluded person, or a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

For the purposes of division (E)(8) of this section, a person owns another person under the following circumstances:

(a) In the case of corporations issuing capital stock, one corporation owns another corporation if it owns fifty per cent or more of the other corporation's capital stock with current voting rights;

(b) In the case of a limited liability company, one person owns the company if that person's membership interest, as defined in section 1705.01 of the Revised Code, is fifty per cent or more of the combined membership

interests of all persons owning such interests in the company;

(c) In the case of a partnership, trust, or other unincorporated business organization other than a limited liability company, one person owns the organization if, under the articles of organization or other instrument governing the affairs of the organization, that person has a beneficial interest in the organization's profits, surpluses, losses, or distributions of fifty per cent or more of the combined beneficial interests of all persons having such an interest in the organization;

(d) In the case of multiple ownership, the ownership interests of more than one person may be aggregated to meet the fifty per cent ownership tests in this division only when each such owner is described in division (E)(3), (5), (6), or (7) of this section and is engaged in activities permissible for a financial holding company under 12 U.S.C. 1843(k) or is a person directly or indirectly owned by one or more insurance companies described in division (E)(9) of this section that is authorized to do the business of insurance in this state.

(9) A domestic insurance company or foreign insurance company, as defined in section 5725.01 of the Revised Code, that paid the insurance company premiums tax imposed by section 5725.18 or Chapter 5729. of the Revised Code based on one or more measurement periods that include the entire tax period under this chapter;

(10) A person that solely facilitates or services one or more securitizations or similar transactions for any person described in division (E)(3), (5), (6), (7), (8), or (9) of this section. For purposes of this division, "securitization" means transferring one or more assets to one or more persons and then issuing securities backed by the right to receive payment from the asset or assets so transferred.

(11) Except as otherwise provided in this division, a pre-income tax trust as defined in division (FF)(4) of section 5747.01 of the Revised Code and any pass-through entity of which such pre-income tax trust owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests. If the pre-income tax trust has made a qualifying pre-income tax trust election under division (FF)(3) of section 5747.01 of the Revised Code, then the trust and the pass-through entities of which it owns or controls, directly, indirectly, or constructively through related interests, more than five per cent of the ownership or equity interests, shall not be excluded persons for purposes of the tax imposed under section 5751.02 of the Revised Code.

(12) Nonprofit organizations or the state and its agencies, instrumentalities, or political subdivisions.

(F) Except as otherwise provided in divisions (F)(2), (3), and (4) of this section, "gross receipts" means the total amount realized by a person, without deduction for the cost of goods sold or other expenses incurred, that contributes to the production of gross income of the person, including the fair market value of any property and any services received, and any debt transferred or forgiven as consideration.

(1) The following are examples of gross receipts:

(a) Amounts realized from the sale, exchange, or other disposition of the taxpayer's property to or with another;

(b) Amounts realized from the taxpayer's performance of services for another;

(c) Amounts realized from another's use or possession of the taxpayer's property or capital;

(d) Any combination of the foregoing amounts.

(2) "Gross receipts" excludes the following amounts:

(a) Interest income except interest on credit sales;

(b) Dividends and distributions from corporations, and distributive or proportionate shares of receipts and income from a pass-through entity as defined under section 5733.04 of the Revised Code;

(c) Receipts from the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code, without regard to the length of time the person held the asset. Notwithstanding section 1221 of the Internal Revenue Code, receipts from hedging transactions also are excluded to the extent the transactions are entered into primarily to protect a financial position, such as managing the risk of exposure to (i) foreign currency fluctuations that affect assets, liabilities, profits, losses, equity, or investments in foreign operations; (ii) interest rate fluctuations; or (iii) commodity price fluctuations. As used in division (F)(2)(c) of this section, "hedging transaction" has the same meaning as used in section 1221 of the Internal Revenue Code and also includes transactions accorded hedge accounting treatment under statement of financial accounting standards number 133 of the financial accounting standards board. For the purposes of division (F)(2)(c) of this section, the actual transfer of title of real or tangible personal property to another entity is not a hedging transaction.

(d) Proceeds received attributable to the repayment, maturity, or redemption of the principal of a loan, bond, mutual fund, certificate of deposit, or marketable instrument;

(e) The principal amount received under a repurchase agreement or on account of any transaction properly characterized as a loan to the person;

(f) Contributions received by a trust, plan, or other arrangement, any of which is described in section 501(a) of the Internal Revenue Code, or to which Title 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal Revenue Code applies;

(g) Compensation, whether current or deferred, and whether in cash or in kind, received or to be received by an employee, former employee, or the employee's legal successor for services rendered to or for an employer, including reimbursements received by or for an individual for medical or education expenses, health insurance premiums, or employee expenses, or on account of a dependent care spending account, legal services plan, any cafeteria plan described in section 125 of the Internal Revenue Code, or any similar employee reimbursement;

(h) Proceeds received from the issuance of the taxpayer's own stock, options, warrants, puts, or calls, or from the sale of the taxpayer's treasury stock;

(i) Proceeds received on the account of payments from insurance policies, except those proceeds received for the loss of business revenue;

(j) Gifts or charitable contributions received; membership dues received by trade, professional, homeowners', or condominium associations; and payments received for educational courses, meetings, meals, or similar payments to a trade, professional, or other similar association; and fundraising receipts received by any person when any excess receipts are donated or used exclusively for charitable purposes;

(k) Damages received as the result of litigation in excess of amounts that, if received without litigation, would be gross receipts;

(l) Property, money, and other amounts received or acquired by an agent on behalf of another in excess of the agent's commission, fee, or other remuneration;

(m) Tax refunds, other tax benefit recoveries, and reimbursements for the tax imposed under this chapter made by entities that are part of the same combined taxpayer or consolidated elected taxpayer group, and reimbursements made by entities that are not members of a combined taxpayer or consolidated elected taxpayer group that are required to be made for economic parity among multiple owners of an entity whose tax obligation under this chapter is required to be reported and paid entirely by one owner, pursuant to the requirements of sections 5751.011 and 5751.012 of the Revised Code;

(n) Pension reversions;

(o) Contributions to capital;

(p) Sales or use taxes collected as a vendor or an out-of-state seller on

behalf of the taxing jurisdiction from a consumer or other taxes the taxpayer is required by law to collect directly from a purchaser and remit to a local, state, or federal tax authority;

(q) In the case of receipts from the sale of cigarettes or tobacco products by a wholesale dealer, retail dealer, distributor, manufacturer, or seller, all as defined in section 5743.01 of the Revised Code, an amount equal to the federal and state excise taxes paid by any person on or for such cigarettes or tobacco products under subtitle E of the Internal Revenue Code or Chapter 5743. of the Revised Code;

(r) In the case of receipts from the sale of motor fuel by a licensed motor fuel dealer, licensed retail dealer, or licensed permissive motor fuel dealer, all as defined in section 5735.01 of the Revised Code, an amount equal to federal and state excise taxes paid by any person on such motor fuel under section 4081 of the Internal Revenue Code or Chapter 5735. of the Revised Code;

(s) In the case of receipts from the sale of beer or intoxicating liquor, as defined in section 4301.01 of the Revised Code, by a person holding a permit issued under Chapter 4301. or 4303. of the Revised Code, an amount equal to federal and state excise taxes paid by any person on or for such beer or intoxicating liquor under subtitle E of the Internal Revenue Code or Chapter 4301. or 4305. of the Revised Code;

(t) Receipts realized by a new motor vehicle dealer or used motor vehicle dealer, as defined in section 4517.01 of the Revised Code, from the sale or other transfer of a motor vehicle, as defined in that section, to another motor vehicle dealer for the purpose of resale by the transferee motor vehicle dealer, but only if the sale or other transfer was based upon the transferee's need to meet a specific customer's preference for a motor vehicle;

(u) Receipts from a financial institution described in division (E)(3) of this section for services provided to the financial institution in connection with the issuance, processing, servicing, and management of loans or credit accounts, if such financial institution and the recipient of such receipts have at least fifty per cent of their ownership interests owned or controlled, directly or constructively through related interests, by common owners;

(v) Receipts realized from administering anti-neoplastic drugs and other cancer chemotherapy, biologicals, therapeutic agents, and supportive drugs in a physician's office to patients with cancer;

(w) Funds received or used by a mortgage broker that is not a dealer in intangibles, other than fees or other consideration, pursuant to a table-funding mortgage loan or warehouse-lending mortgage loan. Terms

used in division (F)(2)(w) of this section have the same meanings as in section 1322.01 of the Revised Code, except "mortgage broker" means a person assisting a buyer in obtaining a mortgage loan for a fee or other consideration paid by the buyer or a lender, or a person engaged in table-funding or warehouse-lending mortgage loans that are first lien mortgage loans.

(x) Property, money, and other amounts received by a professional employer organization, as defined in section 4125.01 of the Revised Code, from a client employer, as defined in that section, in excess of the administrative fee charged by the professional employer organization to the client employer;

(y) In the case of amounts retained as commissions by a permit holder under Chapter 3769. of the Revised Code, an amount equal to the amounts specified under that chapter that must be paid to or collected by the tax commissioner as a tax and the amounts specified under that chapter to be used as purse money;

(z) Qualifying distribution center receipts.

(i) For purposes of division (F)(2)(z) of this section:

(I) "Qualifying distribution center receipts" means receipts of a supplier from qualified property that is delivered to a qualified distribution center, multiplied by a quantity that equals one minus the Ohio delivery percentage.

(II) "Qualified property" means tangible personal property delivered to a qualified distribution center that is shipped to that qualified distribution center solely for further shipping by the qualified distribution center to another location in this state or elsewhere. "Further shipping" includes storing and repackaging such property into smaller or larger bundles, so long as such property is not subject to further manufacturing or processing.

(III) "Qualified distribution center" means a warehouse or other similar facility in this state that, for the qualifying year, is operated by a person that is not part of a combined taxpayer group and that has a qualifying certificate. However, all warehouses or other similar facilities that are operated by persons in the same taxpayer group and that are located within one mile of each other shall be treated as one qualified distribution center.

(IV) "Qualifying year" means the calendar year to which the qualifying certificate applies.

(V) "Qualifying period" means the period of the first day of July of the second year preceding the qualifying year through the thirtieth day of June of the year preceding the qualifying year.

(VI) "Qualifying certificate" means the certificate issued by the tax commissioner after the operator of a distribution center files an annual

application with the commissioner. The application and annual fee shall be filed and paid for each qualified distribution center on or before the first day of September before the qualifying year or within forty-five days after the distribution center opens, whichever is later.

The applicant must substantiate to the commissioner's satisfaction that, for the qualifying period, all persons operating the distribution center have more than fifty per cent of the cost of the qualified property shipped to a location such that it would be situated outside this state under the provisions of division (E) of section 5751.033 of the Revised Code. The applicant must also substantiate that the distribution center cumulatively had costs from its suppliers equal to or exceeding five hundred million dollars during the qualifying period. (For purposes of division (F)(2)(z)(i)(VI) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.) The commissioner may require the applicant to have an independent certified public accountant certify that the calculation of the minimum thresholds required for a qualified distribution center by the operator of a distribution center has been made in accordance with generally accepted accounting principles. The commissioner shall issue or deny the issuance of a certificate within sixty days after the receipt of the application. A denial is subject to appeal under section 5717.02 of the Revised Code. If the operator files a timely appeal under section 5717.02 of the Revised Code, the operator shall be granted a qualifying certificate, provided that the operator is liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have otherwise not been owed by its suppliers if the qualifying certificate was valid.

(VII) "Ohio delivery percentage" means the proportion of the total property delivered to a destination inside Ohio from the qualified distribution center during the qualifying period compared with total deliveries from such distribution center everywhere during the qualifying period.

(ii) If the distribution center is new and was not open for the entire qualifying period, the operator of the distribution center may request that the commissioner grant a qualifying certificate. If the certificate is granted and it is later determined that more than fifty per cent of the qualified property during that year was not shipped to a location such that it would be situated outside of this state under the provisions of division (E) of section 5751.033 of the Revised Code or if it is later determined that the person that operates the distribution center had average monthly costs from its suppliers of less

than forty million dollars during that year, then the operator of the distribution center shall be liable for any tax, interest, or penalty upon amounts claimed as qualifying distribution center receipts, other than those receipts exempt under division (C)(1) of section 5751.011 of the Revised Code, that would have not otherwise been owed by its suppliers during the qualifying year if the qualifying certificate was valid. (For purposes of division (F)(2)(z)(ii) of this section, "supplier" excludes any person that is part of the consolidated elected taxpayer group, if applicable, of the operator of the qualified distribution center.)

(iii) When filing an application for a qualifying certificate under division (F)(2)(z)(i)(VI) of this section, the operator of a qualified distribution center also shall provide documentation, as the commissioner requires, for the commissioner to ascertain the Ohio delivery percentage. The commissioner, upon issuing the qualifying certificate, also shall certify the Ohio delivery percentage. The operator of the qualified distribution center may appeal the commissioner's certification of the Ohio delivery percentage in the same manner as an appeal is taken from the denial of a qualifying certificate under division (F)(2)(z)(i)(VI) of this section.

Within thirty days after all appeals have been exhausted, the operator of the qualified distribution center shall notify the affected suppliers of qualified property that such suppliers are required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed. The supplier of tangible personal property delivered to the qualified distribution center shall include in its report of taxable gross receipts the receipts from the total sales of property delivered to the qualified distribution center for the calendar quarter or calendar year, whichever the case may be, multiplied by the Ohio delivery percentage for the qualifying year. Nothing in division (F)(2)(z)(iii) of this section shall be construed as imposing liability on the operator of a qualified distribution center for the tax imposed by this chapter arising from any change to the Ohio delivery percentage.

(iv) In the case where the distribution center is new and not open for the entire qualifying period, the operator shall make a good faith estimate of an Ohio delivery percentage for use by suppliers in their reports of taxable gross receipts for the remainder of the qualifying period. The operator of the facility shall disclose to the suppliers that such Ohio delivery percentage is

an estimate and is subject to recalculation. By the due date of the next application for a qualifying certificate, the operator shall determine the actual Ohio delivery percentage for the estimated qualifying period and proceed as provided in division (F)(2)(z)(iii) of this section with respect to the calculation and recalculation of the Ohio delivery percentage. The supplier is required to file, within sixty days after receiving notice from the operator of the qualified distribution center, amended reports for the impacted calendar quarter or quarters or calendar year, whichever the case may be. Any additional tax liability or tax overpayment shall be subject to interest but shall not be subject to the imposition of any penalty so long as the amended returns are timely filed.

(v) Qualifying certificates and Ohio delivery percentages issued by the commissioner shall be open to public inspection and shall be timely published by the commissioner. A supplier relying in good faith on a certificate issued under this division shall not be subject to tax on the qualifying distribution center receipts under division (F)(2)(z) of this section. A person receiving a qualifying certificate is responsible for paying the tax, interest, and penalty upon amounts claimed as qualifying distribution center receipts that would not otherwise have been owed by the supplier if the qualifying certificate were available when it is later determined that the qualifying certificate should not have been issued because the statutory requirements were in fact not met.

(vi) The annual fee for a qualifying certificate shall be one hundred thousand dollars for each qualified distribution center. If a qualifying certificate is not issued, the annual fee is subject to refund after the exhaustion of all appeals provided for in division (F)(2)(z)(i)(VI) of this section. The fee imposed under this division may be assessed in the same manner as the tax imposed under this chapter. The first one hundred thousand dollars of the annual application fees collected each calendar year shall be credited to the commercial activity tax administrative fund. The remainder of the annual application fees collected shall be distributed in the same manner required under section 5751.20 of the Revised Code.

(vii) The tax commissioner may require that adequate security be posted by the operator of the distribution center on appeal when the commissioner disagrees that the applicant has met the minimum thresholds for a qualified distribution center as set forth in divisions (F)(2)(z)(i)(VI) and (F)(2)(z)(ii) of this section.

(aa) Receipts of an employer from payroll deductions relating to the reimbursement of the employer for advancing moneys to an unrelated third party on an employee's behalf;

(bb) Cash discounts allowed and taken;

(cc) Returns and allowances;

(dd) Bad debts from receipts on the basis of which the tax imposed by this chapter was paid in a prior quarterly tax payment period. For the purpose of this division, "bad debts" means any debts that have become worthless or uncollectible between the preceding and current quarterly tax payment periods, have been uncollected for at least six months, and that may be claimed as a deduction under section 166 of the Internal Revenue Code and the regulations adopted under that section, or that could be claimed as such if the taxpayer kept its accounts on the accrual basis. "Bad debts" does not include repossessed property, uncollectible amounts on property that remains in the possession of the taxpayer until the full purchase price is paid, or expenses in attempting to collect any account receivable or for any portion of the debt recovered;

(ee) Any amount realized from the sale of an account receivable to the extent the receipts from the underlying transaction giving rise to the account receivable were included in the gross receipts of the taxpayer;

(ff) Any receipts directly attributed to providing public services pursuant to sections 126.60 to 126.605 of the Revised Code, or any receipts directly attributed to a transfer agreement or to the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

(gg) Any receipts for which the tax imposed by this chapter is prohibited by the Constitution or laws of the United States or the Constitution of Ohio.

~~(gg)~~(hh)(i) As used in this division:

(I) "Qualified uranium receipts" means receipts from the sale, exchange, lease, loan, production, processing, or other disposition of uranium within a uranium enrichment zone certified by the tax commissioner under division (F)(2)(hh)(ii) of this section. "Qualified uranium receipts" does not include any receipts with a situs in this state outside a uranium enrichment zone certified by the tax commissioner under division (F)(2)(hh)(ii) of this section.

(II) "Uranium enrichment zone" means all real property that is part of a uranium enrichment facility licensed by the United States nuclear regulatory commission and that was or is owned or controlled by the United States department of energy or its successor.

(ii) Any person that owns, leases, or operates real or tangible personal property constituting or located within a uranium enrichment zone may apply to the tax commissioner to have the uranium enrichment zone certified for the purpose of excluding qualified uranium receipts under division

(F)(2)(hh) of this section. The application shall include such information that the tax commissioner prescribes. Within sixty days after receiving the application, the tax commissioner shall certify the zone for that purpose if the commissioner determines that the property qualifies as a uranium enrichment zone as defined in division (F)(2)(hh) of this section, or, if the tax commissioner determines that the property does not qualify, the commissioner shall deny the application or request additional information from the applicant. If the tax commissioner denies an application, the commissioner shall state the reasons for the denial. The applicant may appeal the denial of an application to the board of tax appeals pursuant to section 5717.02 of the Revised Code. If the applicant files a timely appeal, the tax commissioner shall conditionally certify the applicant's property. The conditional certification shall expire when all of the applicant's appeals are exhausted. Until final resolution of the appeal, the applicant shall retain the applicant's records in accordance with section 5751.12 of the Revised Code, notwithstanding any time limit on the preservation of records under that section.

(ii) Amounts realized by licensed motor fuel dealers or licensed permissive motor fuel dealers from the exchange of petroleum products, including motor fuel, between such dealers, provided that delivery of the petroleum products occurs at a refinery, terminal, pipeline, or marine vessel and that the exchanging dealers agree neither dealer shall require monetary compensation from the other for the value of the exchanged petroleum products other than such compensation for differences in product location or grade. Division (F)(2)(~~gg~~)(ii) of this section does not apply to amounts realized as a result of differences in location or grade of exchanged petroleum products or from handling, lubricity, dye, or other additive injections fees, pipeline security fees, or similar fees. As used in this division, "motor fuel," "licensed motor fuel dealer," "licensed permissive motor fuel dealer," and "terminal" have the same meanings as in section 5735.01 of the Revised Code.

(3) In the case of a taxpayer when acting as a real estate broker, "gross receipts" includes only the portion of any fee for the service of a real estate broker, or service of a real estate salesperson associated with that broker, that is retained by the broker and not paid to an associated real estate salesperson or another real estate broker. For the purposes of this division, "real estate broker" and "real estate salesperson" have the same meanings as in section 4735.01 of the Revised Code.

(4) A taxpayer's method of accounting for gross receipts for a tax period shall be the same as the taxpayer's method of accounting for federal income

tax purposes for the taxpayer's federal taxable year that includes the tax period. If a taxpayer's method of accounting for federal income tax purposes changes, its method of accounting for gross receipts under this chapter shall be changed accordingly.

(G) "Taxable gross receipts" means gross receipts situated to this state under section 5751.033 of the Revised Code.

(H) A person has "substantial nexus with this state" if any of the following applies. The person:

- (1) Owns or uses a part or all of its capital in this state;
- (2) Holds a certificate of compliance with the laws of this state authorizing the person to do business in this state;
- (3) Has bright-line presence in this state;
- (4) Otherwise has nexus with this state to an extent that the person can be required to remit the tax imposed under this chapter under the Constitution of the United States.

(I) A person has "bright-line presence" in this state for a reporting period and for the remaining portion of the calendar year if any of the following applies. The person:

(1) Has at any time during the calendar year property in this state with an aggregate value of at least fifty thousand dollars. For the purpose of division (I)(1) of this section, owned property is valued at original cost and rented property is valued at eight times the net annual rental charge.

(2) Has during the calendar year payroll in this state of at least fifty thousand dollars. Payroll in this state includes all of the following:

(a) Any amount subject to withholding by the person under section 5747.06 of the Revised Code;

(b) Any other amount the person pays as compensation to an individual under the supervision or control of the person for work done in this state; and

(c) Any amount the person pays for services performed in this state on its behalf by another.

(3) Has during the calendar year taxable gross receipts of at least five hundred thousand dollars.

(4) Has at any time during the calendar year within this state at least twenty-five per cent of the person's total property, total payroll, or total gross receipts.

(5) Is domiciled in this state as an individual or for corporate, commercial, or other business purposes.

(J) "Tangible personal property" has the same meaning as in section 5739.01 of the Revised Code.

(K) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended. Any term used in this chapter that is not otherwise defined has the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes unless a different meaning is clearly required. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States relating to federal income taxes.

(L) "Calendar quarter" means a three-month period ending on the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, or the thirty-first day of December.

(M) "Tax period" means the calendar quarter or calendar year on the basis of which a taxpayer is required to pay the tax imposed under this chapter.

(N) "Calendar year taxpayer" means a taxpayer for which the tax period is a calendar year.

(O) "Calendar quarter taxpayer" means a taxpayer for which the tax period is a calendar quarter.

(P) "Agent" means a person authorized by another person to act on its behalf to undertake a transaction for the other, including any of the following:

- (1) A person receiving a fee to sell financial instruments;
- (2) A person retaining only a commission from a transaction with the other proceeds from the transaction being remitted to another person;
- (3) A person issuing licenses and permits under section 1533.13 of the Revised Code;
- (4) A lottery sales agent holding a valid license issued under section 3770.05 of the Revised Code;
- (5) A person acting as an agent of the division of liquor control under section 4301.17 of the Revised Code.

(Q) "Received" includes amounts accrued under the accrual method of accounting.

(R) "Reporting person" means a person in a consolidated elected taxpayer or combined taxpayer group that is designated by that group to legally bind the group for all filings and tax liabilities and to receive all legal notices with respect to matters under this chapter, or, for the purposes of section 5751.04 of the Revised Code, a separate taxpayer that is not a member of such a group.

Sec. 5751.011. (A) A group of two or more persons may elect to be a consolidated elected taxpayer for the purposes of this chapter if the group satisfies all of the following requirements:

(1) The group elects to include all persons, including persons enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code, having at least eighty per cent, or having at least fifty per cent, of the value of their ownership interests owned or controlled, directly or constructively through related interests, by common owners during all or any portion of the tax period, together with the common owners.

A group making its initial election on the basis of the eighty per cent ownership test may change its election so that its consolidated elected taxpayer group is formed on the basis of the fifty per cent ownership test if all of the following are satisfied:

(a) When the initial election was made, the group did not have any persons satisfying the fifty per cent ownership test;

(b) One or more of the persons in the initial group subsequently acquires ownership interests in a person such that the fifty per cent ownership test is satisfied, the eighty per cent ownership test is not satisfied, and the acquired person would be required to be included in a combined taxpayer group under section 5751.012 of the Revised Code;

(c) The group requests the change in a written request to the tax commissioner on or before the due date for filing the first return due under section 5751.051 of the Revised Code after the date of the acquisition;

(d) The group has not previously changed its election.

At the election of the group, all entities that are not incorporated or formed under the laws of a state or of the United States and that meet the consolidated elected ownership test shall either be included in the group or all shall be excluded from the group. If, at the time of registration, the group does not include any such entities that meet the consolidated elected ownership test, the group shall elect to either include or exclude the newly acquired entities before the due date of the first return due after the date of the acquisition.

Each group shall notify the tax commissioner of the foregoing elections before the due date of the return for the period in which the election becomes binding. If fifty per cent of the value of a person's ownership interests is owned or controlled by each of two consolidated elected taxpayer groups formed under the fifty per cent ownership or control test, that person is a member of each group for the purposes of this section, and each group shall include in the group's taxable gross receipts fifty per cent of that person's taxable gross receipts. Otherwise, all of that person's taxable gross receipts shall be included in the taxable gross receipts of the consolidated elected taxpayer group of which the person is a member. In no event shall the ownership or control of fifty per cent of the value of a

person's ownership interests by two otherwise unrelated groups form the basis for consolidating the groups into a single consolidated elected taxpayer group or permit any exclusion under division (C) of this section of taxable gross receipts between members of the two groups. Division (A)(3) of this section applies with respect to the elections described in this division.

(2) The group makes the election to be treated as a consolidated elected taxpayer in the manner prescribed under division (D) of this section.

(3) Subject to review and audit by the tax commissioner, the group agrees that all of the following apply:

(a) The group shall file reports as a single taxpayer for at least the next eight calendar quarters following the election so long as at least two or more of the members of the group meet the requirements of division (A)(1) of this section.

(b) Before the expiration of the eighth such calendar quarter, the group shall notify the commissioner if it elects to cancel its designation as a consolidated elected taxpayer. If the group does not so notify the tax commissioner, the election remains in effect for another eight calendar quarters.

(c) If, at any time during any of those eight calendar quarters following the election, a former member of the group no longer meets the requirements under division (A)(1) of this section, that member shall report and pay the tax imposed under this chapter separately, as a member of a combined taxpayer, or, if the former member satisfies such requirements with respect to another consolidated elected group, as a member of that consolidated elected group.

(d) The group agrees to the application of division (B) of this section.

(B) A group of persons making the election under this section shall report and pay tax on all of the group's taxable gross receipts even if substantial nexus with this state does not exist for one or more persons in the group.

(C)(1)(a) Members of a consolidated elected taxpayer group shall exclude gross receipts among persons included in the consolidated elected taxpayer group.

(b) Subject to divisions (C)(1)(c) and (C)(2) of this section, nothing in this section shall have the effect of requiring a consolidated elected taxpayer group to include gross receipts received by a person enumerated in divisions (E)(2) to (10) of section 5751.01 of the Revised Code if that person is a member of the group pursuant to the elections made by the group under division (A)(1) of this section.

(c)(i) As used in division (C)(1)(c) of this section, "dealer transfer"

means a transfer of property that satisfies both of the following: (I) the property is directly transferred by any means from one member of the group to another member of the group that is a dealer in intangibles but is not a qualifying dealer as defined in section ~~5725.24~~ 5707.031 of the Revised Code; and (II) the property is subsequently delivered by the dealer in intangibles to a person that is not a member of the group.

(ii) In the event of a dealer transfer, a consolidated elected taxpayer group shall not exclude, under division (C) of this section, gross receipts from the transfer described in division (C)(1)(c)(i)(I) of this section.

(2) Gross receipts related to the sale or transmission of electricity through the use of an intermediary regional transmission organization approved by the federal energy regulatory commission shall be excluded from taxable gross receipts under division (C)(1) of this section if all other requirements of that division are met, even if the receipts are from and to the same member of the group.

(D) To make the election to be a consolidated elected taxpayer, a group of persons shall notify the tax commissioner of the election in the manner prescribed by the commissioner and pay the commissioner a registration fee equal to the lesser of two hundred dollars or twenty dollars for each person in the group. No additional fee shall be imposed for the addition of new members to the group once the group has remitted a fee in the amount of two hundred dollars. The election shall be made and the fee paid before the beginning of the first calendar quarter to which the election applies. The fee shall be collected and used in the same manner as provided in section 5751.04 of the Revised Code.

The election shall be made on a form prescribed by the tax commissioner for that purpose and shall be signed by one or more individuals with authority, separately or together, to make a binding election on behalf of all persons in the group.

Any person acquired or formed after the filing of the registration shall be included in the group if the person meets the requirements of division (A)(1) of this section, and the group shall notify the tax commissioner of any additions to the group with the next tax return it files with the commissioner.

Sec. 5751.20. (A) As used in sections 5751.20 to 5751.22 of the Revised Code:

(1) "School district," "joint vocational school district," "local taxing unit," "recognized valuation," "fixed-rate levy," and "fixed-sum levy" have the same meanings as used in section 5727.84 of the Revised Code.

(2) "State education aid" for a school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of state aid amounts computed for the district under the following provisions, as they existed for the applicable fiscal year: division (A) of section 3317.022 of the Revised Code, including the amounts calculated under sections 3317.029 and 3317.0217 of the Revised Code; divisions (C)(1), (C)(4), (D), (E), and (F) of section 3317.022; divisions (B), (C), and (D) of section 3317.023; divisions (L) and (N) of section 3317.024; section 3317.0216; and any unit payments for gifted student services paid under sections 3317.05, 3317.052, and 3317.053 of the Revised Code; except that, for fiscal years 2008 and 2009, the amount computed for the district under Section 269.20.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be substituted for the amount computed under division (D) of section 3317.022 of the Revised Code, and the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal ~~year~~ years 2010 and ~~for each fiscal year thereafter~~ 2011, the sum of the amounts computed under former sections 3306.052, 3306.12, 3306.13, 3306.19, 3306.191, and 3306.192 of the Revised Code;

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS."

(3) "State education aid" for a joint vocational school district means the following:

(a) For fiscal years prior to fiscal year 2010, the sum of the state aid computed for the district under division (N) of section 3317.024 and section 3317.16 of the Revised Code, except that, for fiscal years 2008 and 2009, the amount computed under Section 269.30.80 of H.B. 119 of the 127th general assembly and as that section subsequently may be amended shall be included.

(b) For fiscal years 2010 and 2011, the amount paid in accordance with the section of ~~this act~~ H.B. 1 of the 128th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(c) For fiscal years 2012 and 2013, the amount paid in accordance with the section of H.B. 153 of the 129th general assembly entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

(4) "State education aid offset" means the amount determined for each school district or joint vocational school district under division (A)(1) of section 5751.21 of the Revised Code.

(5) "Machinery and equipment property tax value loss" means the

amount determined under division (C)(1) of this section.

(6) "Inventory property tax value loss" means the amount determined under division (C)(2) of this section.

(7) "Furniture and fixtures property tax value loss" means the amount determined under division (C)(3) of this section.

(8) "Machinery and equipment fixed-rate levy loss" means the amount determined under division (D)(1) of this section.

(9) "Inventory fixed-rate levy loss" means the amount determined under division (D)(2) of this section.

(10) "Furniture and fixtures fixed-rate levy loss" means the amount determined under division (D)(3) of this section.

(11) "Total fixed-rate levy loss" means the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, the furniture and fixtures fixed-rate levy loss, and the telephone company fixed-rate levy loss.

(12) "Fixed-sum levy loss" means the amount determined under division (E) of this section.

(13) "Machinery and equipment" means personal property subject to the assessment rate specified in division (F) of section 5711.22 of the Revised Code.

(14) "Inventory" means personal property subject to the assessment rate specified in division (E) of section 5711.22 of the Revised Code.

(15) "Furniture and fixtures" means personal property subject to the assessment rate specified in division (G) of section 5711.22 of the Revised Code.

(16) "Qualifying levies" are levies in effect for tax year 2004 or applicable to tax year 2005 or approved at an election conducted before September 1, 2005. For the purpose of determining the rate of a qualifying levy authorized by section 5705.212 or 5705.213 of the Revised Code, the rate shall be the rate that would be in effect for tax year 2010.

(17) "Telephone property" means tangible personal property of a telephone, telegraph, or interexchange telecommunications company subject to an assessment rate specified in section 5727.111 of the Revised Code in tax year 2004.

(18) "Telephone property tax value loss" means the amount determined under division (C)(4) of this section.

(19) "Telephone property fixed-rate levy loss" means the amount determined under division (D)(4) of this section.

(20) "Taxes charged and payable" means taxes charged and payable after the reduction required by section 319.301 of the Revised Code but

before the reductions required by sections 319.302 and 323.152 of the Revised Code.

(21) "Median estate tax collections" means, in the case of a municipal corporation to which revenue from the taxes levied in Chapter 5731. of the Revised Code was distributed in each of calendar years 2006, 2007, 2008, and 2009, the median of those distributions. In the case of a municipal corporation to which no distributions were made in one or more of those years, "median estate tax collections" means zero.

(22) "Total resources," in the case of a school district, means the sum of the amounts in divisions (A)(22)(a) to (h) of this section less any reduction required under division (A)(32) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code, excluding the portion of such payments attributable to levies for joint vocational school district purposes;

(c) The sum of fixed-sum levy loss payments received by the school district in fiscal year 2010 pursuant to division (E)(1) of section 5727.85 and division (E)(1) of section 5751.21 of the Revised Code for fixed-sum levies imposed for a purpose other than paying debt charges;

(d) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008, including taxes charged and payable from emergency levies imposed under section 5709.194 of the Revised Code and excluding taxes levied for joint vocational school district purposes;

(e) Fifty per cent of the school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009, including taxes charged and payable from emergency levies and excluding taxes levied for joint vocational school district purposes;

(f) The school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009, including taxes charged and payable from emergency levies;

(g) The amount certified for fiscal year 2010 under division (A)(2) of section 3317.08 of the Revised Code;

(h) Distributions received during calendar year 2009 from taxes levied under section 718.09 of the Revised Code.

(23) "Total resources," in the case of a joint vocational school district,

means the sum of amounts in divisions (A)(23)(a) to (g) of this section less any reduction required under division (A)(32) of this section.

(a) The state education aid for fiscal year 2010;

(b) The sum of the payments received by the joint vocational school district in fiscal year 2010 for current expense levy losses pursuant to division (C)(2) of section 5727.85 and divisions (C)(8) and (9) of section 5751.21 of the Revised Code;

(c) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expense purposes for tax year 2008;

(d) Fifty per cent of the joint vocational school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses for tax year 2009;

(e) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2008;

(f) Fifty per cent of a city, local, or exempted village school district's taxes charged and payable against all property on the tax list of real and public utility property for current expenses of the joint vocational school district for tax year 2009;

(g) The joint vocational school district's taxes charged and payable against all property on the general tax list of personal property for current expenses for tax year 2009.

(24) "Total resources," in the case of county mental health and disability related functions, means the sum of the amounts in divisions (A)(24)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for mental health and developmental disability related functions in calendar year 2010 under division (A)(1) of section 5727.86 and division (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for mental health and developmental disability related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(25) "Total resources," in the case of county senior services related functions, means the sum of the amounts in divisions (A)(25)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for senior services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for senior services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(26) "Total resources," in the case of county children's services related functions, means the sum of the amounts in divisions (A)(26)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for children's services related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for children's services related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(27) "Total resources," in the case of county public health related functions, means the sum of the amounts in divisions (A)(27)(a) and (b) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for public health related functions in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) With respect to taxes levied by the county for public health related purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009.

(28) "Total resources," in the case of all county functions not included in divisions (A)(24) to (27) of this section, means the sum of the amounts in divisions (A)(28)(a) to (d) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the county for all other purposes in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The county's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised

Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the county for all other purposes, the taxes charged and payable for such purposes against all property on the tax list of real and public utility property for tax year 2009, excluding taxes charged and payable for the purpose of paying debt charges;

(d) The sum of the amounts distributed to the county in calendar year 2010 for the taxes levied pursuant to sections 5739.021 and 5741.021 of the Revised Code.

(29) "Total resources," in the case of a municipal corporation, means the sum of the amounts in divisions (A)(29)(a) to (g) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the municipal corporation in calendar year 2010 under division (A)(1) of section 5727.86 and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The municipal corporation's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) The sum of the amounts distributed to the municipal corporation in calendar year 2010 pursuant to section 5747.50 of the Revised Code;

(d) With respect to taxes levied by the municipal corporation, the taxes charged and payable against all property on the tax list of real and public utility property for current expenses, defined in division (A)(33) of this section, for tax year 2009;

(e) The amount of admissions tax collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(f) The amount of income taxes collected by the municipal corporation in calendar year 2008, or if such information has not yet been reported to the tax commissioner, in the most recent year before 2008 for which the municipal corporation has reported data to the commissioner;

(g) The municipal corporation's median estate tax collections.

(30) "Total resources," in the case of a township, means the sum of the amounts in divisions (A)(30)(a) to (c) of this section less any reduction

required under division (A)(32) of this section.

(a) The sum of the payments received by the township in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time, excluding payments received for debt purposes;

(b) The township's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the township, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges.

(31) "Total resources," in the case of a local taxing unit that is not a county, municipal corporation, or township, means the sum of the amounts in divisions (A)(31)(a) to (e) of this section less any reduction required under division (A)(32) of this section.

(a) The sum of the payments received by the local taxing unit in calendar year 2010 pursuant to division (A)(1) of section 5727.86 of the Revised Code and divisions (A)(1) and (2) of section 5751.22 of the Revised Code as they existed at that time;

(b) The local taxing unit's percentage share of county undivided local government fund allocations as certified to the tax commissioner for calendar year 2010 by the county auditor under division (J) of section 5747.51 of the Revised Code or division (F) of section 5747.53 of the Revised Code multiplied by the total amount actually distributed in calendar year 2010 from the county undivided local government fund;

(c) With respect to taxes levied by the local taxing unit, the taxes charged and payable against all property on the tax list of real and public utility property for tax year 2009 excluding taxes charged and payable for the purpose of paying debt charges;

(d) The amount received from the tax commissioner during calendar year 2010 for sales or use taxes authorized under sections 5739.023 and 5741.022 of the Revised Code;

(e) For institutions of higher education receiving tax revenue from a local levy, as identified in section 3358.02 of the Revised Code, the final state share of instruction allocation for fiscal year 2010 as calculated by the board of regents and reported to the state controlling board.

(32) If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "total resources" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under division (C)(2) of section 5727.85, division (A)(1) of section 5727.85, divisions (C)(8) and (9) of section 5751.21, or division (A)(1) of section 5751.22 of the Revised Code.

(33) "Municipal current expense property tax levies" means all property tax levies of a municipality, except those with the following levy names: airport resurfacing; bond or any levy name including the word "bond"; capital improvement or any levy name including the word "capital"; debt or any levy name including the word "debt"; equipment or any levy name including the word "equipment," unless the levy is for combined operating and equipment; employee termination fund; fire pension or any levy containing the word "pension," including police pensions; fireman's fund or any practically similar name; sinking fund; road improvements or any levy containing the word "road"; fire truck or apparatus; flood or any levy containing the word "flood"; conservancy district; county health; note retirement; sewage, or any levy containing the words "sewage" or "sewer"; park improvement; parkland acquisition; storm drain; street or any levy name containing the word "street"; lighting, or any levy name containing the word "lighting"; and water.

(34) "Current expense TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the payments received by the school district in fiscal year 2011 pursuant to divisions (C)(10) and (11) of section 5751.21 of the Revised Code to the extent paid for current expense levies. In the case of a municipal corporation, "current expense TPP allocation" means the sum of the payments received by the municipal corporation in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code to the extent paid for municipal current expense property tax levies as defined in division (A)(33) of this section. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "current expense TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of

section 5751.22 of the Revised Code.

(35) "TPP allocation" means the sum of payments received by a local taxing unit in calendar year 2010 pursuant to divisions (A)(1) and (2) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "TPP allocation" used to compute payments to be made under division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payment attributable to the fixed-rate levy loss of that levy as would be computed under division (A)(1) of that section.

(36) "Total TPP allocation" means, in the case of a school district or joint vocational school district, the sum of the amounts received in fiscal year 2011 pursuant to divisions (C)(10) and (11) and (D) of section 5751.21 of the Revised Code. In the case of a local taxing unit, "total TPP allocation" means the sum of payments received by the unit in calendar year 2010 pursuant to divisions (A)(1), (2), and (3) of section 5751.22 of the Revised Code. If a fixed-rate levy that is a qualifying levy is not imposed in any year after tax year 2010, "total TPP allocation" used to compute payments to be made under division (C)(12) of section 5751.21 or division (A)(1)(b) or (c) of section 5751.22 of the Revised Code in the tax years following the last year the levy is imposed shall be reduced by the amount of payments attributable to the fixed-rate levy loss of that levy as would be computed under divisions (C)(10) and (11) of section 5751.21 or division (A)(1) of section 5751.22 of the Revised Code.

(37) "Non-current expense TPP allocation" means the difference of total TPP allocation minus the sum of current expense TPP allocation and the portion of total TPP allocation constituting reimbursement for debt levies, pursuant to division (D) of section 5751.21 of the Revised Code in the case of a school district or joint vocational school district and pursuant to division (A)(3) of section 5751.22 of the Revised Code in the case of a municipal corporation.

(38) "Threshold per cent" means, in the case of a school district or joint vocational school district, two per cent for fiscal year 2012 and four per cent for fiscal years 2013 and thereafter. In the case of a local taxing unit, "threshold per cent" means two per cent for tax year 2011, four per cent for tax year 2012, and six per cent for tax years 2013 and thereafter.

(B) The commercial activities tax receipts fund is hereby created in the state treasury and shall consist of money arising from the tax imposed under this chapter. Eighty-five one-hundredths of one per cent of the money credited to that fund shall be credited to the tax reform system

implementation fund, which is hereby created in the state treasury, and shall be used to defray the costs incurred by the department of taxation in administering the tax imposed by this chapter and in implementing tax reform measures. The remainder in the commercial activities tax receipts fund shall be credited for each fiscal year in the following percentages to the general revenue fund, to the school district tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.21 of the Revised Code, and to the local government tangible property tax replacement fund, which is hereby created in the state treasury for the purpose of making the payments described in section 5751.22 of the Revised Code, in the following percentages:

Fiscal year	General Revenue Fund	School District Tangible Property Tax Replacement Fund	Local Government Tangible Property Tax Replacement Fund
2006	67.7%	22.6%	9.7%
2007	0%	70.0%	30.0%
2008	0%	70.0%	30.0%
2009	0%	70.0%	30.0%
2010	0%	70.0%	30.0%
2011	0%	70.0%	30.0%
2012	5.3 25.0%	70.0 52.5%	24.7 22.5%
2013 and thereafter	10.6 50.0%	70.0 35.0%	19.4 15.0%
2014	14.1%	70.0%	15.9%
2015	17.6%	70.0%	12.4%
2016	21.1%	70.0%	8.9%
2017	24.6%	70.0%	5.4%
2018	28.1%	70.0%	1.9%
2019 and thereafter	30%	70%	0%

(C) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory property, furniture and fixtures property, and telephone property tax value losses, which are the applicable amounts described in divisions (C)(1), (2), (3), and (4) of this section, except as provided in division (C)(5) of this section:

(1) Machinery and equipment property tax value loss is the taxable value of machinery and equipment property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, thirty-three and eight-tenths per cent;
- (b) For tax year 2007, sixty-one and three-tenths per cent;
- (c) For tax year 2008, eighty-three per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

(2) Inventory property tax value loss is the taxable value of inventory property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, a fraction, the numerator of which is five and three-fourths and the denominator of which is twenty-three;
- (b) For tax year 2007, a fraction, the numerator of which is nine and one-half and the denominator of which is twenty-three;
- (c) For tax year 2008, a fraction, the numerator of which is thirteen and one-fourth and the denominator of which is twenty-three;
- (d) For tax year 2009 and thereafter a fraction, the numerator of which is seventeen and the denominator of which is twenty-three.

(3) Furniture and fixtures property tax value loss is the taxable value of furniture and fixture property as reported by taxpayers for tax year 2004 multiplied by:

- (a) For tax year 2006, twenty-five per cent;
- (b) For tax year 2007, fifty per cent;
- (c) For tax year 2008, seventy-five per cent;
- (d) For tax year 2009 and thereafter, one hundred per cent.

The taxable value of property reported by taxpayers used in divisions (C)(1), (2), and (3) of this section shall be such values as determined to be final by the tax commissioner as of August 31, 2005. Such determinations shall be final except for any correction of a clerical error that was made prior to August 31, 2005, by the tax commissioner.

(4) Telephone property tax value loss is the taxable value of telephone property as taxpayers would have reported that property for tax year 2004 if the assessment rate for all telephone property for that year were twenty-five per cent, multiplied by:

- (a) For tax year 2006, zero per cent;
- (b) For tax year 2007, zero per cent;
- (c) For tax year 2008, zero per cent;
- (d) For tax year 2009, sixty per cent;
- (e) For tax year 2010, eighty per cent;
- (f) For tax year 2011 and thereafter, one hundred per cent.

(5) Division (C)(5) of this section applies to any school district, joint

vocational school district, or local taxing unit in a county in which is located a facility currently or formerly devoted to the enrichment or commercialization of uranium or uranium products, and for which the total taxable value of property listed on the general tax list of personal property for any tax year from tax year 2001 to tax year 2004 was fifty per cent or less of the taxable value of such property listed on the general tax list of personal property for the next preceding tax year.

In computing the fixed-rate levy losses under divisions (D)(1), (2), and (3) of this section for any school district, joint vocational school district, or local taxing unit to which division (C)(5) of this section applies, the taxable value of such property as listed on the general tax list of personal property for tax year 2000 shall be substituted for the taxable value of such property as reported by taxpayers for tax year 2004, in the taxing district containing the uranium facility, if the taxable value listed for tax year 2000 is greater than the taxable value reported by taxpayers for tax year 2004. For the purpose of making the computations under divisions (D)(1), (2), and (3) of this section, the tax year 2000 valuation is to be allocated to machinery and equipment, inventory, and furniture and fixtures property in the same proportions as the tax year 2004 values. For the purpose of the calculations in division (A) of section 5751.21 of the Revised Code, the tax year 2004 taxable values shall be used.

To facilitate the calculations required under division (C) of this section, the county auditor, upon request from the tax commissioner, shall provide by August 1, 2005, the values of machinery and equipment, inventory, and furniture and fixtures for all single-county personal property taxpayers for tax year 2004.

(D) Not later than September 15, 2005, the tax commissioner shall determine for each tax year from 2006 through 2009 for each school district, joint vocational school district, and local taxing unit its machinery and equipment, inventory, and furniture and fixtures fixed-rate levy losses, and for each tax year from 2006 through 2011 its telephone property fixed-rate levy loss. Except as provided in division (F) of this section, such losses are the applicable amounts described in divisions (D)(1), (2), (3), and (4) of this section:

(1) The machinery and equipment fixed-rate levy loss is the machinery and equipment property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(2) The inventory fixed-rate loss is the inventory property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(3) The furniture and fixtures fixed-rate levy loss is the furniture and

fixture property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(4) The telephone property fixed-rate levy loss is the telephone property tax value loss multiplied by the sum of the tax rates of fixed-rate qualifying levies.

(E) Not later than September 15, 2005, the tax commissioner shall determine for each school district, joint vocational school district, and local taxing unit its fixed-sum levy loss. The fixed-sum levy loss is the amount obtained by subtracting the amount described in division (E)(2) of this section from the amount described in division (E)(1) of this section:

(1) The sum of the machinery and equipment property tax value loss, the inventory property tax value loss, and the furniture and fixtures property tax value loss, and, for 2008 through ~~2017~~ 2010, the telephone property tax value loss of the district or unit multiplied by the sum of the fixed-sum tax rates of qualifying levies. For 2006 through 2010, this computation shall include all qualifying levies remaining in effect for the current tax year and any school district levies imposed under section 5705.194 or 5705.213 of the Revised Code that are qualifying levies not remaining in effect for the current year. For 2011 through 2017 in the case of school district levies imposed under section 5705.194 or 5705.213 of the Revised Code and for all years after 2010 in the case of other fixed-sum levies, this computation shall include only qualifying levies remaining in effect for the current year. For purposes of this computation, a qualifying school district levy imposed under section 5705.194 or 5705.213 of the Revised Code remains in effect in a year after 2010 only if, for that year, the board of education levies a school district levy imposed under section 5705.194, 5705.199, 5705.213, or 5705.219 of the Revised Code for an annual sum at least equal to the annual sum levied by the board in tax year 2004 less the amount of the payment certified under this division for 2006.

(2) The total taxable value in tax year 2004 less the sum of the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses in each school district, joint vocational school district, and local taxing unit multiplied by one-half of one mill per dollar.

(3) For the calculations in divisions (E)(1) and (2) of this section, the tax value losses are those that would be calculated for tax year 2009 under divisions (C)(1), (2), and (3) of this section and for tax year 2011 under division (C)(4) of this section.

(4) To facilitate the calculation under divisions (D) and (E) of this section, not later than September 1, 2005, any school district, joint vocational school district, or local taxing unit that has a qualifying levy that

was approved at an election conducted during 2005 before September 1, 2005, shall certify to the tax commissioner a copy of the county auditor's certificate of estimated property tax millage for such levy as required under division (B) of section 5705.03 of the Revised Code, which is the rate that shall be used in the calculations under such divisions.

If the amount determined under division (E) of this section for any school district, joint vocational school district, or local taxing unit is greater than zero, that amount shall equal the reimbursement to be paid pursuant to division (E) of section 5751.21 or division (A)(3) of section 5751.22 of the Revised Code, and the one-half of one mill that is subtracted under division (E)(2) of this section shall be apportioned among all contributing fixed-sum levies in the proportion that each levy bears to the sum of all fixed-sum levies within each school district, joint vocational school district, or local taxing unit.

(F) If a school district levies a tax under section 5705.219 of the Revised Code, the fixed-rate levy loss for qualifying levies, to the extent repealed under that section, shall equal the sum of the following amounts in lieu of the amounts computed for such levies under division (D) of this section:

(1) The sum of the rates of qualifying levies to the extent so repealed multiplied by the sum of the machinery and equipment, inventory, and furniture and fixtures tax value losses for 2009 as determined under that division;

(2) The sum of the rates of qualifying levies to the extent so repealed multiplied by the telephone property tax value loss for 2011 as determined under that division.

The fixed-rate levy losses for qualifying levies to the extent not repealed under section 5705.219 of the Revised Code shall be as determined under division (D) of this section. The revised fixed-rate levy losses determined under this division and division (D) of this section first apply in the year following the first year the district levies the tax under section 5705.219 of the Revised Code.

(G) Not later than October 1, 2005, the tax commissioner shall certify to the department of education for every school district and joint vocational school district the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses determined under division (C) of this section, the machinery and equipment, inventory, furniture and fixtures, and telephone fixed-rate levy losses determined under division (D) of this section, and the fixed-sum levy losses calculated under division (E) of this section. The calculations under divisions (D) and (E) of this section

shall separately display the levy loss for each levy eligible for reimbursement.

(H) Not later than October 1, 2005, the tax commissioner shall certify the amount of the fixed-sum levy losses to the county auditor of each county in which a school district, joint vocational school district, or local taxing unit with a fixed-sum levy loss reimbursement has territory.

(I) Not later than the twenty-eighth day of February each year beginning in 2011 and ending in 2014, the tax commissioner shall certify to the department of education for each school district first levying a tax under section 5705.219 of the Revised Code in the preceding year the revised fixed-rate levy losses determined under divisions (D) and (F) of this section.

Sec. 5751.21. (A) Not later than the thirtieth day of July of 2007 through ~~2017~~ 2010, the department of education shall consult with the director of budget and management and determine the following for each school district and each joint vocational school district eligible for payment under division (B) of this section:

(1) The state education aid offset, which, except as provided in division (A)(1)(c) of this section, is the difference obtained by subtracting the amount described in division (A)(1)(b) of this section from the amount described in division (A)(1)(a) of this section:

(a) The state education aid computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July;

(b) The state education aid that would be computed for the school district or joint vocational school district for the current fiscal year as of the thirtieth day of July if the ~~recognized~~ valuation used in the calculation in division (B)(1) of section 3306.13 of the Revised Code as that division existed for fiscal years 2010 and 2011 included the machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses for the school district or joint vocational school district for the second preceding tax year, and if taxes charged and payable associated with the tax value losses are accounted for in any state education aid computation dependent on taxes charged and payable.

(c) The state education aid offset for fiscal year 2010 and fiscal year 2011 equals the greater of the state education aid offset calculated for that fiscal year under divisions (A)(1)(a) and (b) of this section and the state education aid offset calculated for fiscal year 2009. For fiscal year 2012 and 2013, the state education aid offset equals the state education aid offset for fiscal year 2011.

(2) ~~The~~ For fiscal years 2008 through 2011, the greater of zero or the

difference obtained by subtracting the state education aid offset determined under division (A)(1) of this section from the sum of the machinery and equipment fixed-rate levy loss, the inventory fixed-rate levy loss, furniture and fixtures fixed-rate levy loss, and telephone property fixed-rate levy loss certified under divisions (G) and (I) of section 5751.20 of the Revised Code for all taxing districts in each school district and joint vocational school district for the second preceding tax year.

By the thirtieth day of July of each such year, the department of education and the director of budget and management shall agree upon the amount to be determined under division (A)(1) of this section.

(B) On or before the thirty-first day of August of ~~each year beginning in 2008, 2009, and 2010~~, the department of education shall recalculate the offset described under division (A) of this section for the previous fiscal year and recalculate the payments made under division (C) of this section in the preceding fiscal year using the offset calculated under this division. If the payments calculated under this division differ from the payments made under division (C) of this section in the preceding fiscal year, the difference shall either be paid to a school district or recaptured from a school district through an adjustment at the same times during the current fiscal year that the payments under division (C) of this section are made. In August and October of the current fiscal year, the amount of each adjustment shall be three-sevenths of the amount calculated under this division. In May of the current fiscal year, the adjustment shall be one-seventh of the amount calculated under this division.

(C) The department of education shall pay from the school district tangible property tax replacement fund to each school district and joint vocational school district all of the following for fixed-rate levy losses certified under divisions (G) and (I) of section 5751.20 of the Revised Code:

(1) On or before May 31, 2006, one-seventh of the total fixed-rate levy loss for tax year 2006;

(2) On or before August 31, 2006, and October 31, 2006, one-half of six-sevenths of the total fixed-rate levy loss for tax year 2006;

(3) On or before May 31, 2007, one-seventh of the total fixed-rate levy loss for tax year 2007;

(4) On or before August 31, 2007, and October 31, 2007, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss for tax year 2007 and the total fixed-rate levy loss for tax year 2006.

(5) On or before May 31, 2008, fourteen per cent of the amount

determined under division (A)(2) of this section for fiscal year 2008, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2008 and the total fixed-rate levy loss for tax year 2006.

(6) On or before August 31, 2008, and October 31, 2008, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2008 and the total fixed-rate levy loss in tax year 2007.

(7) On or before May 31, 2009, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2009, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss for tax year 2009 and the total fixed-rate levy loss for tax year 2007.

(8) On or before August 31, 2009, and October 31, 2009, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-half of six-sevenths of the difference between the total fixed-rate levy loss in tax year 2009 and the total fixed-rate levy loss in tax year 2008.

(9) On or before May 31, 2010, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2010, but not less than zero, plus one-seventh of the difference between the total fixed-rate levy loss in tax year 2010 and the total fixed-rate levy loss in tax year 2008.

(10) On or before August 31, 2010, and October 31, 2010, forty-three per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-half of six-sevenths of the difference between the telephone property fixed-rate levy loss for tax year 2010 and the telephone property fixed-rate levy loss for tax year 2009.

(11) On or before May 31, 2011, fourteen per cent of the amount determined under division (A)(2) of this section for fiscal year 2011, but not less than zero, plus one-seventh of the difference between the telephone property fixed-rate levy loss for tax year 2011 and the telephone property fixed-rate levy loss for tax year 2009.

~~(12) On or before August 31, 2011, and October 31, 2011, forty three per cent of the amount determined under division (A)(2) of this section, but not less than zero, plus one half of six sevenths of the difference between the telephone property fixed rate levy loss for tax year 2011 and the telephone property fixed rate levy loss for tax year 2010.~~

~~(13) On or before May 31, 2012, fourteen per cent of the amount~~

~~determined under division (A)(2) of this section for fiscal year 2012, but not less than zero, plus one seventh of the difference between the telephone property fixed rate levy loss for tax year 2011 and the telephone property fixed rate levy loss for tax year 2010.~~

~~(14) On or before August 31, 2012, October 31, 2012, and May 31, 2013, the amount determined under division (A)(2) of this section but not less than zero, multiplied by one third.~~

~~(15) On or before August 31, 2013, October 31, 2013, and May 31, 2014, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is nine and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(16) On or before August 31, 2014, October 31, 2014, and May 31, 2015, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is seven and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(17) On or before August 31, 2015, October 31, 2015, and May 31, 2016, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is five and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(18) On or before August 31, 2016, October 31, 2016, and May 31, 2017, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is three and the denominator of which is seventeen, but not less than zero, multiplied by one third.~~

~~(19) On or before August 31, 2017, October 31, 2017, and May 31, 2018, the amount determined under division (A)(2) of this section multiplied by a fraction, the numerator of which is one and the denominator of which is seventeen, but not less than zero, multiplied by one third~~ For fiscal years 2012 and thereafter, the sum of the amounts in divisions (C)(12)(a) or (b) and (c) of this section shall be paid on or before the twentieth day of November and the last day of May:

(a) If the ratio of current expense TPP allocation to total resources is equal to or less than the threshold per cent, zero;

(b) If the ratio of current expense TPP allocation to total resources is greater than the threshold per cent, fifty per cent of the difference of current expense TPP allocation minus the product of total resources multiplied by the threshold per cent;

(c) Fifty per cent of the product of non-current expense TPP allocation multiplied by seventy-five per cent for fiscal year 2012 and fifty per cent for fiscal years 2013 and thereafter.

The department of education shall report to each school district and joint

vocational school district the apportionment of the payments among the school district's or joint vocational school district's funds based on the certifications under divisions (G) and (I) of section 5751.20 of the Revised Code.

~~Any qualifying levy that is a fixed-rate levy that is not applicable to a tax year after 2010 does not qualify for any reimbursement after the tax year to which it is last applicable.~~

(D) For taxes levied within the ten-mill limitation for debt purposes in tax year 2005, payments shall be made equal to one hundred per cent of the loss computed as if the tax were a fixed-rate levy, but those payments shall extend from fiscal year 2006 through fiscal year 2018, as long as the qualifying levy continues to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payments determined in division (C) of this section.

(E)(1) Not later than January 1, 2006, for each fixed-sum levy of each school district or joint vocational school district and for each year for which a determination is made under division (E) of section 5751.20 of the Revised Code that a fixed-sum levy loss is to be reimbursed, the tax commissioner shall certify to the department of education the fixed-sum levy loss determined under that division. The certification shall cover a time period sufficient to include all fixed-sum levies for which the commissioner made such a determination. ~~The~~ On or before the last day of May of the current year, the department shall pay from the school district property tax replacement fund to the school district or joint vocational school district one-third of the fixed-sum levy loss so certified ~~for each year~~, plus one-third of the amount certified under division (I) of section 5751.20 of the Revised Code, and on or before the last twentieth day of May, August, and October of the current year November, two-thirds of the fixed-sum levy loss so certified, plus two-thirds of the amount certified under division (I) of section 5751.20 of the Revised Code. Payments under this division of the amounts certified under division (I) of section 5751.20 of the Revised Code shall continue until the levy adopted under section 5705.219 of the Revised Code expires.

(2) Beginning in 2006, by the first day of January of each year, the tax commissioner shall review the certification originally made under division (E)(1) of this section. If the commissioner determines that a debt levy that had been scheduled to be reimbursed in the current year has expired, a revised certification for that and all subsequent years shall be made to the department of education.

(F) Beginning in September 2007 and through June ~~2018~~ 2013, the

director of budget and management shall transfer from the school district tangible property tax replacement fund to the general revenue fund each of the following:

(1) On the first day of September, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(2) On the first day of December, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(3) On the first day of March, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section;

(4) On the first day of June, one-fourth of the amount determined for that fiscal year under division (A)(1) of this section.

If, when a transfer is required under division (F)(1), (2), (3), or (4) of this section, there is not sufficient money in the school district tangible property tax replacement fund to make the transfer in the required amount, the director shall transfer the balance in the fund to the general revenue fund and may make additional transfers on later dates as determined by the director in a total amount that does not exceed one-fourth of the amount determined for the fiscal year.

~~(G) For each of the fiscal years 2006 through 2018, if~~ If the total amount in the school district tangible property tax replacement fund is insufficient to make all payments under divisions (C), (D), and (E) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the school district tangible property tax replacement fund the difference between the total amount to be paid and the amount in the school district tangible property tax replacement fund. ~~For each fiscal year after 2018, at the time payments under division (E) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the school district property tax replacement fund the amount necessary to make such payments.~~

~~(H)(1) On the fifteenth day of June of 2006 through 2011 of each year,~~ the director of budget and management may transfer any balance in the school district tangible property tax replacement fund to the general revenue fund. ~~At the end of fiscal years 2012 through 2018, any balance in the school district tangible property tax replacement fund shall remain in the fund to be used in future fiscal years for school purposes.~~

~~(2) In each fiscal year beginning with fiscal year 2019, all amounts credited to the school district tangible personal property tax replacement fund shall be appropriated for school purposes.~~

(I) If all of the territory of a school district or joint vocational school district is merged with another district, or if a part of the territory of a school

district or joint vocational school district is transferred to an existing or newly created district, the department of education, in consultation with the tax commissioner, shall adjust the payments made under this section as follows:

(1) For a merger of two or more districts, ~~the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses and the fixed-sum levy losses, total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation~~ of the successor district shall be equal to the sum of ~~the machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses and debt levy losses as determined in section 5751.20 of the Revised Code,~~ such items for each of the districts involved in the merger.

(2) If property is transferred from one district to a previously existing district, the amount of ~~machinery and equipment, inventory, furniture and fixtures, and telephone property tax value losses and fixed rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation that shall be transferred to the recipient district shall be an amount equal to ~~the total machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, and non-current expense TPP allocation of the transferor district times a fraction, the numerator of which is the ~~value of business tangible personal property on the land being transferred in the most recent year for which data are available~~ number of pupils being transferred to the recipient district, measured, in the case of a school district, by average daily membership as reported under division (A) of section 3317.03 of the Revised Code or, in the case of a joint vocational school district, by formula ADM as reported in division (D) of that section, and the denominator of which is the ~~total value of business tangible personal property in the district from which the land is being transferred in the most recent year for which data are available.~~ For each of the first five years after the property is transferred, but not after fiscal year 2012, if the tax rate in the recipient district is less than the tax rate of the district from which the land was transferred, one-half of the payments arising from the amount of fixed rate levy losses so transferred to the recipient district shall be paid to the recipient district and one-half of the payments arising from the fixed rate levy losses so transferred shall be paid to the district from which the land was transferred. Fixed rate levy losses so transferred shall be computed on the basis of the sum of the rates of fixed rate qualifying levies of the district from which the land was

~~transferred, notwithstanding division (E) of this section~~ average daily membership or formula ADM of the transferor district.

(3) After December 31, ~~2004~~ 2010, if property is transferred from one or more districts to a district that is newly created out of the transferred property, the newly created district shall be deemed not to have any ~~machinery and equipment, inventory, furniture and fixtures, or telephone property fixed rate levy losses and the districts from which the property was transferred shall have no reduction in their machinery and equipment, inventory, furniture and fixtures, and telephone property fixed rate levy losses~~ total resources, current expense TPP allocation, total TPP allocation, or non-current expense TPP allocation.

(4) If the recipient district under division (I)(2) of this section or the newly created district under division (I)(3) of this section is assuming debt from one or more of the districts from which the property was transferred and any of the districts losing the property had fixed-sum levy losses, the department of education, in consultation with the tax commissioner, shall make an equitable division of the fixed-sum levy loss reimbursements.

Sec. 5751.22. (A) Not later than January 1, 2006, the tax commissioner shall compute the payments to be made to each local taxing unit for each year according to divisions (A)(1), (2), (3), and (4) of this section as this section existed on that date, and shall distribute the payments in the manner prescribed by division (C) of this section. The calculation of the fixed-sum levy loss shall cover a time period sufficient to include all fixed-sum levies for which the commissioner determined, pursuant to division (E) of section 5751.20 of the Revised Code, that a fixed-sum levy loss is to be reimbursed.

(1) Except as provided in division (A)~~(4)~~(3) of this section, for ~~machinery and equipment, inventory, and furniture and fixtures~~ fixed-rate levy losses determined under division (D) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to ~~each of those losses multiplied by~~ the following:

(a) For tax years 2006 through 2010, one hundred per cent of such losses;

(b) For the payment in tax year 2011, ~~a fraction, the numerator of which is fourteen and the denominator of which is seventeen~~;

(c) For tax year 2012, ~~a fraction, the numerator of which is eleven and the denominator of which is seventeen~~;

(d) For tax year 2013, ~~a fraction, the numerator of which is nine and the denominator of which is seventeen~~;

(e) For tax year 2014, ~~a fraction, the numerator of which is seven and the denominator of which is seventeen~~;

~~(f) For tax year 2015, a fraction, the numerator of which is five and the denominator of which is seventeen;~~

~~(g) For tax year 2016, a fraction, the numerator of which is three and the denominator of which is seventeen;~~

~~(h) For tax year 2017, a fraction, the numerator of which is one and the denominator of which is seventeen;~~

~~(i) For tax years 2018 and thereafter, no fixed rate payments shall be made.~~

~~Any qualifying levy that is a fixed rate levy that is not applicable to a tax year after 2010 shall not qualify for any reimbursement after the tax year to which it is last applicable.~~

~~(2) Except as provided in division (A)(4) of this section, for telephone property fixed rate levy losses determined under division (D)(4) of section 5751.20 of the Revised Code, payments shall be made in an amount equal to each of those losses multiplied by the following:~~

~~(a) For tax years 2009 through 2011, one hundred per cent;~~

~~(b) For tax year 2012, seven eighths;~~

~~(c) For tax year 2013, six eighths;~~

~~(d) For tax year 2014, five eighths;~~

~~(e) For tax year 2015, four eighths;~~

~~(f) For tax year 2016, three eighths;~~

~~(g) For tax year 2017, two eighths;~~

~~(h) For tax year 2018, one eighth;~~

~~(i) For tax years 2019 and thereafter, no fixed rate payments shall be made to be made on or before the twentieth day of November, the sum of the amount in division (A)(1)(b)(i) or (ii) and division (A)(1)(b)(iii) of this section:~~

~~(i) If the ratio of six-sevenths of the TPP allocation to total resources is equal to or less than the threshold per cent, zero;~~

~~(ii) If the ratio of six-sevenths of the TPP allocation to total resources is greater than the threshold per cent, the difference of six-sevenths of the TPP allocation minus the product of total resources multiplied by the threshold per cent;~~

~~(iii) In the case of a municipal corporation, six-sevenths of the product of the non-current expense TPP allocation multiplied by seventy-five per cent.~~

~~(c) For tax years 2012 and thereafter, the sum of the amount in division (A)(1)(c)(i) or (ii) and division (A)(1)(c)(iii) of this section:~~

~~(i) If the ratio of TPP allocation to total resources is equal to or less than the threshold per cent, zero;~~

(ii) If the ratio of TPP allocation to total resources is greater than the threshold per cent, the TPP allocation minus the product of total resources multiplied by the threshold per cent;

(iii) In the case of a municipal corporation, non-current expense TPP allocation multiplied by fifty per cent for tax year 2012 and twenty-five per cent for tax years 2013 and thereafter.

~~Any qualifying levy that is a fixed rate levy that is not applicable to a tax year after 2011 shall not qualify for any reimbursement after the tax year to which it is last applicable.~~

~~(3)(2)~~ For fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code, payments shall be made in the amount of one hundred per cent of the fixed-sum levy loss for payments required to be made in 2006 and thereafter until the qualifying levy has expired.

~~(4)(3)~~ For taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2005, payments shall be made based on the schedule in division (A)(1) of this section for each of the calendar years 2006 through 2010. For each of the calendar years 2011 through 2017, the percentages for calendar year 2010 shall be used for taxes levied within the ten-mill limitation or pursuant to a municipal charter for debt purposes in tax year 2010, as long as the qualifying levy continues such levies continue to be used for debt purposes. If the purpose of such a qualifying levy is changed, that levy becomes subject to the payment schedules in divisions (A)(1)(a) to (h) of this section. No payments shall be made for such levies after calendar year 2017. For the purposes of this division, taxes levied pursuant to a municipal charter refer to taxes levied pursuant to a provision of a municipal charter that permits the tax to be levied without prior voter approval.

(B) Beginning in 2007, by the thirty-first day of January of each year, the tax commissioner shall review the calculation originally made under division (A) of this section of the fixed-sum levy losses determined under division (E) of section 5751.20 of the Revised Code. If the commissioner determines that a fixed-sum levy that had been scheduled to be reimbursed in the current year has expired, a revised calculation for that and all subsequent years shall be made.

(C) Payments to local taxing units required to be made under division (A) of this section shall be paid from the local government tangible property tax replacement fund to the county undivided income tax fund in the proper county treasury. ~~Beginning in~~ From May 2006 through November 2010, one-seventh of the amount ~~certified~~ determined under that division shall be paid by the last day of May each year, and three-sevenths shall be paid by

the last day of August and October each year. From May 2011 through November 2013, one-seventh of the amount determined under that division shall be paid on or before the last day of May each year, and six-sevenths shall be paid on or before the twentieth day of November each year, except that in November 2011, the payment shall equal one hundred per cent of the amount calculated for that payment. Beginning in May 2014, one-half of the amount determined under that division shall be paid on or before the last day of May each year, and one-half shall be paid on or before the twentieth day of November each year. Within ~~forty-five~~ forty days after receipt of such payments, the county treasurer shall distribute amounts determined under division (A) of this section to the proper local taxing unit as if they had been levied and collected as taxes, and the local taxing unit shall apportion the amounts so received among its funds in the same proportions as if those amounts had been levied and collected as taxes.

(D) For each of the fiscal years 2006 through ~~2019~~ 2018, if the total amount in the local government tangible property tax replacement fund is insufficient to make all payments under division (C) of this section at the times the payments are to be made, the director of budget and management shall transfer from the general revenue fund to the local government tangible property tax replacement fund the difference between the total amount to be paid and the amount in the local government tangible property tax replacement fund. For each fiscal year after ~~2019~~ 2018, at the time payments under division (A)(2) of this section are to be made, the director of budget and management shall transfer from the general revenue fund to the local government property tax replacement fund the amount necessary to make such payments.

(E) On the fifteenth day of June of each year from 2006 through 2018, the director of budget and management may transfer any balance in the local government tangible property tax replacement fund to the general revenue fund.

(F) If all or a part of the territories of two or more local taxing units are merged, or unincorporated territory of a township is annexed by a municipal corporation, the tax commissioner shall adjust the payments made under this section to each of the local taxing units in proportion to the ~~tax value loss apportioned to~~ square mileage of the merged or annexed territory as a percentage of the total square mileage of the jurisdiction from which the territory originated, or as otherwise provided by a written agreement between the legislative authorities of the local taxing units certified to the commissioner not later than the first day of June of the calendar year in which the payment is to be made.

Sec. 5751.23. (A) As used in this section:

(1) "Administrative fees" means the dollar percentages allowed by the county auditor for services or by the county treasurer as fees, or paid to the credit of the real estate assessment fund, under divisions (A) and (C) of section 319.54 and division (A) of section 321.26 of the Revised Code.

(2) "Administrative fee loss" means a county's loss of administrative fees due to its tax value loss, determined as follows:

(a) For purposes of the determination made under division (B) of this section in the years 2006 through 2010, the administrative fee loss shall be computed by multiplying the amounts determined for all taxing districts in the county under divisions (D) and (E) of section 5751.20 of the Revised Code by nine thousand six hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 exceeded one hundred fifty million dollars, or one and one thousand one hundred fifty-nine ten-thousandths of one per cent if total taxes collected in the county in 2004 were one hundred fifty million dollars or less;

(b) For purposes of the determination under division (B) of this section in the years after 2010, the administrative fee ~~losses shall be determined by multiplying loss equals fourteen-seventeenths of the administrative fee losses loss~~ calculated for 2010 ~~by the fractions in divisions (A)(1)(b) to (i) of section 5751.22 of the Revised Code~~ multiplied by the following percentages: 100% for 2011, 80% for 2012, 60% for 2013, 40% for 2014, 20% for 2015, and 0% for 2016.

(3) "Total taxes collected" means all money collected on any tax duplicate of the county, other than the estate tax duplicates. "Total taxes collected" does not include amounts received pursuant to divisions (F) and (G) of section 321.24 or section 323.156 of the Revised Code.

(B) Not later than December 31, 2005, the tax commissioner shall certify to each county auditor the tax levy losses calculated under divisions (D) and (E) of section 5751.20 of the Revised Code for each school district, joint vocational school district, and local taxing unit in the county. Not later than the thirty-first day of January of 2006 through ~~2017~~ 2015, the county auditor shall determine the administrative fee loss for the county and apportion that loss ratably among the school districts, joint vocational school districts, and local taxing units on the basis of the tax levy losses certified under this division.

(C) On or before each of the days prescribed for the settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through ~~2017~~ 2015, the county treasurer shall deduct one-half of the amount apportioned to each school district, joint vocational school district,

and local taxing unit from the portions of revenue payable to them.

(D) On or before each of the days prescribed for settlements under divisions (A) and (C) of section 321.24 of the Revised Code in the years 2006 through ~~2017~~ 2015, the county auditor shall cause to be deposited an amount equal to one-half of the amount of the administrative fee loss in the same funds as if allowed as administrative fees.

Sec. 5751.50. (A) For tax periods beginning on or after January 1, 2008, a refundable credit granted by the tax credit authority under section 122.17 or division (B)(2) or (3) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. For purposes of making tax payments under this chapter, taxes equal to the amount of the refundable credit shall be considered to be paid to this state on the first day of the tax period. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due for a tax period beginning before July 1, 2008. The refundable credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code.

(B) For tax periods beginning on or after January 1, 2008, a nonrefundable credit granted by the tax credit authority under division (B)(1) of section 122.171 of the Revised Code may be claimed under this chapter in the order required under section 5751.98 of the Revised Code. A credit claimed in calendar year 2008 may not be applied against the tax otherwise due under this chapter for a tax period beginning before July 1, 2008. The credit shall not be claimed against the tax otherwise due for any tax period beginning after the date on which a relocation of employment positions occurs in violation of an agreement entered into under section 122.17 or 122.171 of the Revised Code. No credit shall be allowed under this chapter if the credit was available against the tax imposed by section 5733.06 or 5747.02 of the Revised Code, except to the extent the credit was not applied against such tax.

Sec. 5919.34. (A) As used in this section:

(1) "Academic term" means any one of the following:

(a) Fall term, which consists of fall semester or fall quarter, as appropriate;

(b) Winter term, which consists of winter semester, winter quarter, or spring semester, as appropriate;

(c) Spring term, which consists of spring quarter;

(d) Summer term, which consists of summer semester or summer

quarter, as appropriate.

(2) "Eligible applicant" means any individual to whom all of the following apply:

(a) The individual does not possess a baccalaureate degree.

(b) The individual has enlisted, re-enlisted, or extended current enlistment in the Ohio national guard or is an individual to which division (F) of this section applies.

(c) The individual is actively enrolled as a full-time or part-time student for at least three credit hours of course work in a semester or quarter in a two-year or four-year degree-granting program at ~~an~~ a state institution of higher education or a private institution of higher education, or in a diploma-granting program at ~~an~~ a state or private institution of higher education that is a school of nursing.

(d) The individual has not accumulated ninety-six eligibility units under division (E) of this section.

(3) ~~"Institution~~ State institution of higher education" means any state university or college as defined in division (A)(1) of section 3345.12 of the Revised Code, community college established under Chapter 3354. of the Revised Code, state community college established under Chapter 3358. of the Revised Code, university branch established under Chapter 3355. of the Revised Code, or technical college established under Chapter 3357. of the Revised Code.

(4) "Private institution of higher education" means an Ohio institution of higher education ~~that is state-assisted~~, that is nonprofit and has received a certificate of authorization pursuant to Chapter 1713. of the Revised Code, that is a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, or that holds a certificate of registration and program authorization issued by the state board of career colleges and schools pursuant to section 3332.05 of the Revised Code.

~~(4) "State university" has the same meaning as in section 3345.011 of the Revised Code.~~

(5) "Tuition" means the charges imposed to attend an institution of higher education and includes general and instructional fees. "Tuition" does not include laboratory fees, room and board, or other similar fees and charges.

(B) There is hereby created a scholarship program to be known as the Ohio national guard scholarship program.

~~(C) If the adjutant general estimates that appropriations and any funds in the Ohio national guard scholarship reserve fund are insufficient to pay for~~

~~all scholarships applied for under this section and likely to be used during an academic term, the adjutant general shall promptly inform all applicants not receiving scholarships for that academic term of the next academic term that appropriations will be adequate for the scholarships. Any such eligible applicant may again apply for a scholarship beginning that academic term if the applicant is in compliance with all requirements established by this section and the adjutant general for the program. The adjutant general shall approve scholarships for all eligible applicants.~~ The adjutant general shall process all applications for scholarships for each academic term in the order in which they are received. The scholarships shall be made without regard to financial need. At no time shall one person be placed in priority over another because of sex, race, or religion.

(D)(1) Except as provided in ~~division~~ divisions (I) and (J) of this section, for each academic term that an eligible applicant is approved for a scholarship under this section and either remains a current member in good standing of the Ohio national guard or is eligible for a scholarship under division (F)(1) of this section, the institution of higher education in which the applicant is enrolled shall, if the applicant's enlistment obligation extends beyond the end of that academic term or if division (F)(1) of this section applies, be paid on the applicant's behalf the applicable one of the following amounts:

(a) If the institution is ~~state-assisted~~ a state institution of higher education, an amount equal to one hundred per cent of the institution's tuition charges;

(b) If the institution is a nonprofit private institution or a private institution exempt from regulation under Chapter 3332. of the Revised Code as prescribed in section 3333.046 of the Revised Code, an amount equal to one hundred per cent of the average tuition charges of all state universities;

(c) If the institution is an institution that holds a certificate of registration from the state board of career colleges and schools, the lesser of the following:

(i) An amount equal to one hundred per cent of the ~~total instructional and general charges of the institution~~ institution's tuition;

(ii) An amount equal to one hundred per cent of the average tuition charges of all state universities, as that term is defined in section 3345.011 of the Revised Code.

(2) An eligible applicant's scholarship shall not be reduced by the amount of that applicant's benefits under "the Montgomery G.I. Bill Act of 1984," Pub. L. No. 98-525, 98 Stat. 2553 (1984).

~~(3) An eligible non-prior service applicant's scholarship shall be reduced~~

~~by the amount of the applicant's tuition benefits under "The Post-9/11 Veterans Educational Assistance Act of 2008," 110 Pub. L. No. 252, 122 Stat. 2323 (2008). An eligible prior service applicant's scholarship shall be reduced by the amount of the applicant's tuition benefits under "The Post-9/11 Veterans Educational Assistance Act of 2008" unless the applicant qualified for one hundred per cent tuition under that act and transfers the federal benefits under that act's portability provisions.~~

(E) A scholarship recipient under this section shall be entitled to receive scholarships under this section for the number of quarters or semesters it takes the recipient to accumulate ninety-six eligibility units as determined under divisions (E)(1) to (3) of this section.

(1) To determine the maximum number of semesters or quarters for which a recipient is entitled to a scholarship under this section, the adjutant general shall convert a recipient's credit hours of enrollment for each academic term into eligibility units in accordance with the following table:

Number of credit hours of enrollment in an academic term	equals	The following number of eligibility units if a semester	or	The following number of eligibility units if a quarter
12 or more hours		12 units		8 units
9 but less than 12		9 units		6 units
6 but less than 9		6 units		4 units
<u>3 but less than 6</u>		<u>3 units</u>		<u>2 units</u>

(2) A scholarship recipient under this section may continue to apply for scholarships under this section until the recipient has accumulated ninety-six eligibility units.

(3) If a scholarship recipient withdraws from courses prior to the end of an academic term so that the recipient's enrollment for that academic term is less than three credit hours, no scholarship shall be paid on behalf of that person for that academic term. Except as provided in division (F)(3) of this section, if a scholarship has already been paid on behalf of the person for that academic term, the adjutant general shall add to that person's accumulated eligibility units the number of eligibility units for which the scholarship was paid.

(F) This division applies to any eligible applicant called into active duty on or after September 11, 2001. As used in this division, "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.

(1) For a period of up to five years from when an individual's enlistment obligation in the Ohio national guard ends, an individual to whom this division applies is eligible for scholarships under this section for those academic terms that were missed or could have been missed as a result of the individual's call into active duty. Scholarships shall not be paid for the academic term in which an eligible applicant's enlistment obligation ends unless an applicant is eligible under this division for a scholarship for such academic term due to previous active duty.

(2) When an individual to whom this division applies withdraws or otherwise fails to complete courses, for which scholarships have been awarded under this section, because the individual was called into active duty, the institution of higher education shall grant the individual a leave of absence from the individual's education program and shall not impose any academic penalty for such withdrawal or failure to complete courses. Division (F)(2) of this section applies regardless of whether or not the scholarship amount was paid to the institution of higher education.

(3) If an individual to whom this division applies withdraws or otherwise fails to complete courses because the individual was called into active duty, and if scholarships for those courses have already been paid, either:

(a) The adjutant general shall not add to that person's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid and the institution of higher education shall repay the scholarship amount to the state.

(b) The adjutant general shall add to that individual's accumulated eligibility units calculated under division (E) of this section the number of eligibility units for the academic courses or term for which the scholarship was paid if the institution of higher education agrees to permit the individual to complete the remainder of the academic courses in which the individual was enrolled at the time the individual was called into active duty.

(4) No individual who is discharged from the Ohio national guard under other than honorable conditions shall be eligible for scholarships under this division.

(G) A scholarship recipient under this section who fails to complete the term of enlistment, re-enlistment, or extension of current enlistment the recipient was serving at the time a scholarship was paid on behalf of the recipient under this section is liable to the state for repayment of a

percentage of all Ohio national guard scholarships paid on behalf of the recipient under this section, plus interest at the rate of ten per cent per annum calculated from the dates the scholarships were paid. This percentage shall equal the percentage of the current term of enlistment, re-enlistment, or extension of enlistment a recipient has not completed as of the date the recipient is discharged from the Ohio national guard.

The attorney general may commence a civil action on behalf of the ~~adjutant general~~ chancellor of the Ohio board of regents to recover the amount of the scholarships and the interest provided for in this division and the expenses incurred in prosecuting the action, including court costs and reasonable attorney's fees. A scholarship recipient is not liable under this division if the recipient's failure to complete the term of enlistment being served at the time a scholarship was paid on behalf of the recipient under this section is due to the recipient's death; or discharge from the national guard due to disability; ~~or the recipient's enlistment, for a term not less than the recipient's remaining term in the national guard, in the active component of the United States armed forces or the active reserve component of the United States armed forces.~~

(H) On or before the first day of each academic term, the adjutant general shall provide an eligibility roster to the chancellor and to each institution of higher education at which one or more scholarship recipients have applied for enrollment. The institution shall use the roster to certify the actual full-time or part-time enrollment of each scholarship recipient listed as enrolled at the institution and return the roster to the adjutant general and the chancellor. ~~The adjutant general shall report to the chancellor of the Ohio board of regents the number of students in the Ohio national guard scholarship program at each institution of higher education. The~~ Except as provided in division (J) of this section, the chancellor shall provide for payment of the appropriate number and amount of scholarships to each institution of higher education pursuant to division (D) of this section. If an institution of higher education fails to certify the actual enrollment of a scholarship recipient listed as enrolled at the institution within thirty days of the end of an academic term, the institution shall not be eligible to receive payment from the Ohio national guard scholarship program or from the individual enrollee. The adjutant general shall report on a ~~quarterly~~ semi-annual basis to the director of budget and management, the speaker of the house of representatives, ~~and~~ the president of the senate, and the chancellor the number of Ohio national guard scholarship recipients, the size of the scholarship-eligible population, and a projection of the cost of the program for the remainder of the biennium.

(I) The chancellor and the adjutant general may adopt rules pursuant to Chapter 119. of the Revised Code governing the administration and fiscal management of the Ohio national guard scholarship program and the procedure by which the chancellor and the department of the adjutant general may modify the amount of scholarships a member receives based on the amount of other state financial aid a member receives.

(J) The adjutant general, the chancellor, and the director, or their designees, shall jointly estimate the costs of the Ohio national guard scholarship program for each upcoming fiscal biennium, and shall report that estimate prior to the beginning of the fiscal biennium to the chairpersons of the finance committees in the general assembly. During each fiscal year of the biennium, the adjutant general, the chancellor, and the director, or their designees, shall meet regularly to monitor the actual costs of the Ohio national guard scholarship program and update cost projections for the remainder of the biennium as necessary. If the amounts appropriated for the Ohio national guard scholarship program and any funds in the Ohio national guard scholarship reserve fund are not adequate to provide scholarships in the amounts specified in division (D)(1) of this section for all eligible applicants, the chancellor shall do all of the following:

(1) Notify each private institution of higher education, where a scholarship recipient is enrolled, that, by accepting the Ohio national guard scholarship program as payment for all or part of the institution's tuition, the institution agrees that if the chancellor reduces the amount of each scholarship, the institution shall provide each scholarship recipient a grant or tuition waiver in an amount equal to the amount the recipient's scholarship was reduced by the chancellor.

(2) Reduce the amount of each scholarship under division (D)(1)(a) of this section proportionally based on the amount of remaining available funds. Each state institution of higher education shall provide each scholarship recipient under division (D)(1)(a) of this section a grant or tuition waiver in an amount equal to the amount the recipient's scholarship was reduced by the chancellor.

(K) Notwithstanding division (A) of section 127.14 of the Revised Code, the controlling board shall not transfer all or part of any appropriation for the Ohio national guard scholarship program.

Sec. 5919.341. There is hereby created in the state treasury the national guard scholarship reserve fund. Not later than the first day of July of each fiscal year, the chancellor of the Ohio board of regents shall certify to the director of budget and management the unencumbered balance of the general revenue fund appropriations made in the immediately preceding

fiscal year for purposes of the Ohio national guard scholarship program created under division (B) of section 5919.34 of the Revised Code. Upon receipt of the certification, the director may transfer an amount not exceeding the certified amount from the general revenue fund to the national guard scholarship reserve fund. Moneys in the national guard scholarship reserve fund shall be used to pay scholarship obligations in excess of the general revenue fund appropriations made for that purpose. Upon request of the ~~adjutant general chancellor, the Ohio board of regents shall~~ director may seek controlling board approval to establish appropriations as necessary.

The director may transfer any unencumbered balance from the national guard scholarship reserve fund to the general revenue fund.

Sec. 6101.16. When it is determined to let the work relating to the improvements for which a conservancy district was established by contract, contracts in amounts to exceed twenty-five thousand dollars shall be advertised after notice calling for bids has been published once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, with the last publication to occur at least eight days prior to the date on which bids will be accepted, in a newspaper of general circulation within the conservancy district where the work is to be done. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board of directors of the conservancy district may let the contract to the lowest responsive and most responsible bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a conservancy district was established, the board of directors of the district may let the contract to the lowest responsive and most responsible bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract. The contract shall be in writing and shall be accompanied by or refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications shall at all times be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of sudden emergency when it is necessary in order to protect the district, the advertising of contracts may be waived upon the consent of the board, with the approval of the court or a judge of the court of common pleas of the county in which the office of the district is located.

Sec. 6103.04. (A) Whenever any portion of a county sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of

county commissioners for purposes of the acquisition and construction of water supply improvements until all of the improvements for the area for which a resolution described in division (A) or (E) of section 6103.05 of the Revised Code has been adopted by the board have been acquired or completed or until the board has abandoned the improvements. The board, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all water supply improvements so acquired or completed, or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the improvements. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the county for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any water supply improvements within the area, or the validity of any assessments levied or to be levied upon properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the improvements.

(B) ~~Any~~ A board may convey, by mutual agreement, to a municipal corporation any completed water supply facilities acquired or constructed by a county under this chapter for the use of, or service of property located in, any county sewer district, or any part of those facilities, ~~that~~ to which any of the following applies:

(1) The facilities are located within a the municipal corporation or within any area that is incorporated as, or annexed to, a the municipal corporation, ~~or any part of the.~~

(2) The facilities that provide water for a the municipal corporation or such an area, may be conveyed, by mutual agreement between the board and the municipal corporation, to any area that is located within or that is incorporated as, or annexed to, the municipal corporation on.

(3) The facilities are connected to water supply facilities of the municipal corporation.

The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the facilities in accordance with the agreement. The board may retain the right to joint use of all or part of any facilities so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the

payment of the cost of the acquisition, construction, maintenance, or operation of the facilities or any part of them shall be affected by the conveyance.

Sec. 6103.05. (A) After the establishment of any county sewer district, the board of county commissioners, if a water supply improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of water supply that is as complete as can be developed at the time. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the water supply improvement that is necessary to be acquired or constructed in accordance with the plan, declaring that the improvement is necessary for the preservation and promotion of the public health and welfare, and determining whether or not special assessments are to be levied and collected to pay any part of the cost of the improvement.

(B) If special assessments are not to be levied and collected to pay any part of the cost of the improvement, the board, in the resolution provided for in division (A) of this section or in a subsequent resolution, including a resolution authorizing the issuance or incurrence of public obligations for the improvement, may authorize the improvement and the expenditure of the funds required for its acquisition or construction and may proceed with the improvement without regard to the procedures otherwise required by divisions (C), (D), and (E) of this section and by sections 6103.06, 6103.07, and 6117.09 to 6117.24 of the Revised Code. Those procedures shall be required only for improvements for which special assessments are to be levied and collected.

(C) If special assessments are to be levied and collected pursuant to a determination made in the resolution provided for in division (A) of this section or in a subsequent resolution, the procedures referred to in division (B) of this section as being required for that purpose shall apply, and the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, detailed plans, specifications, and an estimate of cost for the improvement, together with a tentative assessment of the cost based on the estimate. The tentative assessment shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. The detailed plans, specifications, estimate of cost, and tentative assessment, if approved by the board, shall be carefully preserved in the office of the board or the county sanitary engineer and shall be open to the inspection of all persons interested in the improvement.

(D) After the board's approval of the detailed plans, specifications,

estimate of cost, and tentative assessment, and at least twenty-four days before adopting a resolution pursuant to division (E) of this section, the board, except to the extent that appropriate waivers of notice are obtained from affected owners, shall cause to be sent a notice of its intent to adopt a resolution to each owner of property proposed to be assessed that is listed on the records of the county auditor for current agricultural use value taxation pursuant to section 5713.31 of the Revised Code and that is not located in an agricultural district established under section 929.02 of the Revised Code. The notice shall satisfy all of the following:

- (1) Be sent by first class or certified mail;
- (2) Specify the proposed date of the adoption of the resolution;
- (3) Contain a statement that the improvement will be financed in whole or in part by special assessments and that all properties not located in an agricultural district established pursuant to section 929.02 of the Revised Code may be subject to a special assessment;
- (4) Contain a statement that an agricultural district may be established by filing an application with the county auditor.

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.

(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published 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, and on or before

the date of the second publication, it shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing, a summary description of the proposed improvement, including its general route and termini, a summary description of the area constituting the assessment district, and the place where the plans, specifications, estimate of cost, and tentative assessment are on file and may be examined. Each mailed notice also shall include a statement that the property of the addressee will be assessed for the improvement. The notice also shall be sent by first class or certified mail, on or before the date of the second publication, to the clerk, or the official discharging the duties of a clerk, of any municipal corporation any part of which lies within the assessment district and shall state whether or not any property belonging to the municipal corporation is to be assessed and, if so, shall identify that property.

At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all parties whose properties are proposed to be assessed. Written objections to or endorsements of the proposed improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment shall be received by the board for a period of five days after the completion of the hearing, and no action shall be taken by the board in the matter until after that period has elapsed. The minutes of the hearing shall be entered on the journal of the board showing the persons who appear in person or by attorney, and all written objections shall be preserved and filed in the office of the board.

Sec. 6103.06. After the expiration of the period of five days provided in section 6103.05 of the Revised Code for the filing of written objections, the board of county commissioners shall determine whether it will proceed with the construction of the proposed improvement. If it decides to proceed therewith, the board shall ratify or amend the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, and may cause such revision of plans, boundaries, or assessments as is necessary to be made by the county sanitary engineer. If the boundaries of the assessment district are amended so as to include any property not included within the boundaries as established by the resolution of necessity, provided for in section 6103.05 of the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as

provided in section 7.16 of the Revised Code, that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in section 6103.05 of the Revised Code for the first hearing and after the expiration of such five day period the board shall ratify the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given. After the board has ratified the plans for the improvement, the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution, to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specification provided for such improvement, as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

Sec. 6103.081. (A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide water supply improvements and to maintain and operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those

funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given either by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, by publication as provided in section 7.16 of the Revised Code, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by ~~both~~ a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of water supply for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the assessments.

(D) The board shall have power at any time to levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine for the purposes described in division (C) of this section upon the benefited

properties to complete the payment of the costs described in division (C) of this section or to pay the cost of any additional plans, specifications, estimate of cost, or tentative assessment and the cost of financing and legal services incident to the preparation of those plans and the plan of financing, which additional assessments shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the additional assessments.

(E) Prior to the adoption of a resolution levying assessments under this section, the board shall give notice either by one publication in a newspaper of general circulation in the county, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by both manners, the publication to be made or the mailing to occur at least ten days prior to the date of the meeting at which the resolution shall be taken up for consideration; that notice shall state the time and place of the meeting at which the resolution is to be considered. At the time and place of the meeting, or at any adjournment of the meeting, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and then may adopt a resolution levying upon the properties determined to be benefited the assessments as so corrected and revised.

The assessments levied by the resolution shall be certified to the county auditor for collection in the same manner as taxes in the year or years in which they are payable.

(F) Upon the adoption of the resolution described in division (E) of this section, no further action shall be taken or work done until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in this division, the action of the board shall be final. If, at the end of that ten days, any owner of property to be assessed for the improvements has effected an appeal, no further action shall be taken and no work done in connection with the improvements under the resolution until the matters appealed from have been disposed of in court.

Any owner of property to be assessed may appeal as provided and upon the grounds stated in sections 6117.09 to 6117.24 of the Revised Code.

If no appeal has been perfected or if on appeal the resolution of the board is sustained, the board may authorize and enter into contracts to carry out the purpose for which the assessments have been levied without the prior issuance of notes, provided that the payments under those contracts do

not fall due prior to the time by which the assessments are to be collected. The board may issue and sell bonds with a maximum maturity of twenty years in anticipation of the collection of the assessments and may issue notes in anticipation of the issuance of the bonds, which notes and bonds, as public obligations, shall be issued and sold as provided in Chapter 133. of the Revised Code.

Sec. 6103.31. (A) If the board of county commissioners determines by resolution that the best interests of the county and the users of water supply facilities of the county serving a sewer district so require, the board may sell or otherwise dispose of the facilities to another public agency or a person. The resolution declaring the necessity of that disposition shall recite the reasons for the sale or other disposition and shall establish any conditions or terms that the board may impose, including, but not limited to, a minimum sales price if a sale is proposed, a requirement for the submission by bidders of the schedule of water rates and charges initially proposed to be paid by the users of the facilities, and other pertinent conditions or terms relating to the sale or other disposition. The resolution also shall designate a time and place for the hearing of objections to the sale or other disposition by the board. Notice of the adoption of the resolution and the time and place of the hearing shall 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 sewer district and in the county. The public hearing on the sale or other disposition shall be held not less than twenty-four days following the date of first publication of the notice. A copy of the notice also shall be sent by first class or certified mail, on or before the date of the second publication, to any public agency within the area served by the facilities. At the public hearing, or at any adjournment of it, of which no further published or mailed notice need be given, the board shall hear all interested parties. A period of five days shall be given following the completion of the hearing for the filing of written objections by any interested persons or public agencies to the sale or other disposition, after which the board shall consider any objections and by resolution determine whether or not to proceed with the sale or other disposition. If the board determines to proceed with the sale or other disposition, it shall receive bids after advertising once a week for four consecutive weeks in a newspaper of general circulation in the county or as provided in section 7.16 of the Revised Code and, subject to the right of the board to reject any or all bids, may make an award to a responsible bidder whose proposal is determined by the board to be in the best interests of the county and the users of the facilities.

(B) A conveyance of water supply facilities by a county to a municipal corporation, in accordance with division (B) of section 6103.04 of the Revised Code, may be made without regard to division (A) of this section.

Sec. 6105.131. The board of directors of a watershed district may designate a specific reach in the channel of any watercourse within the territorial boundaries of the district as a restricted channel, when the construction or alteration of structures or obstructions within such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, or designate any area outside the banks of a restricted channel as a restricted floodway when such area is reasonably necessary to the efficiency of a restricted channel as a means of carrying off flood waters. Such designation of a restricted channel or restricted floodway shall be made in the following manner:

(A) The board shall adopt a resolution stating its intent to designate a specific reach in a channel of a watercourse as a restricted channel or a specific area as a restricted floodway. Such resolution shall contain a description of the reach of the channel to be designated as a restricted channel or description of the area to be designated as a restricted floodway and the reasons of the board for making such designation.

(B) The board shall cause such resolution 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 county or counties in which such restricted channel or restricted floodway is located, together with a notice of the time and place where a hearing will be held by the board on the question of designating such channel as a restricted channel or such area as a restricted floodway ~~and~~. The board also shall give not less than ten days notice of said hearing by first class mail to all owners of property within the area proposed to be designated as a restricted floodway. The date of such hearing shall be not less than ten days after the completion of the publication provided for by this division.

(C) The board shall hold a hearing at the time and place designated in the notice published under division (B) of this section at which time indorsements of and objections to the designation of such channel as a restricted channel or such area as a restricted floodway shall be heard.

(D) The board may, after the completion of the hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or relocation, alteration, restriction, deposit, or encroachment within the designated reach of such channel will restrict its capacity so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the reach of the

channel described in the resolution of intent adopted under division (A) of this section or any modification thereof as a restricted channel.

(E) In like manner the board may, after completion of a hearing under division (C) of this section and after finding that the construction or alteration of structures or obstructions or change of grade within a designated floodway area will restrict its capacity or efficiency as a means of carrying off flood water so as to constitute an unreasonable hazard to the safety of life and property in times of flood, adopt a resolution designating the area described in the resolution of intent adopted under division (A) of this section, or any modification thereof, as a restricted floodway.

Sec. 6109.21. (A) Except as provided in divisions (D) and (E) of this section, on and after January 1, 1994, no person shall operate or maintain a public water system in this state without a license issued by the director of environmental protection. A person who operates or maintains a public water system on January 1, 1994, shall obtain an initial license under this section in accordance with the following schedule:

(1) If the public water system is a community water system, not later than January 31, 1994;

(2) If the public water system is not a community water system and serves a nontransient population, not later than January 31, 1994;

(3) If the public water system is not a community water system and serves a transient population, not later than January 31, 1995.

A person proposing to operate or maintain a new public water system after January 1, 1994, in addition to complying with section 6109.07 of the Revised Code and rules adopted under it, shall submit an application for an initial license under this section to the director prior to commencing operation of the system.

A license or license renewal issued under this section shall be renewed annually. Such a license or license renewal shall expire on the thirtieth day of January in the year following its issuance. A license holder that proposes to continue operating the public water system for which the license or license renewal was issued shall apply for a license renewal at least thirty days prior to that expiration date.

The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code establishing procedures governing and information to be included on applications for licenses and license renewals under this section. Through June 30, ~~2012~~ 2014, each application shall be accompanied by the appropriate fee established under division (M) of section 3745.11 of the Revised Code, provided that an applicant for an initial license who is proposing to operate or maintain a new

public water system after January 1, 1994, shall submit a fee that equals a prorated amount of the appropriate fee established under that division for the remainder of the licensing year.

(B) Not later than thirty days after receiving a completed application and the appropriate license fee for an initial license under division (A) of this section, the director shall issue the license for the public water system. Not later than thirty days after receiving a completed application and the appropriate license fee for a license renewal under division (A) of this section, the director shall do one of the following:

- (1) Issue the license renewal for the public water system;
- (2) Issue the license renewal subject to terms and conditions that the director determines are necessary to ensure compliance with this chapter and rules adopted under it;
- (3) Deny the license renewal if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it.

(C) The director may suspend or revoke a license or license renewal issued under this section if the director finds that the public water system was not operated in substantial compliance with this chapter and rules adopted under it. The director shall adopt, and may amend and rescind, rules in accordance with Chapter 119. of the Revised Code governing such suspensions and revocations.

(D)(1) As used in division (D) of this section, "church" means a fellowship of believers, congregation, society, corporation, convention, or association that is formed primarily or exclusively for religious purposes and that is not formed or operated for the private profit of any person.

(2) This section does not apply to a church that operates or maintains a public water system solely to provide water for that church or for a campground that is owned by the church and operated primarily or exclusively for members of the church and their families. A church that, on or before March 5, 1996, has obtained a license under this section for such a public water system need not obtain a license renewal under this section.

(E) This section does not apply to any public or nonpublic school that meets minimum standards of the state board of education that operates or maintains a public water system solely to provide water for that school.

(F) The environmental protection agency shall collect well log filing fees on behalf of the division of soil and water resources in the department of natural resources in accordance with section 1521.05 of the Revised Code and rules adopted under it. The fees shall be submitted to the division quarterly as provided in those rules.

Sec. 6111.038. There is hereby created in the state treasury the surface water protection fund, consisting of moneys distributed to it. The director of environmental protection shall use moneys in the fund solely for administration and implementation of surface water protection programs, including at least programs required under the "Federal Water Pollution Control Act" and programs necessary to carry out the purposes of this chapter. Those programs shall include at least the development of water quality standards; the development of wasteload allocations; the establishment of water quality-based effluent limits; the monitoring and analysis of chemical, physical, and biological surface water quality; the issuance, modification, and renewal of NPDES permits and permits to install; the ensurance of compliance with permit conditions; the management and oversight of pretreatment programs; the provision of technical assistance to publicly owned treatment works; and the administration of the water pollution control loan fund created in section 6111.036 of the Revised Code.

~~Moneys in the fund shall not be used to meet any state matching requirements that are necessary to obtain federal grants.~~

Sec. 6111.044. Upon receipt of an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit, the director of environmental protection shall determine whether the application is complete and demonstrates that the activities for which the permit, renewal permit, or modification is requested will comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it. If the application demonstrates that the proposed activities will not comply or will pose an unreasonable risk of inducing seismic activity, inducing geologic fracturing, or contamination of an underground source of drinking water, the director shall deny the application. If the application does not make the required demonstrations, the director shall return it to the applicant with an indication of those matters about which a required demonstration was not made. If the director determines that the application makes the required demonstrations, the director shall transmit copies of the application and all of the accompanying maps, data, samples, and information to the chief of the division of mineral oil and gas resources management, the chief of the division of geological survey, ~~and~~ the chief of the division of soil and water resources, and, if the well is or is to be located in a coal bearing

township designated under section 1561.06 of the Revised Code, the chief of the division of mineral resources management in the department of natural resources.

The chief of the division of geological survey shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk of loss or damage to valuable mineral resources. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the geological factors upon which the comments are based, including fractures, faults, earthquake potential, and the porosity and permeability of the injection zone and confining zone, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation of geologic factors and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of ~~mineral~~ oil and gas resources management shall comment upon the application if the chief determines that the proposed well or injection will present an unreasonable risk that waste or contamination of recoverable oil or gas in the earth will occur. If the chief submits comments on the application, those comments shall be accompanied by an evaluation of the oil or gas reserves that, in the best professional judgment of the chief, are recoverable and will be adversely affected by the proposed well or injection, and by the documentation supporting the evaluation. The director shall take into consideration the chief's comments, and the accompanying evaluation and supporting documentation, when considering the application. The director shall provide written notice to the chief of the director's decision on the application and, if the chief's comments are not included in the permit, renewal permit, or modification, of the director's rationale for not including them.

The chief of the division of soil and water resources shall assist the director in determining whether all underground sources of drinking water in the area of review of the proposed well or injection have been identified and correctly delineated in the application. If the application fails to identify or correctly delineate an underground source of drinking water, the chief shall provide written notice of that fact to the director.

The chief of the division of mineral resources management ~~also~~ shall review the application as follows:

If the application concerns the drilling or conversion of a well or the

injection into a well that is not or is not to be located within five thousand feet of the excavation and workings of a mine, the chief of the division of mineral resources management shall note upon the application that it has been examined by the division of mineral resources management, retain a copy of the application and map, and immediately return a copy of the application to the director.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet, but more than five hundred feet from the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. The chief of the division of mineral resources management shall note on the application that the notice has been sent to the owner or lessee of the mine, retain a copy of the application and map, and immediately return a copy of the application to the director with the chief's notation on it.

If the application concerns the drilling or conversion of a well or the injection into a well that is or is to be located within five thousand feet of the underground excavations and workings of a mine or within five hundred feet of the surface excavations and workings of a mine, the chief of the division of mineral resources management immediately shall notify the owner or lessee of the mine that the application has been filed and send to the owner or lessee a copy of the map accompanying the application setting forth the location of the well. If the owner or lessee objects to the application, the owner or lessee shall notify the chief of the division of mineral resources management of the objection, giving the reasons, within six days after the receipt of the notice. If the chief of the division of mineral resources management receives no objections from the owner or lessee of the mine within ten days after the receipt of the notice by the owner or lessee, or if in the opinion of the chief of the division of mineral resources management the objections offered by the owner or lessee are not sufficiently well founded, the chief shall retain a copy of the application and map and return a copy of the application to the director with any applicable notes concerning it.

If the chief of the division of mineral resources management receives an objection from the owner or lessee of the mine as to the application, within ten days after receipt of the notice by the owner or lessee, and if in the opinion of the chief the objection is well founded, the chief shall disapprove the application and immediately return it to the director together with the

chief's reasons for the disapproval. The director promptly shall notify the applicant for the permit, renewal permit, or modification of the disapproval. The applicant may appeal the disapproval of the application by the chief of the division of mineral resources management to the reclamation commission created under section 1513.05 of the Revised Code, and the commission shall hear the appeal in accordance with section 1513.13 of the Revised Code. The appeal shall be filed within thirty days from the date the applicant receives notice of the disapproval. No comments concerning or disapproval of an application shall be delayed by the chief of the division of mineral resources management for more than fifteen days from the date of sending of notice to the mine owner or lessee as required by this section.

The director shall not approve an application for an injection well drilling permit, an injection well operating permit, a renewal of an injection well operating permit, or a modification of an injection well drilling permit, operating permit, or renewal of an operating permit for a well that is or is to be located within three hundred feet of any opening of any mine used as a means of ingress, egress, or ventilation for persons employed in the mine, nor within one hundred feet of any building or flammable structure connected with the mine and actually used as a part of the operating equipment of the mine, unless the chief of the division of mineral resources management determines that life or property will not be endangered by drilling and operating the well in that location.

Upon review by the chief of the division of ~~mineral~~ oil and gas resources management, the chief of the division of geological survey, and the chief of the division of soil and water resources, and if the chief of the division of mineral resources management has not disapproved the application, the director shall issue a permit, renewal permit, or modification with any terms and conditions that may be necessary to comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f) as amended, and regulations adopted under it; and this chapter and the rules adopted under it. The director shall not issue a permit, renewal permit, or modification to an applicant if the applicant or persons associated with the applicant have engaged in or are engaging in a substantial violation of this chapter that is endangering or may endanger human health or the environment or if, in the case of an applicant for an injection well drilling permit, the applicant, at the time of applying for the permit, did not hold an injection well operating permit or renewal of an injection well drilling permit and failed to demonstrate sufficient expertise and competency to operate the well in compliance with the applicable provisions of this

chapter.

If the director receives a disapproval from the chief of the division of mineral resources management regarding an application for an injection well drilling or operating permit, renewal permit, or modification, if required, the director shall issue an order denying the application.

The director need not issue a proposed action under section 3745.07 of the Revised Code or hold an adjudication hearing under that section and Chapter 119. of the Revised Code before issuing or denying a permit, renewal permit, or modification of a permit or renewal permit. Before issuing or renewing a permit to drill or operate a class I injection well or a modification of it, the director shall propose the permit, renewal permit, or modification in draft form and shall hold a public hearing to receive public comment on the draft permit, renewal permit, or modification. At least fifteen days before the public hearing on a draft permit, renewal permit, or modification, the director shall publish notice of the date, time, and location of the public hearing in at least one newspaper of general circulation serving the area where the well is or is to be located. The proposing of such a draft permit, renewal permit, or modification does not constitute the issuance of a proposed action under section 3745.07 of the Revised Code, and the holding of the public hearing on such a draft permit, renewal permit, or modification does not constitute the holding of an adjudication hearing under that section and Chapter 119. of the Revised Code. Appeals of orders other than orders of the chief of the division of mineral resources management shall be taken under sections 3745.04 to 3745.08 of the Revised Code.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease after determining that those activities are occurring in violation of law, rule, order, or term or condition of the permit. Upon service of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing and shall remain suspended until the violation is corrected and the order of suspension is lifted. If a violation is the second within a one-year period, the director, after a hearing, may revoke the permit.

The director may order that an injection well drilling permit or an injection well operating permit or renewal permit be suspended and that activities under it cease if the director has reasonable cause to believe that the permit would not have been issued if the information available at the time of suspension had been available at the time a determination was made by one of the agencies acting under authority of this section. Upon service

of a copy of the order upon the permit holder or the permit holder's authorized agent or assignee, the permit and activities under it shall be suspended immediately without prior hearing, but a permit may not be suspended for that reason without prior hearing unless immediate suspension is necessary to prevent waste or contamination of oil or gas, comply with the Federal Water Pollution Control Act and regulations adopted under it; the "Safe Drinking Water Act," 88 Stat. 1661 (1974), 42 U.S.C.A. 300(f), as amended, and regulations adopted under it; and this chapter and the rules adopted under it, or prevent damage to valuable mineral resources, prevent contamination of an underground source of drinking water, or prevent danger to human life or health. If after a hearing the director determines that the permit would not have been issued if the information available at the time of the hearing had been available at the time a determination was made by one of the agencies acting under authority of this section, the director shall revoke the permit.

When a permit has been revoked, the permit holder or other person responsible for it immediately shall plug the well in the manner required by the director.

The director may issue orders to prevent or require cessation of violations of this section, section 6111.043, 6111.045, 6111.046, or 6111.047 of the Revised Code, rules adopted under any of those sections, and terms or conditions of permits issued under any of them. The orders may require the elimination of conditions caused by the violation.

Sec. 6115.01. As used in sections 6115.01 to 6115.79 of the Revised Code:

(A) "Publication" means once a week for three consecutive weeks in ~~each of two newspapers of different political affiliations, if there are such newspapers, and a newspaper~~ of general circulation in the counties wherein publication is to be made or as provided in section 7.16 of the Revised Code. Publication need not be made on the same day of the week in each of the ~~three~~ weeks; but not less than fourteen days, excluding the day of first publication, shall intervene between the first publication and the last publication. Publication shall be complete on the date of the last publication.

(B) "Person" means person, firm, partnership, association, or corporation, other than county, township, municipal corporation, or other political subdivision.

(C) "Public corporation" means counties, townships, municipal corporations, school districts, road districts, ditch districts, park districts, levee districts, and all other governmental agencies clothed with the power of levying general or special taxes.

(D) "Court" means the court of common pleas in which the petition for the organization of a sanitary district was filed and granted. In the case of a district lying in more than one county, "court" means the court comprised of one judge of the court of common pleas from each county as provided in section 6115.04 of the Revised Code.

(E) "Land" or "property," unless otherwise specified, means real property, as "real property" is used in and defined by the laws of this state, and embraces all railroads, tramroads, roads, electric railroads, street and interurban railroads, streets and street improvements, telephones, telegraph, and transmission lines, gas, sewerage, and water systems, pipelines and rights-of-way of public service corporations, and all other real property whether public or private.

(F) "Board of directors" applies to the duties of one director appointed in accordance with section 6115.10 of the Revised Code in a district lying wholly within one county.

(G) "Biting arthropods" include mosquitoes, ticks, biting flies, or other biting arthropods capable of transmitting disease to humans.

(H) "Bond" or "bonds" means bonds, notes, certificates of indebtedness, certificates of participation, commercial paper, and other instruments in writing, including, unless the context does not admit, bonds or notes issued in anticipation of the issuance of other bonds, issued by a sanitary district to evidence its obligation to repay money borrowed, or to pay interest, by, or to pay at any future time other money obligations of, the sanitary district.

(I) "Financing costs" has the same meaning as in division (K) of section 133.01 of the Revised Code.

Sec. 6115.20. (A) When it is determined to let the work relating to the improvements for which a sanitary district was established by contract, contracts in amounts to exceed ten thousand dollars shall be advertised after notice calling for bids has been published once a week for five consecutive weeks completed on the date of last publication or as provided in section 7.16 of the Revised Code, in ~~at least one~~ a newspaper of general circulation within the sanitary district where the work is to be done. The board of directors of the sanitary district shall let bids as provided in this section or, if applicable, section 9.312 of the Revised Code. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board of directors of the sanitary district shall let the contract to the lowest or best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a sanitary district was established, the board of directors of the sanitary district shall let the contract to the

lowest or best bidder who gives a good and approved bond, with ample security, conditioned on the carrying out of the contract and the payment for all labor and material. The contract shall be in writing and shall be accompanied by or shall refer to plans and specifications for the work to be done prepared by the chief engineer. The plans and specifications at all times shall be made and considered a part of the contract. The contract shall be approved by the board and signed by the president of the board and by the contractor and shall be executed in duplicate. In case of emergency the advertising of contracts may be waived upon the consent of the board with the approval of the court or judge in vacation.

(B) In the case of a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties, any service to be purchased, including the services of an accountant, architect, attorney at law, physician, or professional engineer, at a cost in excess of ten thousand dollars shall be obtained in the manner provided in sections 153.65 to ~~153.71~~ 153.73 of the Revised Code. For the purposes of the application of those sections to division (B) of this section, all of the following apply:

(1) "Public authority," as used in those sections, shall be deemed to mean a sanitary district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use that includes two municipal corporations in two counties;

(2) "Professional design firm," as used in those sections, shall be deemed to mean any person legally engaged in rendering professional design services as defined in division (B)(3) of this section;

(3) "Professional design services," as used in those sections, shall be deemed to mean accounting, architectural, legal, medical, or professional engineering services;

(4) The use of other terms in those sections shall be adapted accordingly, including, without limitation, for the purposes of division (D)~~(2)~~ of section 153.67 of the Revised Code;

(5) Divisions (A) to (C) of section 153.71 of the Revised Code do not apply.

(C) The board of directors of a district organized wholly for the purpose of providing a water supply for domestic, municipal, and public use may contract for, purchase, or otherwise procure for the benefit of employees of the district and pay all or any part of the cost of group insurance policies that may provide benefits, including, but not limited to, hospitalization, surgical care, major medical care, disability, dental care, vision care, medical care, hearing aids, or prescription drugs. Any group insurance policy purchased

under this division shall be purchased from the health care corporation that the board of directors determines offers the most cost-effective group insurance policy.

Sec. 6115.321. (A) The legislative authority of a municipal corporation or the board of township trustees of a township all or part of whose territory is included within the territory of a sanitary district that is established solely for the reduction of biting arthropods pursuant to division (F) of section 6115.04 of the Revised Code may enact an ordinance or adopt a resolution, as applicable, approving the submission to the court of common pleas that established the district a petition to exclude from the district the territory of the municipal corporation or the township, as applicable, that is included in the district. If the legislative authority of a municipal corporation or the board of township trustees of a township enacts such an ordinance or adopts such a resolution, as applicable, the legislative authority or the board may submit to the appropriate court of common pleas a petition that requests the court to exclude the territory of the municipal corporation or the township, as applicable, from the district. Such a petition shall include an explanation of the reasons for the petition to exclude the territory of the municipal corporation or the township, as applicable, from the district.

(B) If a court of common pleas receives a petition from the legislative authority of a municipal corporation or a board of township trustees, as applicable, that requests the court to exclude the territory of the municipal corporation or the township from the applicable sanitary district, the clerk of the court shall notify the legislative authority of each municipal corporation and the board of township trustees of each township all or part of whose territory is included within the territorial boundaries of the district of the receipt of the petition, include a copy of the petition, and include a statement informing the legislative authority or the board of township trustees, as applicable, that the legislative authority or the board may submit to the clerk within thirty days of receipt of the notice written objections concerning the petition in the form of an ordinance enacted by the legislative authority or a resolution adopted by the board, as applicable.

(C) Not sooner than thirty days after the clerk of the court of common pleas notifies legislative authorities of municipal corporations and boards of township trustees in accordance with division (B) of this section, one of the following applies:

(1) The court shall enter a decree excluding from the district the territory of the municipal corporation or the township, as applicable, that is the subject of the petition and create a plan as required by division (D) of this section if the court receives written objections concerning the petition of

exclusion from fewer than sixty per cent of the legislative authorities of municipal corporations and boards of township trustees of townships that were so notified.

(2) The court after a hearing on the petition may enter a decree excluding from the district the territory of the municipal corporation or the township, as applicable, that is the subject of the petition and create a plan as required by division (D) of this section if the court receives written objections concerning the petition of exclusion from sixty per cent or more of the legislative authorities of municipal corporations and boards of township trustees of townships that were so notified.

(D) If a court of common pleas enters a decree in accordance with division (C) of this section excluding from a sanitary district the territory of a municipal corporation or a township, as applicable, the court shall do both of the following:

(1) Establish a plan for the exclusion from the district of the territory that ensures the payment of expenses and indebtedness of the district, and, if necessary because the exclusion effectively dissolves the district, determine the value of the assets of the district and provide for their equitable distribution among the municipal corporations and townships all or part of whose territory is included within the district;

(2) Send a copy of the court's decree and of the plan established under division (D)(1) of this section to the legislative authority of each municipal corporation and the board of township trustees of each township all or part of whose territory is included within the territory of the district and to the county auditor and treasurer of each applicable county.

Sec. 6117.05. (A) Whenever any portion of a sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of county commissioners for purposes of the acquisition and construction of sanitary and drainage facility and prevention or replacement facility improvements until all of those improvements for the area for which a resolution described in division (A) or (E) of section 6117.06 of the Revised Code has been adopted by the board have been acquired or completed or until the board has abandoned the improvements. The board, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all sanitary and drainage facilities and prevention or replacement facilities so acquired or completed, or previously acquired or completed, including the right to establish rules and rates and charges for the

use of, and connections to, the facilities. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the county for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any sanitary or drainage facilities or prevention or replacement facilities within the area, or the validity of any assessments levied or to be levied upon properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the facilities.

(B) ~~Any~~ A board may convey, by mutual agreement, to a municipal corporation any completed sanitary or drainage facilities or prevention or replacement facilities acquired or constructed by a county under this chapter for the use of, or service of property located in, any county sewer district, or any part of those facilities, ~~that~~ to which any of the following applies:

(1) The facilities are located within a the municipal corporation or within any area that is incorporated as, or annexed to, a the municipal corporation, ~~or any part of the.~~

(2) The facilities that serve a the municipal corporation or such an area, may be conveyed, by mutual agreement between the board and the municipal corporation, to any area that is located within or that is incorporated as, or annexed to, the municipal corporation ~~on.~~

(3) The facilities are connected to facilities of the municipal corporation. The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the facilities in accordance with the agreement. The board may retain the right to joint use of all or part of any facilities so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the facilities or any part of them, shall be affected by the conveyance.

Sec. 6117.06. (A) After the establishment of any sewer district, the board of county commissioners, if a sanitary or drainage facility or prevention or replacement facility improvement is to be undertaken, may have the county sanitary engineer prepare, or otherwise cause to be prepared, for the district, or revise as needed, a general plan of sewerage or drainage that is as complete in each case as can be developed at the time and that is devised with regard to any existing sanitary or drainage facilities or prevention or replacement facilities in the district and present as well as

prospective needs for additional sanitary or drainage facilities or prevention or replacement facilities in the district. After the general plan, in original or revised form, has been approved by the board, it may adopt a resolution generally describing the improvement that is necessary to be acquired or constructed in accordance with the particular plan, declaring that the improvement is necessary for the preservation and promotion of the public health and welfare, and determining whether or not special assessments are to be levied and collected to pay any part of the cost of the improvement.

(B) If special assessments are not to be levied and collected to pay any part of the cost of the improvement, the board, in the resolution provided for in division (A) of this section or in a subsequent resolution, including a resolution authorizing the issuance or incurrence of public obligations for the improvement, may authorize the improvement and the expenditure of the funds required for its acquisition or construction and may proceed with the improvement without regard to the procedures otherwise required by divisions (C), (D), and (E) of this section and by sections 6117.07 to 6117.24 of the Revised Code. Those procedures are required only for improvements for which special assessments are to be levied and collected.

(C) If special assessments are to be levied and collected pursuant to a determination made in the resolution provided for in division (A) of this section or in a subsequent resolution, the procedures referred to in division (B) of this section as being required for that purpose shall apply, and the board may have the county sanitary engineer prepare, or otherwise cause to be prepared, detailed plans, specifications, and an estimate of cost for the improvement, together with a tentative assessment of the cost based on the estimate. The tentative assessment shall be for the information of property owners and shall not be levied or certified to the county auditor for collection. The detailed plans, specifications, estimate of cost, and tentative assessment, if approved by the board, shall be carefully preserved in the office of the board or the county sanitary engineer and shall be open to the inspection of all persons interested in the improvement.

(D) After the board's approval of the detailed plans, specifications, estimate of cost, and tentative assessment, and at least twenty-four days before adopting a resolution pursuant to division (E) of this section, the board, except to the extent that appropriate waivers of notice are obtained from affected owners, shall cause to be sent a notice of its intent to adopt the resolution to each owner of property proposed to be assessed that is listed on the records of the county auditor for current agricultural use value taxation pursuant to section 5713.31 of the Revised Code and that is not located in an agricultural district established under section 929.02 of the Revised Code.

The notice shall satisfy all of the following:

- (1) Be sent by first class or certified mail;
- (2) Specify the proposed date of the adoption of the resolution;
- (3) Contain a statement that the improvement will be financed in whole or in part by special assessments and that all properties not located in an agricultural district established pursuant to section 929.02 of the Revised Code may be subject to a special assessment;
- (4) Contain a statement that an agricultural district may be established by filing an application with the county auditor.

If it appears, by the return of the mailed notices or by other means, that one or more of the affected owners cannot be found or are not served by the mailed notice, the board shall cause the notice to be published once in a newspaper of general circulation in the county not later than ten days before the adoption of the resolution.

(E) After complying with divisions (A), (C), and (D) of this section, the board may adopt a resolution declaring that the improvement, which shall be described as to its nature and its location, route, and termini, is necessary for the preservation and promotion of the public health and welfare, referring to the plans, specifications, estimate of cost, and tentative assessment, stating the place where they are on file and may be examined, and providing that the entire cost or a lesser designated part of the cost will be specially assessed against the benefited properties within the district and that any balance will be paid by the county at large from other available funds. The resolution also shall contain a description of the boundaries of that part of the district to be assessed and shall designate a time and place for objections to the improvement, to the tentative assessment, or to the boundaries of the assessment district to be heard by the board. The date of that hearing shall be not less than twenty-four days after the date of the first publication of the notice of the hearing required by this division.

The board shall cause a notice of the hearing to be published once a week for two consecutive weeks in a newspaper of general circulation in the county, ~~and on~~ or as provided in section 7.16 of the Revised Code. On or before the date of the second publication, ~~the board~~ shall cause to be sent by first class or certified mail a copy of the notice to every owner of property to be assessed for the improvement whose address is known.

The notice shall set forth the time and place of the hearing, a summary description of the proposed improvement, including its general route and termini, a summary description of the area constituting the assessment district, and the place where the plans, specifications, estimate of cost, and tentative assessment are on file and may be examined. Each mailed notice

also shall include a statement that the property of the addressee will be assessed for the improvement. The notice also shall be sent by first class or certified mail, on or before the date of the second publication, to the clerk, or to the official discharging the duties of a clerk, of any municipal corporation any part of which lies within the assessment district and shall state whether or not any property belonging to the municipal corporation is to be assessed and, if so, shall identify that property.

At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all parties whose properties are proposed to be assessed. Written objections to or endorsements of the proposed improvement, its character and termini, the boundaries of the assessment district, or the tentative assessment shall be received by the board for a period of five days after the completion of the hearing, and no action shall be taken by the board in the matter until after that period has elapsed. The minutes of the hearing shall be entered on the journal of the board, showing the persons who appear in person or by attorney, and all written objections shall be preserved and filed in the office of the board.

Sec. 6117.07. After the expiration of the period of five days provided for in section 6117.06 of the Revised Code for the filing of written objections, the board of county commissioners shall determine whether or not it will proceed with the construction of the improvement mentioned in such section. Notice of the time and place of each meeting of the board of county commissioners, at which the resolution to proceed with the construction of such improvement will be considered, shall be given in writing to all persons who filed written objections as provided in section 6117.06 of the Revised Code. Such notice shall contain the following language in addition to the time and place of the meeting of the board: "any person, firm, or corporation desiring to appeal from the final order or judgment of the board upon any of the questions mentioned in section 6117.09 of the Revised Code shall, on or before the date of the passage of the improvement resolution, give notice in writing of an intention to appeal, specifying therein the matters to be appealed from." If it decides to proceed therewith, the board shall ratify or amend the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, and may cause such revision of plans, boundaries, or assessments as the board considers necessary to be made by the county sanitary engineer. If the boundaries of the assessment district are amended so as to include any property not included within the boundaries as established by the resolution of necessity provided for in section 6117.06 of

the Revised Code, the owners of all such property shall be notified by mail if their addresses are known, and notice shall be published once a week for two consecutive weeks in a newspaper of general circulation within the county or as provided in section 7.16 of the Revised Code that such amendments have been adopted and that a hearing will be given by the board at a time and place stated in such notice, at which all persons interested will be heard by the board. The date of such hearing shall be not less than twenty-four days after the first publication of such notice, and the hearing shall be conducted and records kept in the same manner as the first hearing. Five days shall be allowed for the filing of written objections as provided in such section for the first hearing.

After the expiration of such five day period, the board shall ratify the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, or shall further amend the same. If the boundaries of the assessment district are amended so as to include any property not included in the assessment district as originally established or previously amended, further notice and hearing shall be given to the owners of such property in the same manner as for the first amendment of such boundaries, and the same procedure shall be repeated until all property owners affected have been given an opportunity to be heard. If the owners of all property added to an assessment district by amendment of the original boundaries thereof waive objection to such amendment in writing, no further notice or hearing shall be given.

After the board has ratified the plans for the improvement and the character and termini thereof, the boundaries of the assessment district, and the tentative assessment, either as originally presented or as amended, and if it decides to proceed therewith, the board shall adopt a resolution to be known as the improvement resolution. Said improvement resolution shall declare the determination of such board to proceed with the construction of the improvement provided for in the resolution of necessity, in accordance with the plans and specifications provided for such improvement as ratified or amended, and whether bonds or certificates of indebtedness shall be issued in anticipation of the collection of special assessments, as provided in section 6117.08 to 6117.45, inclusive, of the Revised Code, or that money in the county treasury unappropriated for any other purpose shall be appropriated to pay for said improvement.

Sec. 6117.251. (A) After the establishment of any county sewer district, the board of county commissioners may determine by resolution that it is necessary to provide sanitary or drainage facility improvements or prevention or replacement facility improvements and to maintain and

operate the improvements within the district or a designated portion of the district, that the improvements, which shall be generally described in the resolution, shall be constructed, that funds are required to pay the preliminary costs of the improvements to be incurred prior to the commencement of the proceedings for their construction, and that those funds shall be provided in accordance with this section.

(B) Prior to the adoption of the resolution, the board shall give notice of its pendency and of the proposed determination of the necessity of the improvements generally described in the resolution. The notice shall set forth a description of the properties to be benefited by the improvements and the time and place of a hearing of objections to and endorsements of the improvements. The notice shall be given ~~either~~ by publication in a newspaper of general circulation in the county once a week for two consecutive weeks, ~~or~~ by publication as provided in section 7.16 of the Revised Code, by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by ~~both~~ a combination of these manners, the first publication to be made or the mailing to occur at least two weeks prior to the date set for the hearing. At the hearing, or at any adjournment of the hearing, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed and the evidence it considers to be necessary. The board then shall determine the necessity of the proposed improvements and whether the improvements shall be made by the board and, if they are to be made, shall direct the preparation of tentative assessments upon the benefited properties and by whom they shall be prepared.

(C) In order to obtain funds for the preparation of a general or revised general plan of sewerage or drainage for the district or part of the district, for the preparation of the detailed plans, specifications, estimate of cost, and tentative assessment for the proposed improvements, and for the cost of financing and legal services incident to the preparation of all of those plans and a plan of financing the proposed improvements, the board may levy upon the properties to be benefited in the district a preliminary assessment apportioned according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine. The assessments shall be in the amount determined to be necessary to obtain funds for the general and detailed plans and the cost of financing and legal services and shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of

the assessments.

(D) The board shall have power at any time to levy additional assessments according to benefits or to tax valuation or partly by one method and partly by the other method as the board may determine for the purposes described in division (C) of this section upon the benefited properties to complete the payment of the costs described in division (C) of this section or to pay the cost of any additional plans, specifications, estimate of cost, or tentative assessment and the cost of financing and legal services incident to the preparation of those plans and the plan of financing, which additional assessments shall be payable in the number of years that the board shall determine, not to exceed twenty years, together with interest on any public obligations that may be issued or incurred in anticipation of the collection of the additional assessments.

(E) Prior to the adoption of a resolution levying assessments under this section, the board shall give notice either by one publication in a newspaper of general circulation in the county, or by mailing a copy of the notice by first class or certified mail to the owners of the properties proposed to be assessed at their respective tax mailing addresses, or by both manners, the publication to be made or the mailing to occur at least ten days prior to the date of the meeting at which the resolution shall be taken up for consideration; that notice shall state the time and place of the meeting at which the resolution is to be considered. At the time and place of the meeting, or at any adjournment of the meeting, of which no further published or mailed notice need be given, the board shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions that appear to be necessary or just, and then may adopt a resolution levying upon the properties determined to be benefited the assessments as so corrected and revised.

The assessments levied by the resolution shall be certified to the county auditor for collection in the same manner as taxes in the year or years in which they are payable.

(F) Upon the adoption of the resolution described in division (E) of this section, no further action shall be taken or work done until ten days have elapsed. If, at the expiration of that period, no appeal has been effected by any property owner as provided in this division, the action of the board shall be final. If, at the end of that ten days, any owner of property to be assessed for the improvements has effected an appeal, no further action shall be taken and no work done in connection with the improvements under the resolution until the matters appealed from have been disposed of in court.

Any owner of property to be assessed may appeal as provided and upon

the grounds stated in sections 6117.09 to 6117.24 of the Revised Code.

If no appeal has been perfected or if on appeal the resolution of the board is sustained, the board may authorize and enter into contracts to carry out the purposes for which the assessments have been levied without the prior issuance of notes, provided that the payments under those contracts do not fall due prior to the time by which the assessments are to be collected. The board may issue and sell bonds with a maximum maturity of twenty years in anticipation of the collection of the assessments and may issue notes in anticipation of the issuance of the bonds, which notes and bonds, as public obligations, shall be issued and sold as provided in Chapter 133. of the Revised Code.

Sec. 6117.49. (A) If the board of county commissioners determines by resolution that the best interests of the county and those served by the sanitary or drainage facilities or the prevention or replacement facilities of a county sewer district so require, the board may sell or otherwise dispose of the facilities to another public agency or a person. The resolution declaring the necessity of that disposition shall recite the reasons for the sale or other disposition and shall establish any conditions or terms that the board may impose, including, but not limited to, a minimum sales price if a sale is proposed, a requirement for the submission by bidders of the schedule of rates and charges initially proposed to be paid for the services of the facilities, and other pertinent conditions or terms relating to the sale or other disposition. The resolution also shall designate a time and place for the hearing of objections to the sale or other disposition by the board. Notice of the adoption of the resolution and the time and place of the hearing shall 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 sewer district and in the county. The public hearing on the sale or other disposition shall be held not less than twenty-four days following the date of first publication of the notice. A copy of the notice also shall be sent by first class or certified mail, on or before the date of the second publication, to any public agency within the area served by the facilities. At the public hearing, or at any adjournment of it, of which no further published or mailed notice need be given, the board shall hear all interested parties. A period of five days shall be given following the completion of the hearing for the filing of written objections by any interested persons or public agencies to the sale or other disposition, after which the board shall consider any objections and by resolution determine whether or not to proceed with the sale or other disposition. If the board determines to proceed with the sale or other disposition, it shall receive bids after advertising once a week for four

consecutive weeks or as provided in section 7.16 of the Revised Code, in a newspaper of general circulation in the county and, subject to the right of the board to reject any or all bids, may make an award to a responsible bidder whose proposal is determined by the board to be in the best interests of the county and those served by the facilities.

(B) A conveyance of sanitary or drainage facilities or of prevention or replacement facilities by a county to a municipal corporation in accordance with division (B) of section 6117.05 of the Revised Code may be made without regard to division (A) of this section.

Sec. 6119.061. (A) Whenever any portion of a regional water and sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the district for purposes of the acquisition, construction, or operation of a water resource project until the water resource project has been acquired or completed or until the project is abandoned by the district. The board of trustees of the district, unless and until a conveyance is made to a municipal corporation in accordance with division (B) of this section, shall continue to have jurisdiction in the area so incorporated or annexed with respect to the management, maintenance, and operation of all water resource projects so acquired or completed or previously acquired or completed, including the right to establish rules and rates and charges for the use of, and connections to, the projects. The incorporation or annexation of any part of a district shall not affect the legality or enforceability of any public obligations issued or incurred by the district for purposes of this chapter to provide for the payment of the cost of acquisition, construction, maintenance, or operation of any water resource project or the validity of any assessments levied or to be levied on properties within the area to provide for the payment of the cost of acquisition, construction, maintenance, or operation of the project.

(B) The board of trustees of a regional water and sewer district may convey, by mutual agreement, to a municipal corporation any completed water resource project acquired or constructed under this chapter for the use of, or service of property located in, the regional water and sewer district, or any part of that project to which any of the following applies:

(1) The project is located within the municipal corporation or within any area that is incorporated as, or annexed to, the municipal corporation.

(2) The project serves the municipal corporation or any area that is located within or that is incorporated as, or annexed to, the municipal corporation.

(3) The project is connected to water supply or sanitary, drainage, prevention, or replacement facilities of the municipal corporation.

The conveyance shall be completed with terms and for consideration as may be negotiated. Upon and after the conveyance, the municipal corporation shall manage, maintain, and operate the water resource project in accordance with the agreement. The board of trustees may retain the right to the joint use of all or part of any project so conveyed for the benefit of the district. Neither the validity of any assessment levied or to be levied, nor the legality or enforceability of any public obligations issued or incurred, to provide for the payment of the cost of the acquisition, construction, maintenance, or operation of the project or any part of the project shall be affected by the conveyance.

Sec. 6119.10. The board of trustees of a regional water and sewer district or any officer or employee designated by the 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 twenty-five thousand dollars. When an expenditure, other than for the acquisition of real estate and interests in real estate, the discharge of noncontractual claims, personal services, the joint use of facilities or the exercise of powers with other political subdivisions, or the product or services of public utilities, exceeds twenty-five thousand dollars, the expenditures shall be made only after a notice calling for bids has been published ~~not less than~~ two consecutive weeks in ~~at least~~ one newspaper ~~having a~~ of general circulation within the district or as provided in section 7.16 of the Revised Code. If the bids are for a contract for the construction, demolition, alteration, repair, or reconstruction of an improvement, the board may let the contract to the lowest and best bidder who meets the requirements of section 153.54 of the Revised Code. If the bids are for a contract for any other work relating to the improvements for which a regional water and sewer district was established, the board of trustees of the regional water and sewer district may let the contract to the lowest or best bidder who gives a good and approved bond with ample security conditioned on the carrying out of the contract. The 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 by its president or other duly authorized officer and by the contractor. In case of a real and present emergency, the board of trustees of the district, by two-thirds vote of all members, may authorize the president or other duly authorized officer to enter into a contract for work to be done or for the purchase of supplies or materials without formal bidding or advertising. All contracts shall have

attached the certificate required by section 5705.41 of the Revised Code duly executed by the secretary of the board of trustees of the district. The district may make improvements by force account or direct labor, provided that, if the estimated cost of supplies or material for any such improvement exceeds twenty-five thousand dollars, bids shall be received as provided in this section. For the purposes of the competitive bidding requirements of this section, the board shall not sever a contract for supplies or materials and labor into separate contracts for labor, supplies, or materials if the contracts are in fact a part of a single contract required to be bid competitively under this section.

Sec. 6119.18. The board of trustees of a regional water and sewer district, by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of providing funds to pay current expenses of the district or for the purpose of paying any portion of the cost of one or more water resource projects or parts thereof or for both of such purposes, and that the question of such tax levy shall be submitted to the electors of the district at a general or primary election. Such resolution shall conform to the requirements of section 5705.19 of the Revised Code, except as otherwise permitted by this section and except that such levy may be for a period not longer than ten years. The resolution shall go into immediate effect upon its passage and no publication of the resolution is necessary other than that provided for in the notice of election. A copy of such resolution shall, immediately after its passage, be certified to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code, and such section shall govern the arrangements for the submission of such question and other matters with respect to such election to which such section refers. Publication of the notice of that election shall be made in one ~~or more newspapers having a newspaper of~~ newspaper of general circulation in the district once a week for two consecutive weeks prior to the election, ~~and, if or as provided in section 7.16 of the Revised Code.~~ 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.

If a majority of the electors voting on the question vote in favor thereof, the board may make the necessary levy within the district at the additional rate or at any lesser rate on the tax list and duplicate for the purpose or purposes stated in the resolution.

The taxes realized from such levy shall be collected at the same time and in the same manner as other taxes on such tax list and duplicate and such taxes, when collected, shall be paid to the district and deposited by it in

a special fund which shall be established by the district for all revenues derived from such levy and for the proceeds of anticipation notes which shall be deposited in such fund.

After the approval of such levy, the 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 exceeding fifty per cent of the estimated proceeds of such levy to be collected in each year up to a period of five years after the date of issuance of such notes, less an amount equal to the proceeds of such levy previously 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 such 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 such levy for that year, mature serially in substantially equal installments during each year over a period not to exceed five years after their issuance.

Sec. 6119.22. When a plan of sewerage devised in accordance with section 6119.19 of the Revised Code has been prepared, the board of trustees of the regional water and sewer district shall give at least ten days' notice in one newspaper of general circulation in such area or give notice as provided in section 7.16 of the Revised Code, stating that such plans have been prepared and are filed in the office of the secretary of the board for examination and inspection by the parties interested.

Any objection to such plan shall then be made to the board and it may amend or correct such plan, and shall thereupon file it as amended, or if no amendments are made, it shall file the original plan in the office of the secretary.

Sec. 6119.25. When the board of trustees of a regional water and sewer district deems it necessary to construct all or a part of the sewers provided for in the plan devised in accordance with section 6119.19 of the Revised Code, the board shall declare by resolution the necessity thereof. Such resolution shall contain a declaration of the necessity of such improvement, a statement of the districts, areas, or parts thereof proposed to be constructed, the character of the materials to be used, a reference to the plans and specifications, where they are on file, and the mode of payment therefor, and shall publish the resolution once a week for not less than two nor more than four consecutive weeks in one newspaper of general circulation in the area or as provided in section 7.16 of the Revised Code.

Sec. 6119.58. In order to obtain funds for the preparation of plans,

specifications, estimates of cost, tentative assessments, and a plan of financing for any water resource project or part thereof, the board of trustees of a regional water and sewer district may levy upon the property in such district to be benefited by such project assessments apportioned in accordance with one or more of the methods set forth in section 6119.42 of the Revised Code. The aggregate of such assessments shall not exceed the amount determined by the board of trustees to be necessary for such purpose, including costs of financing, legal services, and other incidental costs, and shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

If the board of trustees proposes to obtain funds in accordance with this section, it shall determine by resolution that it is necessary to construct the water resource project and to maintain and operate the same on behalf of the district.

Prior to the adoption of the resolution making such determination, the board of trustees shall give notice of the pendency thereof and of the proposed determination of the necessity of the construction of such project therein generally described, and such notice shall set forth a description of the properties to be benefited by such project and the time and place of a hearing of objections to, and endorsements of, such project. Such notice shall be given by publication in ~~at least~~ one newspaper ~~having a~~ of general circulation in the district once a week for two consecutive weeks or as provided in section 7.16 of the Revised Code, the first publication to be at least two weeks prior to the date set for the hearing, provided that the board of trustees may give, or cause to be given, such alternative or further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all owners whose properties are proposed to be assessed and such other evidence as is considered to be necessary, and may then adopt its resolution determining that the proposed project is necessary and should be undertaken by the district. In such resolution, the board of trustees shall direct the preparation of the estimated assessments upon the benefited properties and by whom they shall be prepared.

After such assessments have been prepared and filed in the office of the secretary of the board of trustees and prior to the adoption of the resolution levying such assessments, the board of trustees shall give notice of the pendency of such resolution and of the proposed determination to levy such assessments, and such notice shall set forth the time and place of a hearing

of objections to such assessments. Such notice shall be given by publication once in ~~at least one newspaper having a~~ of general circulation in the district, such publication to be made at least ten days prior to the date set for the hearing, provided that the board of trustees may give or cause to be given, such alternative of further notice of such hearing as it finds to be necessary or appropriate. At such hearing, or at any adjournment thereof, of which no further notice need be given, the board of trustees shall hear all persons whose properties are proposed to be assessed, shall correct any errors and make any revisions in the estimated assessments that appear to be necessary or just, and may then adopt a resolution levying upon the properties determined to be benefited the assessments as originally prepared or as so corrected and revised.

The board of trustees shall have the power at any time to levy additional assessments upon such properties to complete the payment of the costs for which the original assessments were levied or to provide funds for any additional plans, specifications, estimates of cost, tentative assessments, and other incidental costs, provided that the board shall first have held a hearing on objections to such additional assessments in the same manner as required by this section with respect to such original assessments. Such additional assessments shall be payable in such number of annual installments, not less than one, as the board of trustees prescribes, together with interest on any water resource revenue notes and bonds which may be issued in anticipation of the collection of such assessments.

The board of trustees may authorize contracts to carry out the purposes for which such assessments have been levied without the prior issuance of water resource revenue notes and bonds, provided that the payments to be made by the district do not fall due prior to the times when such assessments shall be collected.

SECTION 101.02. That existing sections 7.10, 7.11, 7.12, 9.06, 9.231, 9.24, 9.33, 9.331, 9.332, 9.333, 9.82, 9.823, 9.833, 9.90, 9.901, 101.532, 101.82, 102.02, 105.41, 107.09, 109.36, 109.43, 109.57, 109.572, 109.64, 109.71, 109.801, 111.12, 111.16, 111.18, 117.101, 117.13, 118.023, 118.04, 118.05, 118.06, 118.12, 118.17, 118.99, 119.032, 120.40, 121.03, 121.04, 121.22, 121.37, 121.40, 121.401, 121.402, 121.403, 121.404, 122.121, 122.171, 122.76, 122.861, 123.01, 123.011, 123.10, 124.09, 124.23, 124.231, 124.24, 124.25, 124.26, 124.27, 124.31, 124.34, 124.393, 124.85, 125.021, 125.15, 125.18, 125.28, 125.89, 126.11, 126.12, 126.21, 126.24, 126.45, 126.46, 126.50, 127.14, 127.16, 131.02, 131.23, 131.44, 131.51, 133.01, 133.06, 133.09, 133.18, 133.20, 133.55, 135.05, 135.61, 135.65,

135.66, 145.27, 145.56, 149.01, 149.091, 149.11, 149.311, 149.351, 149.38, 149.39, 149.41, 149.411, 149.412, 149.42, 149.43, 153.01, 153.02, 153.03, 153.07, 153.08, 153.50, 153.51, 153.52, 153.54, 153.56, 153.581, 153.65, 153.66, 153.67, 153.69, 153.70, 153.71, 153.80, 154.02, 154.07, 154.11, 166.02, 173.14, 173.21, 173.26, 173.35, 173.351, 173.36, 173.391, 173.40, 173.401, 173.403, 173.404, 173.42, 173.45, 173.46, 173.47, 173.48, 173.501, 183.30, 183.51, 185.01, 185.03, 185.06, 185.10, 187.01, 187.02, 187.03, 187.09, 301.02, 301.15, 301.28, 305.171, 306.35, 306.43, 306.70, 307.022, 307.041, 307.10, 307.12, 307.676, 307.70, 307.79, 307.791, 307.80, 307.801, 307.802, 307.803, 307.806, 307.81, 307.82, 307.83, 307.84, 307.842, 307.843, 307.846, 307.86, 308.13, 311.29, 311.31, 317.20, 319.11, 319.301, 319.54, 321.18, 321.261, 322.02, 322.021, 323.08, 323.73, 323.75, 324.02, 324.021, 325.20, 340.02, 340.03, 340.05, 340.091, 340.11, 341.192, 343.08, 345.03, 349.03, 501.07, 503.05, 503.162, 503.41, 504.02, 504.03, 504.12, 504.16, 504.21, 505.101, 505.105, 505.106, 505.107, 505.108, 505.109, 505.17, 505.172, 505.24, 505.264, 505.267, 505.28, 505.373, 505.43, 505.48, 505.481, 505.482, 505.49, 505.491, 505.492, 505.493, 505.494, 505.495, 505.50, 505.51, 505.511, 505.52, 505.53, 505.54, 505.541, 505.55, 505.60, 505.601, 505.603, 505.61, 505.67, 505.73, 507.09, 509.15, 511.01, 511.12, 511.23, 511.235, 511.236, 511.25, 511.28, 511.34, 513.14, 515.01, 515.04, 515.07, 517.06, 517.12, 517.22, 521.03, 521.05, 705.16, 709.43, 709.44, 711.35, 715.011, 715.47, 718.01, 718.09, 718.10, 719.012, 719.05, 721.03, 721.15, 721.20, 723.07, 727.011, 727.012, 727.08, 727.14, 727.46, 729.08, 729.11, 731.14, 731.141, 731.20, 731.21, 731.211, 731.22, 731.23, 731.24, 731.25, 735.05, 735.20, 737.022, 737.04, 737.041, 737.32, 737.40, 742.41, 745.07, 747.05, 747.11, 747.12, 755.16, 755.29, 755.41, 755.42, 755.43, 759.47, 901.09, 924.52, 927.69, 951.11, 955.011, 955.012, 1309.528, 1327.46, 1327.50, 1327.51, 1327.511, 1327.54, 1327.57, 1327.62, 1327.99, 1329.04, 1329.42, 1332.24, 1345.52, 1345.73, 1501.01, 1501.022, 1501.40, 1503.05, 1503.141, 1505.01, 1505.04, 1505.06, 1505.09, 1505.11, 1505.99, 1506.21, 1509.01, 1509.02, 1509.021, 1509.03, 1509.04, 1509.041, 1509.05, 1509.06, 1509.061, 1509.062, 1509.07, 1509.071, 1509.072, 1509.073, 1509.08, 1509.09, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.15, 1509.17, 1509.181, 1509.19, 1509.21, 1509.22, 1509.221, 1509.222, 1509.223, 1509.224, 1509.225, 1509.226, 1509.23, 1509.24, 1509.25, 1509.26, 1509.27, 1509.28, 1509.29, 1509.31, 1509.32, 1509.33, 1509.34, 1509.36, 1509.38, 1509.40, 1509.50, 1510.01, 1510.08, 1515.08, 1515.14, 1515.24, 1517.02, 1517.03, 1531.04, 1533.10, 1533.11, 1533.111, 1533.32, 1533.731, 1533.83, 1541.03, 1541.05,

1545.071, 1545.09, 1545.12, 1545.131, 1545.132, 1547.01, 1547.30, 1547.301, 1547.302, 1547.303, 1547.304, 1551.311, 1551.32, 1551.33, 1551.35, 1555.02, 1555.03, 1555.04, 1555.05, 1555.06, 1555.08, 1555.17, 1561.06, 1561.12, 1561.13, 1561.35, 1561.49, 1563.06, 1563.24, 1563.28, 1571.01, 1571.02, 1571.03, 1571.04, 1571.05, 1571.06, 1571.08, 1571.09, 1571.10, 1571.11, 1571.14, 1571.16, 1571.18, 1571.99, 1701.07, 1702.01, 1702.59, 1703.031, 1703.07, 1705.01, 1707.11, 1707.17, 1711.05, 1711.07, 1711.18, 1711.30, 1728.06, 1728.07, 1751.01, 1751.04, 1751.11, 1751.111, 1751.12, 1751.13, 1751.15, 1751.17, 1751.20, 1751.31, 1751.34, 1751.60, 1761.04, 1776.83, 1785.06, 1901.02, 1901.06, 1901.261, 1901.262, 1901.41, 1907.13, 1907.261, 1907.262, 1907.53, 2105.09, 2117.25, 2151.011, 2151.3515, 2151.412, 2151.421, 2151.424, 2151.541, 2152.72, 2301.01, 2301.031, 2303.201, 2305.232, 2317.02, 2317.422, 2329.26, 2335.05, 2335.06, 2501.02, 2503.01, 2744.05, 2901.01, 2903.33, 2917.40, 2919.271, 2929.71, 2935.01, 2935.03, 2945.371, 2945.38, 2945.39, 2945.40, 2945.401, 2945.402, 2949.14, 2981.11, 2981.12, 2981.13, 3109.16, 3111.04, 3113.06, 3119.54, 3121.48, 3123.44, 3123.45, 3123.55, 3123.56, 3123.58, 3123.59, 3123.63, 3301.07, 3301.071, 3301.079, 3301.0710, 3301.0711, 3301.0712, 3301.0714, 3301.16, 3301.162, 3301.70, 3301.921, 3302.02, 3302.031, 3302.032, 3302.04, 3302.05, 3302.07, 3304.181, 3304.182, 3305.08, 3306.12, 3307.20, 3307.31, 3307.41, 3307.64, 3309.22, 3309.41, 3309.48, 3309.51, 3309.66, 3310.02, 3310.03, 3310.05, 3310.08, 3310.41, 3311.05, 3311.054, 3311.056, 3311.06, 3311.19, 3311.21, 3311.213, 3311.214, 3311.29, 3311.50, 3311.52, 3311.53, 3311.73, 3311.76, 3313.29, 3313.372, 3313.41, 3313.46, 3313.482, 3313.533, 3313.55, 3313.603, 3313.61, 3313.611, 3313.612, 3313.614, 3313.64, 3313.642, 3313.6410, 3313.65, 3313.75, 3313.816, 3313.842, 3313.843, 3313.845, 3313.911, 3313.97, 3313.975, 3313.978, 3313.981, 3314.012, 3314.013, 3314.015, 3314.02, 3314.021, 3314.023, 3314.03, 3314.05, 3314.051, 3314.07, 3314.08, 3314.087, 3314.088, 3314.091, 3314.10, 3314.13, 3314.19, 3314.20, 3314.22, 3314.35, 3314.36, 3315.01, 3316.041, 3316.06, 3316.08, 3316.20, 3317.01, 3317.013, 3317.014, 3317.018, 3317.02, 3317.021, 3317.022, 3317.023, 3317.024, 3317.025, 3317.0210, 3317.0211, 3317.03, 3317.031, 3317.05, 3317.051, 3317.053, 3317.06, 3317.061, 3317.07, 3317.08, 3317.081, 3317.082, 3317.09, 3317.11, 3317.12, 3317.14, 3317.16, 3317.18, 3317.19, 3317.20, 3317.201, 3318.011, 3318.032, 3318.034, 3318.05, 3318.051, 3318.08, 3318.12, 3318.31, 3318.36, 3318.37, 3318.38, 3318.41, 3318.44, 3319.02, 3319.08, 3319.081, 3319.11, 3319.111, 3319.141, 3319.17, 3319.18, 3319.19, 3319.227, 3319.26, 3319.31, 3319.311, 3319.39,

3319.57, 3319.71, 3323.09, 3323.091, 3323.14, 3323.142, 3323.31, 3324.05, 3325.08, 3326.11, 3326.33, 3326.39, 3327.02, 3327.04, 3327.05, 3329.08, 3331.01, 3333.03, 3333.043, 3333.31, 3333.66, 3333.81, 3333.82, 3333.83, 3333.84, 3333.85, 3333.87, 3333.90, 3334.19, 3345.061, 3345.14, 3349.29, 3353.04, 3354.12, 3354.16, 3355.09, 3357.16, 3365.01, 3365.08, 3375.41, 3381.11, 3501.03, 3501.17, 3505.13, 3506.05, 3701.021, 3701.023, 3701.07, 3701.61, 3701.74, 3701.83, 3702.52, 3702.57, 3702.59, 3704.06, 3704.14, 3705.24, 3709.09, 3709.092, 3709.21, 3717.53, 3719.141, 3719.41, 3721.01, 3721.011, 3721.02, 3721.022, 3721.04, 3721.16, 3721.50, 3721.51, 3721.511, 3721.512, 3721.513, 3721.52, 3721.53, 3721.55, 3721.561, 3721.58, 3722.01, 3722.011, 3722.02, 3722.021, 3722.022, 3722.03, 3722.04, 3722.041, 3722.05, 3722.06, 3722.07, 3722.08, 3722.09, 3722.10, 3722.11, 3722.12, 3722.13, 3722.14, 3722.15, 3722.151, 3722.16, 3722.17, 3722.18, 3733.41, 3733.99, 3734.02, 3734.05, 3734.06, 3734.18, 3734.19, 3734.20, 3734.21, 3734.22, 3734.23, 3734.24, 3734.25, 3734.26, 3734.27, 3734.28, 3734.282, 3734.57, 3734.85, 3734.901, 3735.36, 3735.66, 3737.73, 3737.83, 3737.841, 3737.87, 3737.88, 3743.06, 3743.19, 3743.52, 3743.53, 3743.54, 3743.64, 3745.015, 3745.11, 3746.02, 3750.081, 3767.32, 3769.08, 3769.20, 3769.26, 3770.03, 3770.05, 3772.032, 3772.062, 3781.183, 3791.043, 3793.04, 3793.06, 3793.21, 3901.3814, 3903.01, 3923.28, 3923.281, 3923.30, 3924.10, 3937.41, 3963.01, 3963.11, 4113.11, 4113.61, 4115.03, 4115.033, 4115.034, 4115.04, 4115.05, 4115.10, 4115.101, 4115.13, 4115.16, 4116.01, 4117.01, 4117.03, 4121.03, 4121.12, 4121.121, 4121.125, 4121.128, 4121.44, 4123.27, 4123.341, 4123.342, 4123.35, 4131.03, 4141.08, 4141.11, 4141.33, 4301.12, 4301.43, 4301.62, 4301.80, 4301.81, 4503.06, 4503.235, 4503.70, 4503.93, 4504.02, 4504.021, 4504.15, 4504.16, 4504.18, 4505.181, 4506.071, 4507.111, 4507.164, 4511.191, 4511.193, 4513.39, 4513.60, 4513.61, 4513.62, 4513.63, 4513.64, 4513.66, 4517.01, 4517.02, 4517.04, 4517.09, 4517.10, 4517.12, 4517.13, 4517.14, 4517.23, 4517.24, 4517.44, 4549.17, 4582.12, 4582.31, 4585.10, 4705.021, 4709.13, 4725.34, 4725.48, 4725.50, 4725.52, 4725.57, 4729.52, 4729.552, 4731.054, 4731.15, 4731.16, 4731.17, 4731.171, 4731.19, 4731.222, 4731.65, 4731.71, 4733.15, 4733.151, 4735.01, 4735.02, 4735.03, 4735.05, 4735.052, 4735.06, 4735.07, 4735.09, 4735.10, 4735.13, 4735.14, 4735.141, 4735.142, 4735.15, 4735.16, 4735.17, 4735.18, 4735.181, 4735.182, 4735.19, 4735.20, 4735.21, 4735.211, 4735.32, 4735.55, 4735.58, 4735.59, 4735.62, 4735.68, 4735.71, 4735.74, 4736.12, 4740.14, 4757.31, 4776.01, 4906.01, 4911.02, 4927.17, 4928.20, 4929.26, 4929.27, 4931.40, 4931.51, 4931.52, 4931.53, 5101.16, 5101.181, 5101.182, 5101.183, 5101.244,

5101.26, 5101.27, 5101.271, 5101.272, 5101.28, 5101.30, 5101.341, 5101.342, 5101.35, 5101.37, 5101.46, 5101.47, 5101.571, 5101.573, 5101.58, 5101.60, 5101.61, 5101.98, 5104.01, 5104.011, 5104.012, 5104.013, 5104.03, 5104.04, 5104.05, 5104.13, 5104.30, 5104.32, 5104.34, 5104.341, 5104.35, 5104.37, 5104.38, 5104.39, 5104.42, 5104.43, 5104.99, 5111.011, 5111.012, 5111.013, 5111.0112, 5111.0116, 5111.021, 5111.023, 5111.025, 5111.031, 5111.06, 5111.061, 5111.113, 5111.13, 5111.14, 5111.151, 5111.16, 5111.17, 5111.172, 5111.20, 5111.21, 5111.211, 5111.22, 5111.221, 5111.222, 5111.23, 5111.231, 5111.232, 5111.235, 5111.24, 5111.241, 5111.244, 5111.25, 5111.251, 5111.254, 5111.255, 5111.258, 5111.261, 5111.262, 5111.27, 5111.28, 5111.29, 5111.291, 5111.33, 5111.35, 5111.52, 5111.54, 5111.62, 5111.65, 5111.66, 5111.67, 5111.671, 5111.672, 5111.68, 5111.681, 5111.687, 5111.689, 5111.85, 5111.871, 5111.872, 5111.873, 5111.874, 5111.877, 5111.88, 5111.89, 5111.891, 5111.892, 5111.894, 5111.911, 5111.912, 5111.913, 5111.94, 5111.941, 5111.97, 5112.30, 5112.31, 5112.37, 5112.371, 5112.39, 5112.40, 5112.41, 5112.46, 5112.99, 5119.01, 5119.02, 5119.06, 5119.18, 5119.22, 5119.61, 5119.611, 5119.612, 5119.613, 5119.62, 5119.621, 5119.99, 5120.105, 5120.135, 5120.17, 5120.22, 5120.28, 5120.29, 5122.01, 5122.15, 5122.21, 5122.31, 5123.01, 5123.0412, 5123.0413, 5123.0417, 5123.051, 5123.171, 5123.18, 5123.19, 5123.191, 5123.194, 5123.352, 5123.42, 5123.45, 5123.60, 5126.01, 5126.029, 5126.04, 5126.042, 5126.05, 5126.054, 5126.0510, 5126.0511, 5126.0512, 5126.08, 5126.11, 5126.12, 5126.24, 5126.41, 5126.42, 5139.11, 5139.43, 5310.35, 5501.44, 5501.73, 5502.52, 5502.522, 5502.61, 5502.68, 5505.04, 5505.22, 5525.04, 5540.01, 5540.03, 5540.031, 5540.05, 5543.10, 5549.21, 5552.06, 5553.05, 5553.19, 5553.23, 5553.42, 5555.07, 5555.27, 5555.42, 5559.06, 5559.10, 5559.12, 5561.04, 5561.08, 5571.011, 5573.02, 5573.10, 5575.01, 5575.02, 5591.15, 5593.08, 5701.13, 5703.05, 5703.056, 5703.37, 5703.57, 5703.58, 5705.01, 5705.14, 5705.16, 5705.19, 5705.191, 5705.194, 5705.196, 5705.21, 5705.211, 5705.214, 5705.218, 5705.25, 5705.251, 5705.261, 5705.29, 5705.314, 5705.392, 5705.412, 5705.71, 5707.031, 5709.07, 5709.084, 5709.40, 5709.41, 5709.62, 5709.63, 5709.632, 5709.73, 5709.78, 5709.82, 5709.83, 5713.01, 5715.17, 5715.23, 5715.26, 5719.04, 5721.01, 5721.03, 5721.04, 5721.18, 5721.19, 5721.30, 5721.31, 5721.32, 5721.37, 5721.38, 5721.42, 5722.13, 5723.05, 5723.18, 5725.151, 5725.24, 5725.98, 5727.57, 5727.75, 5727.84, 5727.85, 5727.86, 5729.98, 5731.02, 5731.19, 5731.21, 5731.39, 5733.0610, 5733.23, 5733.351, 5739.01, 5739.02, 5739.021, 5739.022, 5739.026, 5739.07, 5739.101, 5739.19, 5739.30, 5747.01,

5747.058, 5747.113, 5747.451, 5747.46, 5747.51, 5747.98, 5748.01, 5748.02, 5748.021, 5748.04, 5748.05, 5748.08, 5748.081, 5751.01, 5751.011, 5751.20, 5751.21, 5751.22, 5751.23, 5751.50, 5919.34, 5919.341, 6101.16, 6103.04, 6103.05, 6103.06, 6103.081, 6103.31, 6105.131, 6109.21, 6111.038, 6111.044, 6115.01, 6115.20, 6117.05, 6117.06, 6117.07, 6117.251, 6117.49, 6119.10, 6119.18, 6119.22, 6119.25, and 6119.58 of the Revised Code are hereby repealed.

SECTION 105.01. That sections 7.14, 122.0818, 122.452, 126.04, 126.501, 126.502, 126.507, 165.031, 179.01, 179.02, 179.03, 179.04, 340.08, 701.04, 1501.031, 1551.13, 3123.52, 3123.61, 3123.612, 3123.613, 3123.614, 3301.82, 3301.922, 3306.01, 3306.011, 3306.012, 3306.02, 3306.03, 3306.04, 3306.05, 3306.051, 3306.052, 3306.06, 3306.07, 3306.08, 3306.09, 3306.091, 3306.10, 3306.11, 3306.13, 3306.19, 3306.191, 3306.192, 3306.21, 3306.22, 3306.29, 3306.291, 3306.292, 3306.50, 3306.51, 3306.52, 3306.53, 3306.54, 3306.55, 3306.56, 3306.57, 3306.58, 3306.59, 3311.059, 3313.674, 3314.014, 3314.016, 3314.017, 3314.025, 3314.082, 3314.085, 3314.11, 3314.111, 3317.011, 3317.016, 3317.017, 3317.0216, 3317.04, 3317.17, 3319.112, 3319.62, 3329.16, 3335.45, 3349.242, 3706.042, 3721.56, 3722.99, 3733.21, 3733.22, 3733.23, 3733.24, 3733.25, 3733.26, 3733.27, 3733.28, 3733.29, 3733.30, 3923.90, 3923.91, 4115.032, 4121.75, 4121.76, 4121.77, 4121.78, 4121.79, 4582.37, 4731.18, 4981.23, 5101.5211, 5101.5212, 5101.5213, 5101.5214, 5101.5215, 5101.5216, 5111.243, 5111.34, 5111.861, 5111.893, 5111.971, 5122.36, 5123.172, 5123.181, 5123.193, 5123.211, 5126.18, and 5126.19 of the Revised Code are hereby repealed.

SECTION 120.20. That sections 3721.16, 5111.709, 5119.221, 5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 5122.32, 5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 5123.63, 5123.64, 5123.69, 5123.701, 5123.86, 5123.99, and 5126.33 be amended; that section 5123.60 (5123.601) be amended for the purpose of adopting a new section number as indicated in parentheses; and that new sections 5123.60 and 5123.602 of the Revised Code be enacted to read as follows:

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) Subject to division (A)(3) of this section, a proposed location to which the resident 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~~ protection and advocacy system.

(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 health-care 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. 5111.709. (A) There is hereby created the medicaid buy-in advisory council. The council shall consist of all of the following:

(1) The following voting members:

(a) The executive director of assistive technology of Ohio or the executive director's designee;

(b) The director of the axis center for public awareness of people with disabilities or the director's designee;

(c) The executive director of the cerebral palsy association of Ohio or the executive director's designee;

(d) The chief executive officer of Ohio advocates for mental health or the chief executive officer's designee;

(e) The state director of the Ohio chapter of AARP or the state director's designee;

(f) The director of the Ohio developmental disabilities council created under section 5123.35 of the Revised Code or the director's designee;

(g) The executive director of the governor's council on people with disabilities created under section 3303.41 of the Revised Code or the executive director's designee;

~~(h) The administrator of the legal rights service created under section 5123.60 of the Revised Code or the administrator's designee;~~

~~(i)~~ The chairperson of the Ohio Olmstead task force or the chairperson's designee;

~~(j)~~(i) The executive director of the Ohio statewide independent living council or the executive director's designee;

~~(k)~~(j) The president of the Ohio chapter of the national multiple sclerosis society or the president's designee;

~~(l)~~(k) The executive director of the arc of Ohio or the executive director's designee;

~~(m)~~(l) The executive director of the commission on minority health or the executive director's designee;

~~(n)~~(m) The executive director of the brain injury association of Ohio or the executive director's designee;

~~(o)~~(n) The executive officer of any other advocacy organization who volunteers to serve on the council, or such an executive officer's designee, if the other voting members, at a meeting called by the chairperson elected under division (C) of this section, determine it is appropriate for the advocacy organization to be represented on the council;

~~(p)~~(o) One or more participants who volunteer to serve on the council and are selected by the other voting members at a meeting the chairperson calls after the medicaid buy-in for workers with disabilities program is

implemented.

(2) The following non-voting members:

- (a) The director of job and family services or the director's designee;
- (b) The administrator of the rehabilitation services commission or the administrator's designee;
- (c) The director of alcohol and drug addiction services or the director's designee;
- (d) The director of developmental disabilities or the director's designee;
- (e) The director of mental health or the director's designee;
- (f) The executive officer of any other government entity, or the executive officer's designee, if the voting members, at a meeting called by the chairperson, determine it is appropriate for the government entity to be represented on the council.

(B) All members of the medicaid buy-in advisory council shall serve without compensation or reimbursement, except as serving on the council is considered part of their usual job duties.

(C) The voting members of the medicaid buy-in advisory council shall elect one of the members of the council to serve as the council's chairperson for a two-year term. The chairperson may be re-elected to successive terms.

(D) The department of job and family services shall provide the Ohio medicaid buy-in advisory council with accommodations for the council to hold its meetings and shall provide the council with other administrative assistance the council needs to perform its duties.

Sec. 5119.221. (A) Upon petition by the director of mental health, the court of common pleas or the probate court may appoint a receiver to take possession of and operate a residential facility licensed pursuant to section 5119.22 of the Revised Code, when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents.

Petitions filed pursuant to this section shall include:

- (1) A description of the specific conditions existing at the residential facility which present a substantial risk of physical or mental harm to residents;
- (2) A statement of the absence of other adequate remedies at law;
- (3) The number of individuals residing at the facility;
- (4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the residential facility as a pattern or

practice; and

(5) The name and address of the person holding the license for the residential facility.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility of the filing. The department shall send notice of the filing to the following, as appropriate: ~~the legal rights service created pursuant to~~ Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code; facility owner; facility operator; board of alcohol, drug addiction, and mental health services; board of health; department of developmental disabilities; department of job and family services; facility residents; and residents' families and guardians. The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action.

Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of mental health and appropriate persons of this action.

In setting forth the powers of the receiver, the court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver and shall require regular and detailed reports.

(C) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility;

(2) Circumstances no longer exist at the residential facility which present a substantial risk of physical or mental harm to residents, and there is no deficiency in the residential facility that is likely to create a future risk of harm.

Notwithstanding division (C)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the

department of mental health.

(D) Except for the department of mental health or appropriate board of alcohol, drug addiction, and mental health services, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of the department of mental health shall maintain a list of the names of such persons. The department of mental health, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Before entering upon the duties of receiver, the receiver must be sworn to perform the duties faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(1) Under the control of the appointing court, a receiver may do the following:

- (a) Bring and defend actions in the appointee's name as receiver;
- (b) Take and keep possession of property.

(2) The court shall authorize the receiver to do the following:

(a) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(b) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession, but, in the case of a rental agreement only to the extent of payments that are for the use of the property during the period of the receivership, or, in the case of a purchase agreement, only to the extent that payments come due during the period of the receivership;

(c) If transfer of residents is necessary, provide for the orderly transfer of residents by:

(i) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(ii) Providing for the transportation of residents' belongings and records;

(iii) Helping to locate alternative placements and develop plans for transfer;

(iv) Encouraging residents or guardians to participate in transfer planning except when an emergency exists and immediate transfer is necessary.

(d) Make periodic reports on the status of the residential facility to the court; the appropriate state agencies; and the board of alcohol, drug addiction, and mental health services. Each report shall be made available to residents, their guardians, and families.

(e) Compromise demands or claims; and

(f) Generally do such acts respecting the residential facility as the court authorizes.

Notwithstanding any other provision of law, contracts which are necessary to carry out the powers and duties of the receiver need not be competitively bid.

Sec. 5122.01. As used in this chapter and Chapter 5119. of the Revised Code:

(A) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life.

(B) "Mentally ill person subject to hospitalization by court order" means a mentally ill person who, because of the person's illness:

(1) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm;

(2) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior, evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm, or other evidence of present dangerousness;

(3) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; or

(4) Would benefit from treatment in a hospital for the person's mental illness and is in need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person.

(C)(1) "Patient" means, subject to division (C)(2) of this section, a person who is admitted either voluntarily or involuntarily to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code subsequent to a finding of not guilty by reason of insanity or incompetence to stand trial or under this chapter, who is under observation or receiving treatment in such place.

(2) "Patient" does not include a person admitted to a hospital or other place under section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code to the extent that the reference in this chapter to patient, or the context in which the reference occurs, is in conflict with any provision of sections 2945.37 to 2945.402 of the Revised Code.

(D) "Licensed physician" means a person licensed under the laws of this state to practice medicine or a medical officer of the government of the United States while in this state in the performance of the person's official duties.

(E) "Psychiatrist" means a licensed physician who has satisfactorily completed a residency training program in psychiatry, as approved by the residency review committee of the American medical association, the committee on post-graduate education of the American osteopathic association, or the American osteopathic board of neurology and psychiatry, or who on July 1, 1989, has been recognized as a psychiatrist by the Ohio state medical association or the Ohio osteopathic association on the basis of formal training and five or more years of medical practice limited to psychiatry.

(F) "Hospital" means a hospital or inpatient unit 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 under Chapter 5119. of the Revised Code.

(G) "Public hospital" means a facility that is tax-supported and under the jurisdiction of the department of mental health.

(H) "Community mental health agency" means an agency that provides community mental health services that are certified by the director of mental health under section 5119.611 of the Revised Code.

(I) "Licensed clinical psychologist" means a person who holds a current valid psychologist license issued under section 4732.12 or 4732.15 of the Revised Code, and in addition, meets either of the following criteria:

(1) Meets the educational requirements set forth in division (B) of section 4732.10 of the Revised Code and has a minimum of two years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, at least one year of which shall be a predoctoral internship, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under the supervision of a psychologist who is licensed or who holds a diploma issued by the American board of professional psychology, or whose qualifications are substantially similar to those required for licensure by the state board of psychology when the

supervision has occurred prior to enactment of laws governing the practice of psychology;

(2) Meets the educational requirements set forth in division (B) of section 4732.15 of the Revised Code and has a minimum of four years' full-time professional experience, or the equivalent as determined by rule of the state board of psychology, in clinical psychological work in a public or private hospital or clinic or in private practice, diagnosing and treating problems of mental illness or mental retardation under supervision, as set forth in division (I)(1) of this section.

(J) "Health officer" means any public health physician; public health nurse; or other person authorized by or designated by a city health district; a general health district; or a board of alcohol, drug addiction, and mental health services to perform the duties of a health officer under this chapter.

(K) "Chief clinical officer" means the medical director of a hospital, or a community mental health agency, or a board of alcohol, drug addiction, and mental health services, or, if there is no medical director, the licensed physician responsible for the treatment a hospital or community mental health agency provides. The chief clinical officer may delegate to the attending physician responsible for a patient's care the duties imposed on the chief clinical officer by this chapter. Within a community mental health agency, the chief clinical officer shall be designated by the governing body of the agency and shall be a licensed physician or licensed clinical psychologist who supervises diagnostic and treatment services. A licensed physician or licensed clinical psychologist designated by the chief clinical officer may perform the duties and accept the responsibilities of the chief clinical officer in the chief clinical officer's absence.

(L) "Working day" or "court day" means Monday, Tuesday, Wednesday, Thursday, and Friday, except when such day is a holiday.

(M) "Indigent" means unable without deprivation of satisfaction of basic needs to provide for the payment of an attorney and other necessary expenses of legal representation, including expert testimony.

(N) "Respondent" means the person whose detention, commitment, hospitalization, continued hospitalization or commitment, or discharge is being sought in any proceeding under this chapter.

(O) ~~"Legal rights service" means the service established under~~ "Ohio protection and advocacy system" has the same meaning as in section 5123.60 of the Revised Code.

(P) "Independent expert evaluation" means an evaluation conducted by a licensed clinical psychologist, psychiatrist, or licensed physician who has been selected by the respondent or the respondent's counsel and who

consents to conducting the evaluation.

(Q) "Court" means the probate division of the court of common pleas.

(R) "Expunge" means:

(1) The removal and destruction of court files and records, originals and copies, and the deletion of all index references;

(2) The reporting to the person of the nature and extent of any information about the person transmitted to any other person by the court;

(3) Otherwise insuring that any examination of court files and records in question shall show no record whatever with respect to the person;

(4) That all rights and privileges are restored, and that the person, the court, and any other person may properly reply that no such record exists, as to any matter expunged.

(S) "Residence" means a person's physical presence in a county with intent to remain there, except that:

(1) If a person is receiving a mental health service at a facility that includes nighttime sleeping accommodations, residence means that county in which the person maintained the person's primary place of residence at the time the person entered the facility;

(2) If a person is committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, residence means the county where the criminal charges were filed.

When the residence of a person is disputed, the matter of residence shall be referred to the department of mental health for investigation and determination. Residence shall not be a basis for a board's denying services to any person present in the board's service district, and the board shall provide services for a person whose residence is in dispute while residence is being determined and for a person in an emergency situation.

(T) "Admission" to a hospital or other place means that a patient is accepted for and stays at least one night at the hospital or other place.

(U) "Prosecutor" means the prosecuting attorney, village solicitor, city director of law, or similar chief legal officer who prosecuted a criminal case in which a person was found not guilty by reason of insanity, who would have had the authority to prosecute a criminal case against a person if the person had not been found incompetent to stand trial, or who prosecuted a case in which a person was found guilty.

(V) "Treatment plan" means a written statement of reasonable objectives and goals for an individual established by the treatment team, with specific criteria to evaluate progress towards achieving those objectives. The active participation of the patient in establishing the objectives and goals shall be documented. The treatment plan shall be based

on patient needs and include services to be provided to the patient while the patient is hospitalized and after the patient is discharged. The treatment plan shall address services to be provided upon discharge, including but not limited to housing, financial, and vocational services.

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

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

Sec. 5122.02. (A) Except as provided in division (D) of this section, any person who is eighteen years of age or older and who is, appears to be, or believes self to be mentally ill may make written application for voluntary admission to the chief medical officer of a hospital.

(B) Except as provided in division (D) of this section, the application also may be made on behalf of a minor by a parent, a guardian of the person, or the person with custody of the minor, and on behalf of an adult incompetent person by the guardian or the person with custody of the incompetent person.

Any person whose admission is applied for under division (A) or (B) of this section may be admitted for observation, diagnosis, care, or treatment, in any hospital unless the chief clinical officer finds that hospitalization is inappropriate, and except that, in the case of a public hospital, no person shall be admitted without the authorization of the board of the person's county of residence.

(C) If a minor or person adjudicated incompetent due to mental illness whose voluntary admission is applied for under division (B) of this section is admitted, the court shall determine, upon petition by ~~the legal rights service~~, private or otherwise appointed counsel, a relative, or one acting as next friend, whether the admission or continued hospitalization is in the best interest of the minor or incompetent.

The chief clinical officer shall discharge any voluntary patient who has recovered or whose hospitalization the officer determines to be no longer advisable and may discharge any voluntary patient who refuses to accept treatment consistent with the written treatment plan required by section 5122.27 of the Revised Code.

(D) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily admit ~~himself or herself~~ the person or be voluntarily admitted to a hospital pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

Sec. 5122.27. The chief clinical officer of the hospital or ~~his~~ the chief clinical officer's designee shall assure that all patients hospitalized or committed pursuant to this chapter shall:

(A) Receive, within twenty days of their admission sufficient professional care to assure that an evaluation of current status, differential diagnosis, probable prognosis, and description of the current treatment plan is stated on the official chart;

(B) Have a written treatment plan consistent with the evaluation, diagnosis, prognosis, and goals which shall be provided, upon request of the patient or patient's counsel, to the patient's counsel and to any private physician or licensed clinical psychologist designated by the patient or ~~his~~ the patient's counsel or to the ~~legal rights service~~ Ohio protection and advocacy system;

(C) Receive treatment consistent with the treatment plan. The department of mental health shall set standards for treatment provided to such patients, consistent wherever possible with standards set by the joint commission on accreditation of healthcare organizations.

(D) Receive periodic reevaluations of the treatment plan by the professional staff at intervals not to exceed ninety days;

(E) Be provided with adequate medical treatment for physical disease or injury;

(F) Receive humane care and treatment, including without limitation, the following:

(1) The least restrictive environment consistent with the treatment plan;

(2) The necessary facilities and personnel required by the treatment plan;

(3) A humane psychological and physical environment;

(4) The right to obtain current information concerning ~~his~~ the patient's treatment program and expectations in terms that ~~he~~ the patient can reasonably understand;

(5) Participation in programs designed to afford ~~him~~ the patient substantial opportunity to acquire skills to facilitate ~~his~~ return to the community or to terminate an involuntary commitment;

(6) The right to be free from unnecessary or excessive medication;

(7) Freedom from restraints or isolation unless it is stated in a written order by the chief clinical officer or ~~his~~ the chief clinical officer's designee, or the patient's individual physician or psychologist in a private or general hospital.

~~(G) Be notified of their rights under the law within twenty-four hours of admission, according to rules established by the legal rights service.~~

If the chief clinical officer of the hospital is unable to provide the treatment required by divisions (C), (E), and (F) of this section for any patient hospitalized pursuant to Chapter 5122. of the Revised Code, ~~he the chief clinical officer~~ shall immediately notify the patient, the court, the ~~legal rights service~~ Ohio protection and advocacy system, the director of mental health, and the patient's counsel and legal guardian, if known. If within ten days after receipt of such notification by the director, ~~he the director~~ is unable to effect a transfer of the patient, pursuant to section 5122.20 of the Revised Code, to a hospital, community mental health agency, or other medical facility where treatment is available, or has not received an order of the court to the contrary, the involuntary commitment of any patient hospitalized pursuant to Chapter 5122. of the Revised Code and defined as a mentally ill person subject to hospitalization by court order under division (B)(4) of section 5122.01 of the Revised Code shall automatically be terminated.

Sec. 5122.271. (A) Except as provided in divisions (C), (D), and (E) of this section, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for a patient's care shall provide all information, including expected physical and medical consequences, necessary to enable any patient of a hospital for the mentally ill to give a fully informed, intelligent, and knowing consent, the opportunity to consult with independent specialists and counsel, and the right to refuse consent for any of the following:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilizations;
- (5) Any unusually hazardous treatment procedures;
- (6) Psycho-surgery.

(B) No patient shall be subjected to any of the procedures listed in divisions (A)(4) to (6) of this section until both the patient's informed, intelligent, and knowing consent and the approval of the court have been obtained, except that court approval is not required for a legally competent and voluntary patient in a nonpublic hospital.

(C) If, after providing the information required under division (A) of this section to the patient, the chief clinical officer or attending physician concludes that a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the patient's natural or court-appointed guardian, who may give an informed,

intelligent, and knowing written consent.

If a patient is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, the information, the recommendation of the chief clinical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in which the hospital is located, which may approve the surgery. Before approving the surgery, the court shall notify the ~~legal rights service~~ Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the patient of the rights to consult with counsel, to have counsel appointed by the court if the patient is indigent, and to contest the recommendation of the chief clinical officer.

(D) If, in a medical emergency, and after providing the information required under division (A) of this section to the patient, it is the judgment of one licensed physician that delay in obtaining surgery would create a grave danger to the health of the patient, it may be administered without the consent of the patient or the patient's guardian if the necessary information is provided to the patient's spouse or next of kin to enable that person to give informed, intelligent, and knowing written consent. If no spouse or next of kin can reasonably be contacted, or if the spouse or next of kin is contacted, but refuses to consent, the surgery may be performed upon the written authorization of the chief clinical officer or, in a nonpublic hospital, upon the written authorization of the attending physician responsible for the patient's care, and after the approval of the court has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the patient, the chief clinical officer or, in a nonpublic hospital, the attending physician responsible for the patient's care may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief clinical officer or the attending physician who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the patient's file and be given to the guardian, spouse, or next of kin of the patient, to the hospital at which the surgery was performed, and to the ~~legal rights service created by~~ Ohio protection and advocacy system as defined in section 5123.60 of the Revised Code.

(E) Major aversive interventions shall not be used unless a patient

continues to engage in behavior destructive to self or others after other forms of therapy have been attempted. Major aversive interventions may be applied if approved by the director of mental health. ~~The director of the legal rights service created by section 5123.60 of the Revised Code shall be notified of any proposed major aversive intervention prior to review by the director of mental health.~~ Major aversive interventions shall not be applied to a voluntary patient without the informed, intelligent, and knowing written consent of the patient or the patient's guardian.

(F) Unless there is substantial risk of physical harm to self or others, or other than under division (D) of this section, this chapter does not authorize any form of compulsory medical, psychological, or psychiatric treatment of any patient who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing without specific court authorization.

(G) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5122.29. All patients hospitalized or committed pursuant to this chapter have the following rights:

(A) The right to a written list of all rights enumerated in this chapter, to that person, ~~his~~ that person's legal guardian, and ~~his~~ that person's counsel. If the person is unable to read, the list shall be read and explained to ~~him~~ the person.

(B) The right at all times to be treated with consideration and respect for ~~his~~ the patient's privacy and dignity, including without limitation, the following:

(1) At the time a person is taken into custody for diagnosis, detention, or treatment under Chapter 5122. of the Revised Code, the person taking ~~him~~ that person into custody shall take reasonable precautions to preserve and safeguard the personal property in the possession of or on the premises occupied by that person;

(2) A person who is committed, voluntarily or involuntarily, shall be given reasonable protection from assault or battery by any other person.

(C) The right to communicate freely with and be visited at reasonable times by ~~his~~ the patient's private counsel or personnel of the ~~legal rights service~~ Ohio protection and advocacy system and, unless prior court restriction has been obtained, to communicate freely with and be visited at reasonable times by ~~his~~ the patient's personal physician or psychologist.

(D) The right to communicate freely with others, unless specifically restricted in the patient's treatment plan for clear treatment reasons, including without limitation the following:

(1) To receive visitors at reasonable times;

(2) To have reasonable access to telephones to make and receive confidential calls, including a reasonable number of free calls if unable to pay for them and assistance in calling if requested and needed.

(E) The right to have ready access to letter writing materials, including a reasonable number of stamps without cost if unable to pay for them, and to mail and receive unopened correspondence and assistance in writing if requested and needed.

(F) The right to the following personal privileges consistent with health and safety:

(1) To wear ~~his~~ the patient's own clothes and maintain ~~his~~ the patient's own personal effects;

(2) To be provided an adequate allowance for or allotment of neat, clean, and seasonable clothing if unable to provide ~~his~~ the patient's own;

(3) To maintain ~~his~~ the patient's personal appearance according to ~~his~~ the patient's own personal taste, including head and body hair;

(4) To keep and use personal possessions, including toilet articles;

(5) To have access to individual storage space for ~~his~~ the patient's private use;

(6) To keep and spend a reasonable sum of ~~his~~ the patient's own money for expenses and small purchases;

(7) To receive and possess reading materials without censorship, except when the materials create a clear and present danger to the safety of persons in the facility.

(G) The right to reasonable privacy, including both periods of privacy and places of privacy.

(H) The right to free exercise of religious worship within the facility, including a right to services and sacred texts that are within the reasonable capacity of the facility to supply, provided that no patient shall be coerced into engaging in any religious activities.

(I) The right to social interaction with members of either sex, subject to adequate supervision, unless such social interaction is specifically withheld under a patient's written treatment plan for clear treatment reasons.

As used in this section, "clear treatment reasons" means that permitting the patient to communicate freely with others will present a substantial risk of physical harm to the patient or others or will substantially preclude effective treatment of the patient. If a right provided under this section is restricted or withheld for clear treatment reasons, the patient's written treatment plan shall specify the treatment designed to eliminate the restriction or withholding of the right at the earliest possible time.

Sec. 5122.31. (A) All certificates, applications, records, and reports made for the purpose of this chapter and sections 2945.38, 2945.39, 2945.40, 2945.401, and 2945.402 of the Revised Code, other than court journal entries or court docket entries, and directly or indirectly identifying a patient or former patient or person whose hospitalization has been sought under this chapter, shall be kept confidential and shall not be disclosed by any person except:

(1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person, as may be determined by the court for judicial records and by the chief clinical officer for medical records;

(2) When disclosure is provided for in this chapter or section ~~5123.60~~ 5123.601 of the Revised Code;

(3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health agencies may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;

(4) Pursuant to a court order signed by a judge;

(5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;

(6) That hospitals and other institutions and facilities within the department of mental health may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health agencies and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any.

(7) That hospitals within the department, other institutions and facilities within the department, hospitals licensed by the department under section 5119.20 of the Revised Code, and community mental health agencies may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient;

(8) That a patient's family member who is involved in the provision,

planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure.

(9) That community mental health agencies may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other agencies in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any.

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

(12) That information may be disclosed to staff members of the appropriate board or to staff members designated by the director of mental health for the purpose of evaluating the quality, effectiveness, and efficiency of services and determining if the services meet minimum standards. Information obtained during such evaluations shall not be retained with the name of any patient.

(13) That records pertaining to the patient's diagnosis, course of treatment, treatment needs, and prognosis shall be disclosed and released to the appropriate prosecuting attorney if the patient was committed pursuant to section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code, or to the attorney designated by the board for proceedings pursuant to involuntary commitment under this chapter.

(14) That the department of mental health may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction to ensure continuity of care for inmates who are receiving mental health services in an institution of the department of rehabilitation and correction. The department shall not disclose those records unless the inmate is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's

medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any.

(15) That a community mental health agency that ceases to operate may transfer to either a community mental health agency that assumes its caseload or to the board of alcohol, drug addiction, and mental health services of the service district in which the patient resided at the time services were most recently provided any treatment records that have not been transferred elsewhere at the patient's request.

(B) Before records are disclosed pursuant to divisions (A)(3), (6), (7), and (9) of this section, the custodian of the records shall attempt to obtain the patient's consent for the disclosure. No person shall reveal the contents of a medical record of a patient except as authorized by law.

(C) The managing officer of a hospital who releases necessary medical information under division (A)(3) of this section to allow an insurance carrier or other third party payor to comply with section 5121.43 of the Revised Code shall neither be subject to criminal nor civil liability.

Sec. 5122.32. (A) As used in this section:

(1) "Quality assurance committee" means a committee that is appointed in the central office of the department of mental health by the director of mental health, a committee of a hospital or community setting program, a committee established pursuant to section 5119.47 of the Revised Code of the department of mental health appointed by the managing officer of the hospital or program, or a duly authorized subcommittee of a committee of that nature and that is designated to carry out quality assurance program activities.

(2) "Quality assurance program" means a comprehensive program within the department of mental health to systematically review and improve the quality of medical and mental health services within the department and its hospitals and community setting programs, the safety and security of persons receiving medical and mental health services within the department and its hospitals and community setting programs, and the efficiency and effectiveness of the utilization of staff and resources in the delivery of medical and mental health services within the department and its hospitals and community setting programs. "Quality assurance program" includes the central office quality assurance committees, morbidity and mortality review committees, quality assurance programs of community setting programs, quality assurance committees of hospitals operated by the department of mental health, and the office of licensure and certification of the department.

(3) "Quality assurance program activities" include collecting or

compiling information and reports required by a quality assurance committee, receiving, reviewing, or implementing the recommendations made by a quality assurance committee, and credentialing, privileging, infection control, tissue review, peer review, utilization review including access to patient care records, patient care assessment records, and medical and mental health records, medical and mental health resource management, mortality and morbidity review, and identification and prevention of medical or mental health incidents and risks, whether performed by a quality assurance committee or by persons who are directed by a quality assurance committee.

(4) "Quality assurance records" means the proceedings, discussion, records, findings, recommendations, evaluations, opinions, minutes, reports, and other documents or actions that emanate from quality assurance committees, quality assurance programs, or quality assurance program activities. "Quality assurance records" does not include aggregate statistical information that does not disclose the identity of persons receiving or providing medical or mental health services in department of mental health institutions.

(B)(1) Except as provided in division (E) of this section, quality assurance records are confidential and are not public records under section 149.43 of the Revised Code, and shall be used only in the course of the proper functions of a quality assurance program.

(2) Except as provided in division (E) of this section, no person who possesses or has access to quality assurance records and who knows that the records are quality assurance records shall willfully disclose the contents of the records to any person or entity.

(C)(1) Except as provided in division (E) of this section, no quality assurance record shall be subject to discovery in, and is not admissible in evidence, in any judicial or administrative proceeding.

(2) Except as provided in division (E) of this section, no member of a quality assurance committee or a person who is performing a function that is part of a quality assurance program shall be permitted or required to testify in a judicial or administrative proceeding with respect to quality assurance records or with respect to any finding, recommendation, evaluation, opinion, or other action taken by the committee, member, or person.

(3) Information, documents, or records otherwise available from original sources are not to be construed as being unavailable for discovery or admission in evidence in a judicial or administrative proceeding merely because they were presented to a quality assurance committee. No person testifying before a quality assurance committee or person who is a member

of a quality assurance committee shall be prevented from testifying as to matters within the person's knowledge, but the witness cannot be asked about the witness' testimony before the quality assurance committee or about an opinion formed by the person as a result of the quality assurance committee proceedings.

(D)(1) A person who, without malice and in the reasonable belief that the information is warranted by the facts known to the person, provides information to a person engaged in quality assurance program activities is not liable for damages in a civil action for injury, death, or loss to person or property to any person as a result of providing the information.

(2) A member of a quality assurance committee, a person engaged in quality assurance program activities, and an employee of the department of mental health shall not be liable in damages in a civil action for injury, death, or loss to person or property to any person for any acts, omissions, decisions, or other conduct within the scope of the functions of the quality assurance program.

(3) Nothing in this section shall relieve any institution or individual from liability arising from the treatment of a patient.

(E) Quality assurance records may be disclosed, and testimony may be provided concerning quality assurance records, only to the following persons or entities:

(1) Persons who are employed or retained by the department of mental health and who have authority to evaluate or implement the recommendations of a state-operated hospital, community setting program, or central office quality assurance committee;

(2) Public or private agencies or organizations if needed to perform a licensing or accreditation function related to department of mental health hospitals or community setting programs, or to perform monitoring of a hospital or program of that nature as required by law.

(F) A disclosure of quality assurance records pursuant to division (E) of this section does not otherwise waive the confidential and privileged status of the disclosed quality assurance records.

(G) Nothing in this section shall limit the access of the ~~legal rights service~~ Ohio protection and advocacy system to records or personnel as ~~set forth in sections 5123.60 to 5123.604 required under section 5123.601~~ of the Revised Code. Nothing in this section shall limit the admissibility of documentary or testimonial evidence in an action brought by the ~~legal rights service~~ Ohio protection and advocacy system in its own name or on behalf of a client.

Sec. 5123.092. (A) There is hereby established at each institution and

branch institution under the control of the department of developmental disabilities a citizen's advisory council consisting of thirteen members. At least seven of the members shall be persons who are not providers of mental retardation services. Each council shall include parents or other relatives of residents of institutions under the control of the department, community leaders, professional persons in relevant fields, and persons who have an interest in or knowledge of mental retardation. The managing officer of the institution shall be a nonvoting member of the council.

(B) The director of developmental disabilities shall be the appointing authority for the voting members of each citizen's advisory council. Each time the term of a voting member expires, the remaining members of the council shall recommend to the director one or more persons to serve on the council. The director may accept a nominee of the council or reject the nominee or nominees. If the director rejects the nominee or nominees, the remaining members of the advisory council shall further recommend to the director one or more other persons to serve on the advisory council. This procedure shall continue until a member is appointed to the advisory council.

Each advisory council shall elect from its appointed members a chairperson, vice-chairperson, and a secretary to serve for terms of one year. Advisory council officers shall not serve for more than two consecutive terms in the same office. A majority of the advisory council members constitutes a quorum.

(C) Terms of office shall be for three years, each term ending on the same day of the same month of the year as did the term which it succeeds. No member shall serve more than two consecutive terms, except that any former member may be appointed if one year or longer has elapsed since the member served two consecutive terms. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any vacancy shall be filled in the same manner in which the original appointment was made, and the appointee to a vacancy in an unexpired term shall serve the balance of the term of the original appointee. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office, or until a period of sixty days has elapsed, whichever occurs first.

(D) Members shall be expected to attend all meetings of the advisory council. Unexcused absence from two successive regularly scheduled meetings shall be considered prima-facie evidence of intent not to continue as a member. The chairperson of the board shall, after a member has been absent for two successive regularly scheduled meetings, direct a letter to the

member asking if the member wishes to remain in membership. If an affirmative reply is received, the member shall be retained as a member except that, if, after having expressed a desire to remain a member, the member then misses a third successive regularly scheduled meeting without being excused, the chairperson shall terminate the member's membership.

(E) A citizen's advisory council shall meet six times annually, or more frequently if three council members request the chairperson to call a meeting. The council shall keep minutes of each meeting and shall submit them to the managing officer of the institution with which the council is associated; and the department of developmental disabilities, ~~and the legal rights service.~~

(F) Members of citizen's advisory councils shall receive no compensation for their services, except that they shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties by the institution with which they are associated from funds allocated to it, provided that reimbursement for those expenses shall not exceed limits imposed upon the department of developmental disabilities by administrative rules regulating travel within this state.

(G) The councils shall have reasonable access to all patient treatment and living areas and records of the institution, except those records of a strictly personal or confidential nature. The councils shall have access to a patient's personal records with the consent of the patient or the patient's legal guardian or, if the patient is a minor, with the consent of the parent or legal guardian of the patient.

(H) As used in this section, "branch institution" means a facility that is located apart from an institution and is under the control of the managing officer of the institution.

Sec. 5123.19. (A) As used in this section and in sections 5123.191, 5123.194, 5123.196, 5123.197, 5123.198, and 5123.20 of the Revised Code:

(1)(a) "Residential facility" means a home or facility in which a mentally retarded or developmentally disabled person resides, except the home of a relative or legal guardian in which a mentally retarded or developmentally disabled person resides, a respite care home certified under section 5126.05 of the Revised Code, a county home or district home operated pursuant to Chapter 5155. of the Revised Code, or a dwelling in which the only mentally retarded or developmentally disabled residents are in an independent living arrangement or are being provided supported living.

(b) "Intermediate care facility for the mentally retarded" means a residential facility that is considered an intermediate care facility for the

mentally retarded for the purposes of Chapter 5111. of the Revised Code.

(2) "Political subdivision" means a municipal corporation, county, or township.

(3) "Independent living arrangement" means an arrangement in which a mentally retarded or developmentally disabled person resides in an individualized setting chosen by the person or the person's guardian, which is not dedicated principally to the provision of residential services for mentally retarded or developmentally disabled persons, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(4) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(5) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5119.73, 5103.03, or 5119.20 of the Revised Code. Notwithstanding Chapter 3721. of the Revised Code, a nursing home that is certified as an intermediate care facility for the mentally retarded under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1396, as amended, shall apply for licensure of the portion of the home that is certified as an intermediate care facility for the mentally retarded.

(C) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a

license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (K) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (H)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (H)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) If the director determines that two or more residential facilities owned or operated by the same person or government entity are not being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, and the director's findings are based on the same or a substantially similar action, practice, circumstance, or incident that creates a substantial risk to the health and safety of the residents, the director shall conduct a survey as soon as practicable at each residential facility owned or operated by that person or government entity. The director may take any action authorized by this section with respect to any facility found to be operating in violation of a provision of this chapter that applies to residential facilities or the rules adopted under such a provision.

(6) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. The county board shall send a copy of the letter to each of the following:

- (a) Each resident who receives services from the licensee;
- (b) The guardian of each resident who receives services from the licensee if the resident has a guardian;
- (c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(7) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(8) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(9) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E) The director shall establish a program under which public notification may be made when the director has initiated license revocation proceedings or has issued an order for the suspension of admissions, placement of a monitor, or removal of residents. The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this division. The rules shall establish the procedures by which the public notification will be made and specify the circumstances for which the notification must be made. The rules shall require that public notification be made if the director has taken action against the facility in the eighteen-month period immediately preceding the director's latest action against the facility and the latest action is being taken for the same or a substantially similar violation of a provision of this chapter that applies to

residential facilities or the rules adopted under such a provision. The rules shall specify a method for removing or amending the public notification if the director's action is found to have been unjustified or the violation at the residential facility has been corrected.

(F)(1) Except as provided in division (F)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after receiving the notice specified in section 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(G) Neither a person or government agency whose application for a

license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is one year after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(H) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities, including intermediate care facilities for the mentally retarded. The rules for intermediate care facilities for the mentally retarded may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Requirements for the training of residential facility personnel;

(6) Classifications for the various types of residential facilities;

(7) Certification procedures for licensees and management contractors that the director determines are necessary to ensure that they have the skills and qualifications to properly operate or manage residential facilities;

(8) The maximum number of persons who may be served in a particular type of residential facility;

(9) Uniform procedures for admission of persons to and transfers and discharges of persons from residential facilities;

(10) Other standards for the operation of residential facilities and the services provided at residential facilities;

(11) Procedures for waiving any provision of any rule adopted under this section.

(I) Before issuing a license, the director of the department or the director's designee shall conduct a survey of the residential facility for which application is made. The director or the director's designee shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed.

A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there.

In conducting surveys, the director or the director's designee shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director or the director's designee in conducting the survey.

Following each survey, unless the director initiates a license revocation proceeding, the director or the director's designee shall provide the licensee with a report listing any deficiencies, specifying a timetable within which the licensee shall submit a plan of correction describing how the deficiencies will be corrected, and, when appropriate, specifying a timetable within which the licensee must correct the deficiencies. After a plan of correction is submitted, the director or the director's designee shall approve or disapprove the plan. A copy of the report and any approved plan of correction shall be provided to any person who requests it.

The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(J) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.193 or 5123.197 of the Revised Code.

(K) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for

development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised Code.

(L) A county board of developmental disabilities, ~~the legal rights service,~~ and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall be in writing and shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(M) The department shall establish procedures for the notification of interested parties of the transfer or interim care of residents from residential facilities that are closing or are losing their license.

(N) Before issuing a license under this section to a residential facility that will accommodate at any time more than one mentally retarded or developmentally disabled individual, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the

director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(O) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least six but not more than eight persons with mental retardation or a developmental disability as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(P) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen persons with mental retardation or a developmental disability as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(Q) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(R) Divisions (O) and (P) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically

permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(S)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of persons in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred fifty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(T) Notwithstanding rules adopted pursuant to this section establishing the maximum number of persons who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of persons being served by the facility on the effective date of the rules or the number of persons for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

(U) The director or the director's designee may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a

residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.191. (A) The court of common pleas or a judge thereof in the judge's county, or the probate court, may appoint a receiver to take possession of and operate a residential facility licensed by the department of developmental disabilities, in causes pending in such courts respectively, when conditions existing at the facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents. Conditions at the facility that may present such risk of harm include, but are not limited to, instances when any of the following occur:

(1) The residential facility is in violation of state or federal law or regulations.

(2) The facility has had its license revoked or procedures for revocation have been initiated, or the facility is closing or intends to cease operations.

(3) Arrangements for relocating residents need to be made.

(4) Insolvency of the operator, licensee, or landowner threatens the operation of the facility.

(5) The facility or operator has demonstrated a pattern and practice of repeated violations of state or federal laws or regulations.

(B) A court in which a petition is filed pursuant to this section shall notify the person holding the license for the facility and the department of developmental disabilities of the filing. The court shall order the department to notify the ~~legal rights service~~, facility owner, facility operator, county board of developmental disabilities, facility residents, and residents' parents and guardians of the filing of the petition.

The court shall provide a hearing on the petition within five court days of the time it was filed, except that the court may appoint a receiver prior to that time if it determines that the circumstances necessitate such action. Following a hearing on the petition, and upon a determination that the appointment of a receiver is warranted, the court shall appoint a receiver and notify the department of developmental disabilities and appropriate persons of this action.

(C) A residential facility for which a receiver has been named is deemed to be in compliance with section 5123.19 and Chapter 3721. of the Revised Code for the duration of the receivership.

(D) When the operating revenue of a residential facility in receivership is insufficient to meet its operating expenses, including the cost of bringing the facility into compliance with state or federal laws or regulations, the

court may order the state to provide necessary funding, except as provided in division (K) of this section. The state shall provide such funding, subject to the approval of the controlling board. The court may also order the appropriate authorities to expedite all inspections necessary for the issuance of licenses or the certification of a facility, and order a facility to be closed if it determines that reasonable efforts cannot bring the facility into substantial compliance with the law.

(E) In establishing a receivership, the court shall set forth the powers and duties of the receiver. The court may generally authorize the receiver to do all that is prudent and necessary to safely and efficiently operate the residential facility within the requirements of state and federal law, but shall require the receiver to obtain court approval prior to making any single expenditure of more than five thousand dollars to correct deficiencies in the structure or furnishings of a facility. The court shall closely review the conduct of the receiver it has appointed and shall require regular and detailed reports. The receivership shall be reviewed at least every sixty days.

(F) A receivership established pursuant to this section shall be terminated, following notification of the appropriate parties and a hearing, if the court determines either of the following:

(1) The residential facility has been closed and the former residents have been relocated to an appropriate facility.

(2) Circumstances no longer exist at the facility that present a substantial risk of physical or mental harm to residents, and there is no deficiency in the facility that is likely to create a future risk of harm.

Notwithstanding division (F)(2) of this section, the court shall not terminate a receivership for a residential facility that has previously operated under another receivership unless the responsibility for the operation of the facility is transferred to an operator approved by the court and the department of developmental disabilities.

(G) The department of developmental disabilities may, upon its own initiative or at the request of an owner, operator, or resident of a residential facility, or at the request of a resident's guardian or relative, or a county board of developmental disabilities, ~~or the legal rights service,~~ petition the court to appoint a receiver to take possession of and operate a residential facility. When the department has been requested to file a petition by any of the parties listed above, it shall, within forty-eight hours of such request, either file such a petition or notify the requesting party of its decision not to file. If the department refuses to file, the requesting party may file a petition with the court requesting the appointment of a receiver to take possession of and operate a residential facility.

Petitions filed pursuant to this division shall include the following:

(1) A description of the specific conditions existing at the facility which present a substantial risk of physical or mental harm to residents;

(2) A statement of the absence of other adequate remedies at law;

(3) The number of individuals residing at the facility;

(4) A statement that the facts have been brought to the attention of the owner or licensee and that conditions have not been remedied within a reasonable period of time or that the conditions, though remedied periodically, habitually exist at the facility as a pattern or practice;

(5) The name and address of the person holding the license for the facility and the address of the department of developmental disabilities.

The court may award to an operator appropriate costs and expenses, including reasonable attorney's fees, if it determines that a petitioner has initiated a proceeding in bad faith or merely for the purpose of harassing or embarrassing the operator.

(H) Except for the department of developmental disabilities or a county board of developmental disabilities, no party or person interested in an action shall be appointed a receiver pursuant to this section.

To assist the court in identifying persons qualified to be named as receivers, the director of developmental disabilities or the director's designee shall maintain a list of the names of such persons. The director shall, in accordance with Chapter 119. of the Revised Code, establish standards for evaluating persons desiring to be included on such a list.

(I) Before a receiver enters upon the duties of that person, the receiver must be sworn to perform the duties of receiver faithfully, and, with surety approved by the court, judge, or clerk, execute a bond to such person, and in such sum as the court or judge directs, to the effect that such receiver will faithfully discharge the duties of receiver in the action, and obey the orders of the court therein.

(J) Under the control of the appointing court, a receiver may bring and defend actions in the receiver's own name as receiver and take and keep possession of property.

The court shall authorize the receiver to do the following:

(1) Collect payment for all goods and services provided to the residents or others during the period of the receivership at the same rate as was charged by the licensee at the time the petition for receivership was filed, unless a different rate is set by the court;

(2) Honor all leases, mortgages, and secured transactions governing all buildings, goods, and fixtures of which the receiver has taken possession and continues to use, subject to the following conditions:

(a) In the case of a rental agreement, only to the extent of payments that are for the use of the property during the period of the receivership;

(b) In the case of a purchase agreement only to the extent of payments that come due during the period of the receivership.

(3) If transfer of residents is necessary, provide for the orderly transfer of residents by doing the following:

(a) Cooperating with all appropriate state and local agencies in carrying out the transfer of residents to alternative community placements;

(b) Providing for the transportation of residents' belongings and records;

(c) Helping to locate alternative placements and develop discharge plans;

(d) Preparing residents for the trauma of discharge;

(e) Permitting residents or guardians to participate in transfer or discharge planning except when an emergency exists and immediate transfer is necessary.

(4) Make periodic reports on the status of the residential program to the appropriate state agency, county board of developmental disabilities, parents, guardians, and residents;

(5) Compromise demands or claims;

(6) Generally do such acts respecting the residential facility as the court authorizes.

(K) Neither the receiver nor the department of developmental disabilities is liable for debts incurred by the owner or operator of a residential facility for which a receiver has been appointed.

(L) The department of developmental disabilities may contract for the operation of a residential facility in receivership. The department shall establish the conditions of a contract. Notwithstanding any other provision of law, contracts that are necessary to carry out the powers and duties of the receiver need not be competitively bid.

(M) The department of developmental disabilities, the department of job and family services, and the department of health shall provide technical assistance to any receiver appointed pursuant to this section.

Sec. 5123.35. (A) There is hereby created the Ohio developmental disabilities council, which shall serve as an advocate for all persons with developmental disabilities. The council shall act in accordance with the "Developmental Disabilities Assistance and Bill of Rights Act," 98 Stat. 2662 (1984), 42 U.S.C. 6001, as amended. The governor shall appoint the members of the council in accordance with 42 U.S.C. 6024.

(B) The Ohio developmental disabilities council shall develop the state plan required by federal law as a condition of receiving federal assistance

under 42 U.S.C. 6021 to 6030. The department of developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance.

(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for developmentally disabled persons. The Ohio developmental disabilities council may award the grants or enter into the contracts.

(D) The Ohio developmental disabilities council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply:

(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 6024(b)(3), a representative of a university affiliated program as defined in 42 U.S.C. 6001(18), or a representative of the ~~legal rights service created under Ohio protection and advocacy system~~, as defined in section 5123.60 of the Revised Code.

(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the Ohio developmental disabilities council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

Sec. 5123.60. (A) As used in this section and section 5123.601 of the Revised Code, "Ohio protection and advocacy system" means the nonprofit entity designated by the governor in accordance with H.B. 153 of the 129th general assembly to serve as the state's protection and advocacy system and client assistance program.

(B) The Ohio protection and advocacy system shall provide both of the following:

(1) Advocacy services for people with disabilities, as provided under section 101 of the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 42 U.S.C. 15001;

(2) A client assistance program, as provided under section 112 of the "Workforce Investment Act of 1998," 112 Stat. 1163 (1998), 29 U.S.C. 732, as amended.

(C) The Ohio protection and advocacy system may establish any guidelines necessary for its operation.

~~Sec. 5123.60 5123.601. (A) A legal rights service is hereby created and established to protect and advocate the rights of mentally ill persons, mentally retarded persons, developmentally disabled persons, and other disabled persons who may be represented by the service pursuant to division (L) of this section; to receive and act upon complaints concerning institutional and hospital practices and conditions of institutions for mentally retarded or developmentally disabled persons and hospitals for the mentally ill; and to assure that all persons detained, hospitalized, discharged, or institutionalized, and all persons whose detention, hospitalization, discharge, or institutionalization is sought or has been sought under this chapter or Chapter 5122. of the Revised Code are fully informed of their rights and adequately represented by counsel in proceedings under this chapter or Chapter 5122. of the Revised Code and in any proceedings to secure the rights of those persons. Notwithstanding the definitions of "mentally retarded person" and "developmentally disabled person" in section 5123.01 of the Revised Code, the legal rights service shall determine who is a mentally retarded or developmentally disabled person for purposes of this section and sections 5123.601 to 5123.604 of the Revised Code.~~

~~(B)(1) In regard to those persons detained, hospitalized, or institutionalized under Chapter 5122. of the Revised Code, the legal rights service shall undertake formal representation only of those persons who are involuntarily detained, hospitalized, or institutionalized pursuant to sections 5122.10 to 5122.15 of the Revised Code, and those voluntarily detained, hospitalized, or institutionalized who are minors, who have been adjudicated incompetent, who have been detained, hospitalized, or institutionalized in a public hospital, or who have requested representation by the legal rights service.~~

~~(2) If a person referred to in division (A) of this section voluntarily requests in writing that the legal rights service terminate participation in the person's case, such involvement shall cease.~~

~~(3) Persons described in divisions (A) and (B)(1) of this section who are represented by the legal rights service are clients of the legal rights service.~~

~~(C) Any person voluntarily hospitalized or institutionalized in a public hospital under division (A) of section 5122.02 of the Revised Code, after being fully informed of the person's rights under division (A) of this section, may, by written request, waive assistance by the legal rights service if the waiver is knowingly and intelligently made, without duress or coercion.~~

~~The waiver may be rescinded at any time by the voluntary patient or resident, or by the voluntary patient's or resident's legal guardian.~~

~~(D)(1) The legal rights service commission is hereby created for the purposes of appointing an administrator of the legal rights service, advising the administrator, assisting the administrator in developing a budget, advising the administrator in establishing and annually reviewing a strategic plan, creating a procedure for filing and determination of grievances against the legal rights service, and establishing general policy guidelines, including guidelines for the commencement of litigation, for the legal rights service. The commission may adopt rules to carry these purposes into effect and may receive and act upon appeals of personnel decisions by the administrator.~~

~~(2) The commission shall consist of seven members. One member, who shall serve as chairperson, shall be appointed by the chief justice of the supreme court, three members shall be appointed by the speaker of the house of representatives, and three members shall be appointed by the president of the senate. At least two members shall have experience in the field of developmental disabilities, and at least two members shall have experience in the field of mental health. No member shall be a provider or related to a provider of services to mentally retarded, developmentally disabled, or mentally ill persons.~~

~~(3) Terms of office of the members of the commission shall be for three years, each term ending on the same day of the month of the year as did the term which it succeeds. Each member shall serve subsequent to the expiration of the member's term until a successor is appointed and qualifies, or until sixty days has elapsed, whichever occurs first. No member shall serve more than two consecutive terms.~~

~~All vacancies in the membership of the commission shall be filled in the manner prescribed for regular appointments to the commission and shall be limited to the unexpired terms.~~

~~(4) The commission shall meet at least four times each year. Members shall be reimbursed for their necessary and actual expenses incurred in the performance of their official duties.~~

~~(5) The administrator of the legal rights service shall serve at the pleasure of the commission.~~

~~The administrator shall be an attorney admitted to practice law in this~~

~~state. The salary of the administrator shall be established in accordance with section 124.14 of the Revised Code.~~

~~(E) The legal rights service shall be completely independent of the department of mental health and the department of developmental disabilities and, notwithstanding section 109.02 of the Revised Code, shall also be independent of the office of the attorney general. The administrator of the legal rights service, Ohio protection and advocacy system staff, and attorneys designated by the ~~administrator~~ system to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to all of the following:~~

(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the ~~legal rights service~~ Ohio protection and advocacy system, including those who may be represented pursuant to division ~~(E)~~(D) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing services to persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(E)~~(D) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(E)~~(D) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the ~~service~~ Ohio protection and advocacy system pursuant to division ~~(E)~~(D) of this section.

(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract

agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the ~~legal rights service~~ Ohio protection and advocacy system;

(ii) The ~~legal rights service~~ Ohio protection and advocacy system has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

~~(F) The administrator of the legal rights service shall do the following:~~

~~(1) Administer and organize the work of the legal rights service and establish administrative or geographic divisions as the administrator considers necessary, proper, and expedient;~~

~~(2) Adopt and promulgate rules that are not in conflict with rules adopted by the commission and prescribe duties for the efficient conduct of the business and general administration of the legal rights service;~~

~~(3) Appoint and discharge employees, and hire experts, consultants, advisors, or other professionally qualified persons as the administrator considers necessary to carry out the duties of the legal rights service;~~

~~(4) Apply for and accept grants of funds, and accept charitable gifts and bequests;~~

~~(5) Prepare and submit a budget to the general assembly for the operation of the legal rights service. At least thirty days prior to submitting the budget to the general assembly, the administrator shall provide a copy of the budget to the commission for review and comment. When submitting the budget to the general assembly, the administrator shall include a copy of any written comments returned by the commission to the administrator.~~

~~(6) Enter into contracts and make expenditures necessary for the efficient operation of the legal rights service;~~

~~(7) Annually prepare a report of activities and submit copies of the report to the governor, the chief justice of the supreme court, the president of the senate, the speaker of the house of representatives, the director of mental health, and the director of developmental disabilities, and make the report available to the public;~~

~~(8) Upon request of the commission or of the chairperson of the commission, report to the commission on specific litigation issues or activities.~~

~~(G)(1) The legal rights service may act directly or contract with other organizations or individuals for the provision of the services envisioned under this section.~~

~~(2) Whenever possible, the administrator shall attempt to facilitate the resolution of complaints through administrative channels. Subject to division (G)(3) of this section, if attempts at administrative resolution prove unsatisfactory, the administrator may pursue any legal, administrative, and other appropriate remedies or approaches that may be necessary to accomplish the purposes of this section.~~

~~(3) The administrator may not pursue a class action lawsuit under division (G)(2) of this section when attempts at administrative resolution of a complaint prove unsatisfactory under that division unless both of the following have first occurred:~~

~~(a) At least four members of the commission, by their affirmative vote, have consented to the pursuit of the class action lawsuit;~~

~~(b) At least five members of the commission are present at the meeting of the commission at which that consent is obtained.~~

~~(4) If compensation for the work of attorneys employed by the legal rights service or another agency or political subdivision of the state is awarded to the service in a class action lawsuit pursued by the service, the compensation shall be limited to the actual hourly rate of pay for that legal work.~~

~~(5)(B) All records received or maintained by the legal rights service Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the legal rights service Ohio protection and advocacy system or, subject to any privilege, a guardian of the person or parent of the minor. Subject to division (G)(7) of this section, relationships Relationships between personnel and the agents of the legal rights service Ohio protection and advocacy system and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.~~

~~(6) Any person who has been represented by the legal rights service or who has applied for and been denied representation and who files a grievance with the service concerning the representation or application may appeal the decision of the service on the grievance to the commission. The person may appeal notwithstanding any objections of the person's legal~~

~~guardian. The commission may examine any records relevant to the appeal and shall maintain the confidentiality of any records that are required to be kept confidential.~~

~~(H)(C) The legal rights service, on the order of the administrator, with the approval by an affirmative vote of at least four members of the commission, Ohio protection and advocacy system may compel by subpoena the appearance and sworn testimony of any person the administrator Ohio protection and advocacy system reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the legal rights service Ohio protection and advocacy system may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.~~

~~(I) The legal rights service may conduct public hearings.~~

~~(J) The legal rights service may request from any governmental agency any cooperation, assistance, services, or data that will enable it to perform its duties.~~

~~(K) In any malpractice action filed against the administrator of the legal rights service, a member of the staff of the legal rights service, or an attorney designated by the administrator to perform legal services under division (E) of this section, the state shall, when the administrator, member, or attorney has acted in good faith and in the scope of employment, indemnify the administrator, member, or attorney for any judgment awarded or amount negotiated in settlement, and for any court costs or legal fees incurred in defense of the claim.~~

~~This division does not limit or waive, and shall not be construed to limit or waive, any defense that is available to the legal rights service, its administrator or employees, persons under a personal services contract with it, or persons designated under division (E) of this section, including, but not limited to, any defense available under section 9.86 of the Revised Code.~~

~~(L)(D) In addition to providing services to mentally ill, mentally retarded, or developmentally disabled persons, when a grant authorizing the provision of services to other individuals is accepted pursuant to division (F)(4) of this section by the Ohio protection and advocacy system, the legal rights service and its ombudsperson section Ohio protection and advocacy~~

~~system~~ may provide advocacy ~~or ombudsman services~~ to those other individuals and exercise any other authority granted by this section ~~or sections 5123.601 to 5123.604 of the Revised Code~~ on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the ~~legal rights service~~ Ohio protection and advocacy system.

Sec. 5123.602. If compensation for the work of attorneys employed by the Ohio protection and advocacy system or an agency or political subdivision of the state is awarded to the system in a class action lawsuit pursued by the system, the compensation shall be limited to the actual hourly rate of pay for that legal work.

Sec. 5123.61. (A) As used in this section:

(1) "Law enforcement agency" means the state highway patrol, the police department of a municipal corporation, or a county sheriff.

(2) "Abuse" has the same meaning as in section 5123.50 of the Revised Code, except that it includes a misappropriation, as defined in that section.

(3) "Neglect" has the same meaning as in section 5123.50 of the Revised Code.

(B) The department of developmental disabilities shall establish a registry office for the purpose of maintaining reports of abuse, neglect, and other major unusual incidents made to the department under this section and reports received from county boards of developmental disabilities under section 5126.31 of the Revised Code. The department shall establish committees to review reports of abuse, neglect, and other major unusual incidents.

(C)(1) Any person listed in division (C)(2) of this section, having reason to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of such a nature as to reasonably indicate abuse or neglect of that person, shall immediately report or cause reports to be made of such information to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or to the county board of developmental disabilities. If the report concerns a resident of a facility operated by the department of developmental disabilities the report shall be made either to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(2) All of the following persons are required to make a report under division (C)(1) of this section:

(a) Any physician, including a hospital intern or resident, any dentist, podiatrist, chiropractor, practitioner of a limited branch of medicine as specified in section 4731.15 of the Revised Code, hospital administrator or employee of a hospital, nurse licensed under Chapter 4723. of the Revised Code, employee of an ambulatory health facility as defined in section 5101.61 of the Revised Code, employee of a home health agency, employee of an adult care facility licensed under Chapter 3722. of the Revised Code, or employee of a community mental health facility;

(b) Any school teacher or school authority, social worker, psychologist, attorney, peace officer, coroner, or residents' rights advocate as defined in section 3721.10 of the Revised Code;

(c) A superintendent, board member, or employee of a county board of developmental disabilities; an administrator, board member, or employee of a residential facility licensed under section 5123.19 of the Revised Code; an administrator, board member, or employee of any other public or private provider of services to a person with mental retardation or a developmental disability, or any MR/DD employee, as defined in section 5123.50 of the Revised Code;

(d) A member of a citizen's advisory council established at an institution or branch institution of the department of developmental disabilities under section 5123.092 of the Revised Code;

(e) A clergyman who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability, while acting in an official or professional capacity in that position, or a person who is employed in a position that includes providing specialized services to an individual with mental retardation or another developmental disability and who, while acting in an official or professional capacity, renders spiritual treatment through prayer in accordance with the tenets of an organized religion.

(3)(a) ~~The reporting requirements of this division do not apply to members of the legal rights service commission or to employees of the legal rights service~~ Ohio protection and advocacy system.

(b) An attorney or physician is not required to make a report pursuant to division (C)(1) of this section concerning any communication the attorney or physician receives from a client or patient in an attorney-client or physician-patient relationship, if, in accordance with division (A) or (B) of section 2317.02 of the Revised Code, the attorney or physician could not testify with respect to that communication in a civil or criminal proceeding,

except that the client or patient is deemed to have waived any testimonial privilege under division (A) or (B) of section 2317.02 of the Revised Code with respect to that communication and the attorney or physician shall make a report pursuant to division (C)(1) of this section, if both of the following apply:

(i) The client or patient, at the time of the communication, is a person with mental retardation or a developmental disability.

(ii) The attorney or physician knows or suspects, as a result of the communication or any observations made during that communication, that the client or patient has suffered or faces a substantial risk of suffering any wound, injury, disability, or condition of a nature that reasonably indicates abuse or neglect of the client or patient.

(4) Any person who fails to make a report required under division (C) of this section and who is an MR/DD employee, as defined in section 5123.50 of the Revised Code, shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

(D) The reports required under division (C) of this section shall be made forthwith by telephone or in person and shall be followed by a written report. The reports shall contain the following:

(1) The names and addresses of the person with mental retardation or a developmental disability and the person's custodian, if known;

(2) The age of the person with mental retardation or a developmental disability;

(3) Any other information that would assist in the investigation of the report.

(E) When a physician performing services as a member of the staff of a hospital or similar institution has reason to believe that a person with mental retardation or a developmental disability has suffered injury, abuse, or physical neglect, the physician shall notify the person in charge of the institution or that person's designated delegate, who shall make the necessary reports.

(F) Any person having reasonable cause to believe that a person with mental retardation or a developmental disability has suffered or faces a substantial risk of suffering abuse or neglect may report or cause a report to be made of that belief to the entity specified in this division. Except as provided in section 5120.173 of the Revised Code or as otherwise provided in this division, the person making the report shall make it to a law enforcement agency or the county board of developmental disabilities. If the person is a resident of a facility operated by the department of

developmental disabilities, the report shall be made to a law enforcement agency or to the department. If the report concerns any act or omission of an employee of a county board of developmental disabilities, the report immediately shall be made to the department and to the county board.

(G)(1) Upon the receipt of a report concerning the possible abuse or neglect of a person with mental retardation or a developmental disability, the law enforcement agency shall inform the county board of developmental disabilities or, if the person is a resident of a facility operated by the department of developmental disabilities, the director of the department or the director's designee.

(2) On receipt of a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the department of developmental disabilities shall notify the law enforcement agency.

(3) When a county board of developmental disabilities receives a report under this section that includes an allegation of action or inaction that may constitute a crime under federal law or the law of this state, the superintendent of the board or an individual the superintendent designates under division (H) of this section shall notify the law enforcement agency. The superintendent or individual shall notify the department of developmental disabilities when it receives any report under this section.

(4) When a county board of developmental disabilities receives a report under this section and believes that the degree of risk to the person is such that the report is an emergency, the superintendent of the board or an employee of the board the superintendent designates shall attempt a face-to-face contact with the person with mental retardation or a developmental disability who allegedly is the victim within one hour of the board's receipt of the report.

(H) The superintendent of the board may designate an individual to be responsible for notifying the law enforcement agency and the department when the county board receives a report under this section.

(I) An adult with mental retardation or a developmental disability about whom a report is made may be removed from the adult's place of residence only by law enforcement officers who consider that the adult's immediate removal is essential to protect the adult from further injury or abuse or in accordance with the order of a court made pursuant to section 5126.33 of the Revised Code.

(J) A law enforcement agency shall investigate each report of abuse or neglect it receives under this section. In addition, the department, in cooperation with law enforcement officials, shall investigate each report

regarding a resident of a facility operated by the department to determine the circumstances surrounding the injury, the cause of the injury, and the person responsible. The investigation shall be in accordance with the memorandum of understanding prepared under section 5126.058 of the Revised Code. The department shall determine, with the registry office which shall be maintained by the department, whether prior reports have been made concerning an adult with mental retardation or a developmental disability or other principals in the case. If the department finds that the report involves action or inaction that may constitute a crime under federal law or the law of this state, it shall submit a report of its investigation, in writing, to the law enforcement agency. If the person with mental retardation or a developmental disability is an adult, with the consent of the adult, the department shall provide such protective services as are necessary to protect the adult. The law enforcement agency shall make a written report of its findings to the department.

If the person is an adult and is not a resident of a facility operated by the department, the county board of developmental disabilities shall review the report of abuse or neglect in accordance with sections 5126.30 to 5126.33 of the Revised Code and the law enforcement agency shall make the written report of its findings to the county board.

(K) Any person or any hospital, institution, school, health department, or agency participating in the making of reports pursuant to this section, any person participating as a witness in an administrative or judicial proceeding resulting from the reports, or any person or governmental entity that discharges responsibilities under sections 5126.31 to 5126.33 of the Revised Code shall be immune from any civil or criminal liability that might otherwise be incurred or imposed as a result of such actions except liability for perjury, unless the person or governmental entity has acted in bad faith or with malicious purpose.

(L) No employer or any person with the authority to do so shall discharge, demote, transfer, prepare a negative work performance evaluation, reduce pay or benefits, terminate work privileges, or take any other action detrimental to an employee or retaliate against an employee as a result of the employee's having made a report under this section. This division does not preclude an employer or person with authority from taking action with regard to an employee who has made a report under this section if there is another reasonable basis for the action.

(M) Reports made under this section are not public records as defined in section 149.43 of the Revised Code. Information contained in the reports on request shall be made available to the person who is the subject of the

report, to the person's legal counsel, and to agencies authorized to receive information in the report by the department or by a county board of developmental disabilities.

(N) Notwithstanding section 4731.22 of the Revised Code, the physician-patient privilege shall not be a ground for excluding evidence regarding the injuries or physical neglect of a person with mental retardation or a developmental disability or the cause thereof in any judicial proceeding resulting from a report submitted pursuant to this section.

Sec. 5123.63. Every state agency, county board of developmental disabilities, or political subdivision that provides services, either directly or through a contract, to persons with mental retardation or a developmental disability shall give each provider a copy of the list of rights contained in section 5123.62 of the Revised Code. Each public and private provider of services shall carry out the requirements of this section in addition to any other posting or notification requirements imposed by local, state, or federal law or rules.

The provider shall make copies of the list of rights and shall be responsible for an initial distribution of the list to each individual receiving services from the provider. If the individual is unable to read the list, the provider shall communicate the contents of the list to the individual to the extent practicable in a manner that the individual understands. The individual receiving services or the parent, guardian, or advocate of the individual shall sign an acknowledgement of receipt of a copy of the list of rights, and a copy of the signed acknowledgement shall be placed in the individual's file. The provider shall also be responsible for answering any questions and giving any explanations necessary to assist the individual to understand the rights enumerated. Instruction in these rights shall be documented.

Each provider shall make available to all persons receiving services and all employees and visitors a copy of the list of rights and the addresses and telephone numbers of the ~~legal rights service~~ Ohio protection and advocacy system, the department of developmental disabilities, and the county board of developmental disabilities of the county in which the provider provides services.

Sec. 5123.64. (A) Every provider of services to persons with mental retardation or a developmental disability shall establish policies and programs to ensure that all staff members are familiar with the rights enumerated in section 5123.62 of the Revised Code and observe those rights in their contacts with persons receiving services. Any policy, procedure, or rule of the provider that conflicts with any of the rights enumerated shall be

null and void. Every provider shall establish written procedures for resolving complaints of violations of those rights. A copy of the procedures shall be provided to any person receiving services or to any parent, guardian, or advocate of a person receiving services.

(B) Any person with mental retardation or a developmental disability who believes that the person's rights as enumerated in section 5123.62 of the Revised Code have been violated may:

(1) Bring the violation to the attention of the provider for resolution;

(2) Report the violation to the department of developmental disabilities, the ~~ombudsperson~~ ~~section of the legal rights service~~ Ohio protection and advocacy system, or the appropriate county board of developmental disabilities;

(3) Take any other appropriate action to ensure compliance with sections ~~5123.60~~ 5123.61 to 5123.64 of the Revised Code, including the filing of a legal action to enforce rights or to recover damages for violation of rights.

Sec. 5123.69. (A) Except as provided in division ~~(E)~~(D) of this section, any person who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for voluntary admission. Except as provided in division ~~(E)~~(D) of this section, the application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) The managing officer of an institution, with the concurrence of the chief program director, may admit a person applying pursuant to this section only after a comprehensive evaluation has been made of the person and only if the comprehensive evaluation concludes that the person is mentally retarded and would benefit significantly from admission.

~~(C) If application for voluntary admission of a minor or of a person adjudicated mentally incompetent is made by the parent or guardian of the minor or by the guardian of an incompetent and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the voluntary admission or continued institutionalization is in the best interest of the minor or incompetent.~~

~~(D)~~ The managing officer shall discharge any voluntary resident if, in the judgment of the chief program director, the results of a comprehensive examination indicate that institutionalization no longer is advisable. In light of the results of the comprehensive evaluation, the managing officer also may discharge any voluntary resident if, in the judgment of the chief

program director, the discharge would contribute to the most effective use of the institution in the habilitation and care of the mentally retarded.

~~(E)~~(D) A person who is found incompetent to stand trial or not guilty by reason of insanity and who is committed pursuant to section 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code shall not voluntarily commit self pursuant to this section until after the final termination of the commitment, as described in division (J) of section 2945.401 of the Revised Code.

Sec. 5123.701. (A) Except as provided in division ~~(E)~~(D) of this section, any person in the community who is eighteen years of age or older and who is or believes self to be mentally retarded may make written application to the managing officer of any institution for temporary admission for short-term care. The application may be made on behalf of a minor by a parent or guardian, and on behalf of an adult adjudicated mentally incompetent by a guardian.

(B) For purposes of this section, short-term care shall be defined to mean appropriate services provided to a person with mental retardation for no more than fourteen consecutive days and for no more than forty-two days in a fiscal year. When circumstances warrant, the fourteen-day period may be extended at the discretion of the managing officer. Short-term care is provided in a developmental center to meet the family's or caretaker's needs for separation from the person with mental retardation.

(C) The managing officer of an institution, with the concurrence of the chief program director, may admit a person for short-term care only after a medical examination has been made of the person and only if the managing officer concludes that the person is mentally retarded.

~~(D) If application for admission for short term care of a minor or of a person adjudicated mentally incompetent is made by the minor's parent or guardian or by the incompetent's guardian and the minor or incompetent is admitted, the probate division of the court of common pleas shall determine, upon petition by the legal rights service, whether the admission for short term care is in the best interest of the minor or the incompetent.~~

~~(E)~~ A person who is found not guilty by reason of insanity shall not admit self to an institution for short-term care unless a hearing was held regarding the person pursuant to division (A) of section 2945.40 of the Revised Code and either of the following applies:

(1) The person was found at the hearing not to be a mentally retarded person subject to institutionalization by court order;

(2) The person was found at the hearing to be a mentally retarded person subject to institutionalization by court order, was involuntarily committed,

and was finally discharged.

~~(F)~~(E) The mentally retarded person, liable relatives, and guardians of mentally retarded persons admitted for respite care shall pay support charges in accordance with sections 5121.01 to 5121.21 of the Revised Code.

~~(G)~~(F) At the conclusion of each period of short-term care, the person shall return to the person's family or caretaker. Under no circumstances shall a person admitted for short-term care according to this section remain in the institution after the period of short-term care unless the person is admitted according to section 5123.70, sections 5123.71 to 5123.76, or section 2945.38, 2945.39, 2945.40, 2945.401, or 2945.402 of the Revised Code.

Sec. 5123.86. (A) Except as provided in divisions (C), (D), (E), and (F) of this section, the chief medical officer shall provide all information, including expected physical and medical consequences, necessary to enable any resident of an institution for the mentally retarded to give a fully informed, intelligent, and knowing consent if any of the following procedures are proposed:

- (1) Surgery;
- (2) Convulsive therapy;
- (3) Major aversive interventions;
- (4) Sterilization;
- (5) Experimental procedures;
- (6) Any unusual or hazardous treatment procedures.

(B) No resident shall be subjected to any of the procedures listed in division (A)(4), (5), or (6) of this section without the resident's informed consent.

(C) If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section, or has been adjudicated incompetent, the information may be provided to the resident's natural or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, who may give the informed, intelligent, and knowing written consent for surgery. Consent for surgery shall not be provided by a guardian who is an officer or employee of the department of mental health or the department of developmental disabilities.

If a resident is physically or mentally unable to receive the information required for surgery under division (A)(1) of this section and has no guardian, then the information, the recommendation of the chief medical officer, and the concurring judgment of a licensed physician who is not a full-time employee of the state may be provided to the court in the county in

which the institution is located, which may approve the surgery. Before approving the surgery, the court shall notify the ~~legal rights service~~ Ohio protection and advocacy system created by section 5123.60 of the Revised Code, and shall notify the resident of the resident's rights to consult with counsel, to have counsel appointed by the court if the resident is indigent, and to contest the recommendation of the chief medical officer.

(D) If, in the judgment of two licensed physicians, delay in obtaining consent for surgery would create a grave danger to the health of a resident, emergency surgery may be performed without the consent of the resident if the necessary information is provided to the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written consent.

If the guardian, spouse, or next of kin cannot be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then the emergency surgery may be performed upon the written authorization of the chief medical officer and after court approval has been obtained. However, if delay in obtaining court approval would create a grave danger to the life of the resident, the chief medical officer may authorize surgery, in writing, without court approval. If the surgery is authorized without court approval, the chief medical officer who made the authorization and the physician who performed the surgery shall each execute an affidavit describing the circumstances constituting the emergency and warranting the surgery and the circumstances warranting their not obtaining prior court approval. The affidavit shall be filed with the court with which the request for prior approval would have been filed within five court days after the surgery, and a copy of the affidavit shall be placed in the resident's file and shall be given to the guardian, spouse, or next of kin of the resident, to the hospital at which the surgery was performed, and to the ~~legal rights service~~ Ohio protection and advocacy system created by section 5123.60 of the Revised Code.

(E)(1) If it is the judgment of two licensed physicians, as described in division (E)(2) of this section, that a medical emergency exists and delay in obtaining convulsive therapy creates a grave danger to the life of a resident who is both mentally retarded and mentally ill, convulsive therapy may be administered without the consent of the resident if the resident is physically or mentally unable to receive the information required for convulsive therapy and if the necessary information is provided to the resident's natural

or court-appointed guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code, or to the resident's spouse or next of kin to enable that person or agency to give an informed, intelligent, and knowing written consent. If neither the resident's guardian, spouse, nor next of kin can be contacted through exercise of reasonable diligence, or if the guardian, spouse, or next of kin is contacted, but refuses to consent, then convulsive therapy may be performed upon the written authorization of the chief medical officer and after court approval has been obtained.

(2) The two licensed physicians referred to in division (E)(1) of this section shall not be associated with each other in the practice of medicine or surgery by means of a partnership or corporate arrangement, other business arrangement, or employment. At least one of the physicians shall be a psychiatrist as defined in division (E) of section 5122.01 of the Revised Code.

(F) Major aversive interventions shall not be used unless a resident continues to engage in behavior destructive to self or others after other forms of therapy have been attempted. ~~The director of the legal rights service created by section 5123.60 of the Revised Code shall be notified of any proposed major aversive intervention.~~ Major aversive interventions shall not be applied to a voluntary resident without the informed, intelligent, and knowing written consent of the resident or the resident's guardian, including an agency providing guardianship services under contract with the department of developmental disabilities under sections 5123.55 to 5123.59 of the Revised Code.

(G)(1) This chapter does not authorize any form of compulsory medical or psychiatric treatment of any resident who is being treated by spiritual means through prayer alone in accordance with a recognized religious method of healing.

(2) For purposes of this section, "convulsive therapy" does not include defibrillation.

Sec. 5123.99. (A) Whoever violates section 5123.16 or 5123.20 of the Revised Code is guilty of a misdemeanor of the first degree.

(B) Whoever violates division (C), (E), or (G)(3) of section 5123.61 of the Revised Code is guilty of a misdemeanor of the fourth degree or, if the abuse or neglect constitutes a felony, a misdemeanor of the second degree. In addition to any other sanction or penalty authorized or required by law, if a person who is convicted of or pleads guilty to a violation of division (C), (E), or (G)(3) of section 5123.61 of the Revised Code is an MR/DD

employee, as defined in section 5123.50 of the Revised Code, the offender shall be eligible to be included in the registry regarding misappropriation, abuse, neglect, or other specified misconduct by MR/DD employees established under section 5123.52 of the Revised Code.

~~(C) Whoever violates division (A) of section 5123.604 of the Revised Code is guilty of a misdemeanor of the second degree.~~

~~(D) Whoever violates division (B) of section 5123.604 of the Revised Code shall be fined not more than one thousand dollars. Each violation constitutes a separate offense.~~

Sec. 5126.33. (A) A county board of developmental disabilities may file a complaint with the probate court of the county in which an adult with mental retardation or a developmental disability resides for an order authorizing the board to arrange services described in division (C) of section 5126.31 of the Revised Code for that adult if the adult is eligible to receive services or support under section 5126.041 of the Revised Code and the board has been unable to secure consent. The complaint shall include:

- (1) The name, age, and address of the adult;
- (2) Facts describing the nature of the abuse, neglect, or exploitation and supporting the board's belief that services are needed;
- (3) The types of services proposed by the board, as set forth in the protective service plan described in division (J) of section 5126.30 of the Revised Code and filed with the complaint;
- (4) Facts showing the board's attempts to obtain the consent of the adult or the adult's guardian to the services.

(B) The board shall give the adult notice of the filing of the complaint and in simple and clear language shall inform the adult of the adult's rights in the hearing under division (C) of this section and explain the consequences of a court order. This notice shall be personally served upon all parties, and also shall be given to the adult's legal counsel, if any, ~~and the legal rights service~~. The notice shall be given at least twenty-four hours prior to the hearing, although the court may waive this requirement upon a showing that there is a substantial risk that the adult will suffer immediate physical harm in the twenty-four hour period and that the board has made reasonable attempts to give the notice required by this division.

(C) Upon the filing of a complaint for an order under this section, the court shall hold a hearing at least twenty-four hours and no later than seventy-two hours after the notice under division (B) of this section has been given unless the court has waived the notice. All parties shall have the right to be present at the hearing, present evidence, and examine and cross-examine witnesses. The Ohio Rules of Evidence shall apply to a

hearing conducted pursuant to this division. The adult shall be represented by counsel unless the court finds that the adult has made a voluntary, informed, and knowing waiver of the right to counsel. If the adult is indigent, the court shall appoint counsel to represent the adult. The board shall be represented by the county prosecutor or an attorney designated by the board.

(D)(1) The court shall issue an order authorizing the board to arrange the protective services if it finds, on the basis of clear and convincing evidence, all of the following:

- (a) The adult has been abused, neglected, or exploited;
- (b) The adult is incapacitated;
- (c) There is a substantial risk to the adult of immediate physical harm or death;
- (d) The adult is in need of the services;
- (e) No person authorized by law or court order to give consent for the adult is available or willing to consent to the services.

(2) The board shall develop a detailed protective service plan describing the services that the board will provide, or arrange for the provision of, to the adult to prevent further abuse, neglect, or exploitation. The board shall submit the plan to the court for approval. The protective service plan may be changed only by court order.

(3) In formulating the order, the court shall consider the individual protective service plan and shall specifically designate the services that are necessary to deal with the abuse, neglect, or exploitation or condition resulting from abuse, neglect, or exploitation and that are available locally, and authorize the board to arrange for these services only. The court shall limit the provision of these services to a period not exceeding six months, renewable for an additional six-month period on a showing by the board that continuation of the order is necessary.

(E) If the court finds that all other options for meeting the adult's needs have been exhausted, it may order that the adult be removed from the adult's place of residence and placed in another residential setting. Before issuing that order, the court shall consider the adult's choice of residence and shall determine that the new residential setting is the least restrictive alternative available for meeting the adult's needs and is a place where the adult can obtain the necessary requirements for daily living in safety. The court shall not order an adult to a hospital or public hospital as defined in section 5122.01 or a state institution as defined in section 5123.01 of the Revised Code.

(F) The court shall not authorize a change in an adult's placement

ordered under division (E) of this section unless it finds compelling reasons to justify a change. The parties to whom notice was given in division (B) of this section shall be given notice of a proposed change at least five working days prior to the change.

(G) The adult, the board, or any other person who received notice of the petition may file a motion for modification of the court order at any time.

(H) The county board shall pay court costs incurred in proceedings brought pursuant to this section. The adult shall not be required to pay for court-ordered services.

(I)(1) After the filing of a complaint for an order under this section, the court, prior to the final disposition, may enter any temporary order that the court finds necessary to protect the adult with mental retardation or a developmental disability from abuse, neglect, or exploitation including, but not limited to, the following:

(a) A temporary protection order;

(b) An order requiring the evaluation of the adult;

(c) An order requiring a party to vacate the adult's place of residence or legal settlement, provided that, subject to division (K)(1)(d) of this section, no operator of a residential facility licensed by the department may be removed under this division;

(d) In the circumstances described in, and in accordance with the procedures set forth in, section 5123.191 of the Revised Code, an order of the type described in that section that appoints a receiver to take possession of and operate a residential facility licensed by the department.

(2) The court may grant an ex parte order pursuant to this division on its own motion or if a party files a written motion or makes an oral motion requesting the issuance of the order and stating the reasons for it if it appears to the court that the best interest and the welfare of the adult require that the court issue the order immediately. The court, if acting on its own motion, or the person requesting the granting of an ex parte order, to the extent possible, shall give notice of its intent or of the request to all parties, the adult's legal counsel, if any, ~~and the legal rights service~~. If the court issues an ex parte order, the court shall hold a hearing to review the order within seventy-two hours after it is issued or before the end of the next day after the day on which it is issued, whichever occurs first. The court shall give written notice of the hearing to all parties to the action.

SECTION 120.21. That existing sections 3721.16, 5111.709, 5119.221, 5122.01, 5122.02, 5122.27, 5122.271, 5122.29, 5122.31, 5122.32, 5123.092, 5123.19, 5123.191, 5123.35, 5123.60, 5123.61, 5123.63, 5123.64, 5123.69,

5123.701, 5123.86, 5123.99, and 5126.33 of the Revised Code are hereby repealed.

SECTION 120.22. That sections 5123.601, 5123.602, 5123.603, 5123.604, and 5123.605 of the Revised Code are hereby repealed.

SECTION 120.23. Sections 120.20, 120.21, and 120.22 of this act take effect October 1, 2012.

SECTION 201.10. Except as otherwise provided in this act, all appropriation items in this act are appropriated out of any moneys in the state treasury to the credit of the designated fund that are not otherwise appropriated. For all appropriations made in this act, the amounts in the first column are for fiscal year 2012 and the amounts in the second column are for fiscal year 2013.

SECTION 203.10. ACC ACCOUNTANCY BOARD OF OHIO

General Services Fund Group

4J80	889601	CPA Education Assistance	\$	200,000	\$	200,000
4K90	889609	Operating Expenses	\$	977,200	\$	977,500
TOTAL GSF General Services Fund Group						
			\$	1,177,200	\$	1,177,500
TOTAL ALL BUDGET FUND GROUPS						
			\$	1,177,200	\$	1,177,500

SECTION 205.10. ADJ ADJUTANT GENERAL

General Revenue Fund

GRF	745401	Ohio Military Reserve	\$	12,308	\$	12,308
GRF	745404	Air National Guard	\$	1,810,606	\$	1,810,606
GRF	745407	National Guard Benefits	\$	400,000	\$	400,000
GRF	745409	Central Administration	\$	2,692,098	\$	2,692,098
GRF	745499	Army National Guard	\$	3,687,888	\$	3,689,871
TOTAL GRF General Revenue Fund						
			\$	8,602,900	\$	8,604,883

General Services Fund Group

5340	745612	Property Operations Management	\$	534,304	\$	534,304
5360	745605	Marksmanship Activities	\$	128,600	\$	128,600
5360	745620	Camp Perry and Buckeye Inn Operations	\$	1,178,311	\$	978,846
5370	745604	Ohio National Guard Facilities Maintenance	\$	62,000	\$	62,000
TOTAL GSF General Services Fund Group						
			\$	1,903,215	\$	1,703,750
Federal Special Revenue Fund Group						

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3410	745615	Air National Guard Base Security	\$	2,977,692	\$	2,977,692
3420	745616	Army National Guard Service Agreement	\$	10,970,050	\$	10,970,050
3E80	745628	Air National Guard Operations and Maintenance	\$	16,958,595	\$	16,958,595
3R80	745603	Counter Drug Operations	\$	25,000	\$	25,000
TOTAL FED Federal Special Revenue Fund Group			\$	30,931,337	\$	30,931,337
State Special Revenue Fund Group						
5U80	745613	Community Match Armories	\$	250,000	\$	250,000
TOTAL SSR State Special Revenue Fund Group			\$	250,000	\$	250,000
TOTAL ALL BUDGET FUND GROUPS			\$	41,687,452	\$	41,489,970

NATIONAL GUARD BENEFITS

The foregoing appropriation item 745407, National Guard Benefits, shall be used for purposes of sections 5919.31 and 5919.33 of the Revised Code, and for administrative costs of the associated programs.

For active duty members of the Ohio National Guard who died after October 7, 2001, while performing active duty, the death benefit, pursuant to section 5919.33 of the Revised Code, shall be paid to the beneficiary or beneficiaries designated on the member's Servicemembers' Group Life Insurance Policy.

STATE ACTIVE DUTY COSTS

Of the foregoing appropriation item 745409, Central Administration, \$50,000 in each fiscal year shall be used for the purpose of paying expenses related to state active duty of members of the Ohio organized militia, in accordance with a proclamation of the Governor. Expenses include, but are not limited to, the cost of equipment, supplies, and services, as determined by the Adjutant General's Department.

SECTION 207.10. DAS DEPARTMENT OF ADMINISTRATIVE SERVICES**General Revenue Fund**

GRF	100403	Public Employees Health Care Program	\$	400,000	\$	400,000
GRF	100415	OAKS Rental Payments	\$	23,024,500	\$	23,006,300
GRF	100416	STARS Lease Rental Payments	\$	4,970,700	\$	4,971,300
GRF	100418	Web Sites and Business Gateway	\$	2,895,063	\$	2,795,176
GRF	100419	IT Security Infrastructure	\$	742,535	\$	742,648
GRF	100439	Equal Opportunity Certification Programs	\$	625,000	\$	625,000
GRF	100447	OBA - Building Rent Payments	\$	53,260,000	\$	83,504,200
GRF	100448	OBA - Building Operating	\$	21,000,000	\$	21,000,000

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		Payments			
GRF	100449	DAS - Building Operating	\$	7,551,245	\$ 7,551,571
		Payments			
GRF	100451	Minority Affairs	\$	24,016	\$ 24,016
GRF	102321	Construction Compliance	\$	920,000	\$ 920,000
GRF	130321	State Agency Support	\$	2,779,457	\$ 2,780,032
		Services			
TOTAL GRF General Revenue Fund			\$	118,192,516	\$ 148,320,243
General Services Fund Group					
1120	100616	DAS Administration	\$	5,974,625	\$ 5,886,524
1150	100632	Central Service Agency	\$	911,995	\$ 912,305
1170	100644	General Services Division -	\$	13,000,000	\$ 13,000,000
		Operating			
1220	100637	Fleet Management	\$	3,978,827	\$ 4,204,066
1250	100622	Human Resources Division -	\$	16,922,295	\$ 16,717,009
		Operating			
1250	100657	Benefits Communication	\$	925,586	\$ 921,531
1280	100620	Collective Bargaining	\$	3,462,529	\$ 3,464,148
1300	100606	Risk Management Reserve	\$	10,349,494	\$ 12,149,884
1310	100639	State Architect's Office	\$	9,812,132	\$ 9,813,342
1320	100631	DAS Building Management	\$	11,000,000	\$ 11,000,000
1330	100607	IT Services Delivery	\$	58,088,940	\$ 58,103,005
1880	100649	Equal Opportunity Division -	\$	939,559	\$ 863,013
		Operating			
2100	100612	State Printing	\$	17,597,054	\$ 16,659,526
2290	100630	IT Governance	\$	14,000,000	\$ 14,000,000
2290	100640	Leveraged Enterprise	\$	3,000,000	\$ 3,000,000
		Purchases			
4270	100602	Investment Recovery	\$	4,100,000	\$ 4,100,000
4N60	100617	Major IT Purchases	\$	1,950,000	\$ 4,950,000
4P30	100603	DAS Information Services	\$	5,047,565	\$ 4,979,392
5C20	100605	MARCS Administration	\$	14,075,705	\$ 14,077,467
5C30	100608	Skilled Trades	\$	404,297	\$ 404,375
5EB0	100635	OAKS Support Organization	\$	19,000,539	\$ 19,003,108
5EB0	100656	OAKS Updates and	\$	12,265,952	\$ 8,743,462
		Developments			
5HU0	100655	Construction Reform Demo	\$	150,000	\$ 150,000
		Compliance			
5L70	100610	Professional Development	\$	2,496,679	\$ 2,496,760
5V60	100619	Employee Educational	\$	800,000	\$ 850,000
		Development			
5X30	100634	Centralized Gateway	\$	2,052,308	\$ 2,052,308
		Enhancement			
TOTAL GSF General Services Fund			\$	232,306,081	\$ 232,501,225
Federal Special Revenue Fund Group					
3AJ0	100654	ARRA Broadband Mapping	\$	270,756	\$ 106,347
		Grant			
TOTAL FED Federal Special Revenue			\$	270,756	\$ 106,347
State Special Revenue Fund Group					
5JQ0	100658	Professions Licensing System	\$	2,000,000	\$ 1,000,000
TOTAL SSR State Special Revenue					

Fund Group	\$	2,000,000	\$	1,000,000
TOTAL ALL BUDGET FUND GROUPS	\$	352,769,353	\$	381,927,815

SECTION 207.10.10. PUBLIC EMPLOYEES HEALTH CARE PROGRAM

The foregoing appropriation item 100403, Public Employees Health Care Program, shall be used by the Department of Administrative Services to carry out its duties prescribed in Section 515.60 of this act.

SECTION 207.10.20. OHIO ADMINISTRATIVE KNOWLEDGE SYSTEM

The Ohio Administrative Knowledge System (OAKS) is an enterprise resource planning system that replaced the state's central services infrastructure systems, including, but not limited to, the Central Accounting System, the Human Resources/Payroll System, the Capital Improvements Projects Tracking System, the Fixed Assets Management System, and the Procurement System. The Department of Administrative Services, in conjunction with the Office of Budget and Management, may update or add functionality to the OAKS system that will support shared services, financial or human resources functions, and enterprise applications that improve the state's operational efficiency. This includes, but is not limited to, the installation and implementation of hardware and software. Any lease-purchase arrangement entered into under Chapter 125. of the Revised Code to finance the OAKS system and the enhancements described above, including any fractionalized interest therein, as defined in division (N) of section 133.01 of the Revised Code, shall provide that at the end of the lease period, the financed asset becomes the property of the state.

SECTION 207.10.30. OAKS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100415, OAKS Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 281.10 of Am. Sub. H.B. 562 of the 127th General Assembly and other prior acts of the General Assembly, with respect to financing the costs associated with the acquisition, development, installation, and implementation of the Ohio Administrative Knowledge System. If it is determined that additional appropriations are necessary for this purpose, the amounts are hereby appropriated.

SECTION 207.10.40. STATE TAXATION ACCOUNTING AND REVENUE SYSTEM

The Department of Administrative Services, in conjunction with the Department of Taxation, may acquire the State Taxation Accounting and Revenue System (STARS) pursuant to Chapter 125. of the Revised Code, including, but not limited to, the application hardware and software and installation and implementation thereof, for the use of the Department of Taxation. STARS is an integrated tax collection and audit system that will replace all of the state's existing separate tax software and administration systems for the various taxes collected by the state. Any lease-purchase arrangement used under Chapter 125. of the Revised Code to acquire STARS, including any fractionalized interests therein as defined in division (N) of section 133.01 of the Revised Code, shall provide that at the end of the lease period, STARS becomes the property of the state.

SECTION 207.10.50. STARS LEASE RENTAL PAYMENTS

The foregoing appropriation item 100416, STARS Lease Rental Payments, shall be used for payments at the times they are required to be made for the period from July 1, 2011, through June 30, 2013, pursuant to leases and agreements entered into under Chapter 125. of the Revised Code, as supplemented by Section 207.10.30 of Am. Sub. H.B. 1 of the 128th General Assembly and other prior acts of the General Assembly, with respect to financing the cost for the acquisition, development, installation, and implementation of the State Taxation Accounting and Revenue System (STARS). If it is determined that additional appropriations are necessary for this purpose, the amounts are appropriated.

SECTION 207.10.60. EQUAL OPPORTUNITY CERTIFICATION PROGRAMS

The foregoing appropriation item 100439, Equal Opportunity Certification Programs, shall be used to pay costs associated with the equal employment opportunity project tracking software that were formerly paid from appropriation item 100423, EEO Project Tracking Software.

SECTION 207.10.70. BUILDING RENT PAYMENTS

The foregoing appropriation item 100447, OBA - Building Rent Payments, shall be used to meet all payments at the times they are required

to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on obligations issued pursuant to Chapter 152. of the Revised Code.

The foregoing appropriation item 100448, OBA - Building Operating Payments, shall be used to meet all payments at the times that they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Administrative Services to the Ohio Building Authority pursuant to leases and agreements under Chapter 152. of the Revised Code, but limited to the aggregate amount of \$42,800,000.

The payments to the Ohio Building Authority are for paying the expenses of agencies that occupy space in various state facilities. The Department of Administrative Services may enter into leases and agreements with the Ohio Building Authority providing for the payment of these expenses. The Ohio Building Authority shall report to the Department of Administrative Services and the Office of Budget and Management not later than five months after the start of each fiscal year the actual expenses incurred by the Ohio Building Authority in operating the facilities and any balances remaining from payments and rentals received in the prior fiscal year. The Department of Administrative Services shall reduce subsequent payments by the amount of the balance reported to it by the Ohio Building Authority.

SECTION 207.10.80. DAS - BUILDING OPERATING PAYMENTS

The foregoing appropriation item 100449, DAS - Building Operating Payments, shall be used to pay the rent expenses of veterans organizations pursuant to section 123.024 of the Revised Code in fiscal years 2012 and 2013.

The foregoing appropriation item, 100449, DAS - Building Operating Payments, also may be used to provide funding for the cost of property appraisals or building studies that the Department of Administrative Services may be required to obtain for property that is being sold by the state or property under consideration to be renovated or purchased by the state.

Notwithstanding section 125.28 of the Revised Code, the remaining portion of the appropriation may be used to pay the operating expenses of state facilities maintained by the Department of Administrative Services that are not billed to building tenants. These expenses may include, but are not limited to, the costs for vacant space and space undergoing renovation, and

the rent expenses of tenants that are relocated because of building renovations. These payments shall be processed by the Department of Administrative Services through intrastate transfer vouchers and placed in the Building Management Fund (Fund 1320).

SECTION 207.10.90. CENTRAL SERVICE AGENCY FUND

Appropriation item 100632, Central Service Agency, shall be used to purchase the equipment, products, and services that are needed to maintain existing automated applications for the professional licensing boards and to support board licensing functions in fiscal years 2012 and 2013 until these functions are replaced by the Ohio Professionals Licensing System. Appropriation item 100632, Central Service Agency, may also be used for these purposes for the Casino Control Commission if the commission elects to use these automated applications for its licensing functions. The Department of Administrative Services shall establish charges for recovering the costs of carrying out these functions. The charges shall be billed to the professional licensing boards, and the Casino Control Commission if applicable, and deposited via intrastate transfer vouchers to the credit of the Central Service Agency Fund (Fund 1150).

SECTION 207.20.10. GENERAL SERVICE CHARGES

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the programs funded by the General Services Fund (Fund 1170) and the State Printing Fund (Fund 2100). Such charges within Fund 1170 may be used to recover the cost of paying a vendor to establish reduced pricing for contracted supplies or services.

If the Director of Administrative Services determines that additional amounts are necessary to pay for consulting and administrative costs related to securing lower pricing, the Director of Administrative Services may request that the Director of Budget and Management approve additional expenditures. Such approved additional amounts are appropriated to appropriation item 100644, General Services Division-Operating.

SECTION 207.20.20. COLLECTIVE BARGAINING ARBITRATION EXPENSES

With approval of the Director of Budget and Management, the Department of Administrative Services may seek reimbursement from state

agencies for the actual costs and expenses the Department incurs in the collective bargaining arbitration process. The reimbursements shall be processed through intrastate transfer vouchers and credited to the Collective Bargaining Fund (Fund 1280).

SECTION 207.20.30. EQUAL OPPORTUNITY PROGRAM

The Department of Administrative Services, with the approval of the Director of Budget and Management, shall establish charges for recovering the costs of administering the activities supported by the State EEO Fund (Fund 1880). These charges shall be deposited to the credit of the State EEO Fund (Fund 1880) upon payment made by state agencies, state-supported or state-assisted institutions of higher education, and tax-supported agencies, municipal corporations, and other political subdivisions of the state, for services rendered.

SECTION 207.20.40. INVESTMENT RECOVERY FUND

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund (Fund 4270) may be used to support the operating expenses of the Federal Surplus Operating Program created in sections 125.84 to 125.90 of the Revised Code.

Notwithstanding division (B) of section 125.14 of the Revised Code, cash balances in the Investment Recovery Fund may be used to support the operating expenses of the Asset Management Services Program, including, but not limited to, the cost of establishing and maintaining procedures for inventory records for state property as described in section 125.16 of the Revised Code.

Of the foregoing appropriation item 100602, Investment Recovery, up to \$2,092,697 in fiscal year 2012 and up to \$2,092,697 in fiscal year 2013 may be used to pay the operating expenses of the State Surplus Property Program, the Surplus Federal Property Program, and the Asset Management Services Program under Chapter 125. of the Revised Code and this section. If additional appropriations are necessary for the operations of these programs, the Director of Administrative Services shall seek increased appropriations from the Controlling Board under section 131.35 of the Revised Code.

Of the foregoing appropriation item 100602, Investment Recovery, \$3,500,000 in each fiscal year shall be used to transfer proceeds from the sale of surplus property from the Investment Recovery Fund to non-General Revenue Funds under division (A)(2) of section 125.14 of the Revised

Code. If it is determined by the Director of Administrative Services that additional amounts are necessary for the transfer of such sale proceeds, the Director of Administrative Services may request the Director of Budget and Management to authorize additional amounts. Such authorized additional amounts are hereby appropriated.

SECTION 207.20.50. DAS INFORMATION SERVICES

There is hereby established in the State Treasury the DAS Information Services Fund. The foregoing appropriation item 100603, DAS Information Services, shall be used to pay the costs of providing information systems and services in the Department of Administrative Services. Any state agency, board, or commission may use DAS Information Services by paying for the services rendered.

The Department of Administrative Services shall establish user charges for all information systems and services that are allowable in the statewide indirect cost allocation plan submitted annually to the United States Department of Health and Human Services. These charges shall comply with federal regulations and shall be deposited to the credit of the DAS Information Services Fund (Fund 4P30).

SECTION 207.20.60. PROFESSIONAL DEVELOPMENT FUND

The foregoing appropriation item 100610, Professional Development, shall be used to make payments from the Professional Development Fund (Fund 5L70) under section 124.182 of the Revised Code. If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.20.70. EMPLOYEE EDUCATIONAL DEVELOPMENT

The foregoing appropriation item 100619, Employee Educational Development, shall be used to make payments from the Employee Educational Development Fund (Fund 5V60) under section 124.86 of the Revised Code. The fund shall be used to pay the costs of administering educational programs under existing collective bargaining agreements with District 1199, the Health Care and Social Service Union; State Council of Professional Educators; Ohio Education Association and National Education Association; the Fraternal Order of Police Ohio Labor Council, Unit 2; and

the Ohio State Troopers Association, Units 1 and 15.

If it is determined by the Director of Administrative Services that additional amounts are necessary, the Director of Administrative Services may request that the Director of Budget and Management approve additional amounts. Such approved additional amounts are hereby appropriated.

SECTION 207.20.80. CENTRALIZED GATEWAY ENHANCEMENT FUND

(A) As used in this section, "Ohio Business Gateway" refers to the internet-based system operated by the Department of Administrative Services with the advice of the Ohio Business Gateway Steering Committee established under section 5703.57 of the Revised Code. The Ohio Business Gateway is established to provide businesses a central web site where various filings and payments are submitted online to government. The information is then distributed to the various government entities that interact with the business community.

(B) As used in this section:

(1) "State Portal" refers to the official web site of the state, operated by the Department of Administrative Services.

(2) "Shared Hosting Environment" refers to the computerized system operated by the Department of Administrative Services for the purpose of providing capability for state agencies to host web sites.

(C) There is hereby created in the state treasury the Centralized Gateway Enhancement Fund (Fund 5X30). The foregoing appropriation item 100634, Centralized Gateway Enhancement, shall be used by the Department of Administrative Services to pay the costs of enhancing, expanding, and operating the infrastructure of the Ohio Business Gateway, State Portal, and Shared Hosting Environment. The Director of Administrative Services shall submit spending plans to the Director of Budget and Management to justify operating transfers to the fund from the General Revenue Fund. Upon approval, the Director of Budget and Management shall transfer approved amounts to the fund, not to exceed the amount of the annual appropriation in each fiscal year. The spending plans may be based on the recommendations of the Ohio Business Gateway Steering Committee or its successor.

SECTION 207.20.90. CASH TRANSFERS FROM THE MAJOR IT PURCHASES FUND

Upon request of the Director of Administrative Services, the Director of Budget and Management may make the following transfers from the Major IT Purchases Fund (Fund 4N60):

(1) Up to \$2,800,000 in each fiscal year of the biennium to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect;

(2) Up to \$310,276 in fiscal year 2012 and up to \$305,921 in fiscal year 2013 to the Director's Office Fund (Fund 1120) to support operating expenses of the Accountability and Results Initiative.

SECTION 207.20.93. CASH TRANSFERS FROM THE BUILDING MANAGEMENT FUND TO THE STATE ARCHITECT'S FUND

Upon request of the Director of Administrative Services, the Director of Budget and Management may transfer up to \$2,000,000 from the Building Management Fund (Fund 1320) to the State Architect's Fund (Fund 1310) to support the OAKS Capital Improvements Module and other costs of the State Architect's Office that are not directly related to capital projects managed by the State Architect. If the cash balance in the State Architect's Fund (Fund 1310) is determined to be sufficient, the Director of Administrative Services may request that the Director of Budget and Management transfer cash from the State Architect's Fund (Fund 1310) to the Building Management Fund (Fund 1320) in an amount equal to the initial cash transfer made under this section plus applicable interest.

SECTION 207.30.10. MULTI-AGENCY RADIO COMMUNICATION SYSTEM DEBT SERVICE PAYMENTS

The Director of Administrative Services, in consultation with the Multi-Agency Radio Communication System (MARCS) Steering Committee and the Director of Budget and Management, shall determine the share of debt service payments attributable to spending for MARCS components that are not specific to any one agency and that shall be charged to agencies supported by the motor fuel tax. Such share of debt service payments shall be calculated for MARCS capital disbursements made beginning July 1, 1997. Within thirty days of any payment made from appropriation item 100447, OBA - Building Rent Payments, the Director of Administrative Services shall certify to the Director of Budget and Management the amount of this share. The Director of Budget and Management shall transfer such amounts to the General Revenue Fund from

the State Highway Safety Fund (Fund 7036) established in section 4501.06 of the Revised Code.

The Director of Administrative Services shall consider renting or leasing existing tower sites at reasonable or current market rates, so long as these existing sites are equipped with the technical capabilities to support the MARCS project.

SECTION 207.30.20. OHIO PROFESSIONALS LICENSING SYSTEM

There is hereby created in the state treasury the Ohio Professionals Licensing System Fund (Fund 5JQ0). Appropriation item 100658, Ohio Professionals Licensing System, shall be used to make payments from the fund. The fund shall be used to purchase the equipment, products, and services necessary to develop and maintain a replacement automated licensing system for the professional licensing boards. The Director of Budget and Management may transfer up to a total of \$3,000,000 in cash from the Occupational Licensing and Regulatory Fund (4K90), the State Medical Board Operating Fund (Fund 5C60), and the Casino Control Commission – Operating Fund (Fund 5HS0) if the Casino Control Commission elects to use the replacement automated licensing system, to the Ohio Professionals Licensing System Fund during the FY 2012-FY 2013 biennium. These transfers shall be in proportion to the number of current licensees, or current and anticipated licensees in the case of the Casino Control Commission if applicable. The purpose of these cash transfers is to fund the initial acquisition and development of the system. Any cash balances not expended in fiscal year 2012 are reappropriated in fiscal year 2013.

Effective with the implementation of the replacement licensing system, the Department of Administrative Services shall establish charges for recovering the costs of ongoing maintenance of the system. The charges shall be billed to the professional licensing boards, and the Casino Control Commission if applicable, and deposited via intrastate transfer vouchers to the credit of the Ohio Professionals Licensing System Fund.

SECTION 207.30.30. DIRECTOR'S DECLARATION OF PUBLIC EXIGENCY

Whenever the Director of Administrative Services declares a "public exigency," as provided in division (C) of section 123.15 of the Revised Code, the Director shall also notify the members of the Controlling Board.

SECTION 209.10. AGE DEPARTMENT OF AGING

General Revenue Fund

GRF 490321	Operating Expenses	\$	1,501,616	\$	1,502,442
GRF 490410	Long-Term Care Ombudsman	\$	482,271	\$	482,271
GRF 490411	Senior Community Services	\$	7,130,952	\$	7,131,236
GRF 490414	Alzheimer's Respite	\$	1,917,740	\$	1,917,757
GRF 490423	Long Term Care Budget - State	\$	3,419,250	\$	3,419,250
GRF 490506	National Senior Service Corps	\$	241,413	\$	241,413
TOTAL GRF General Revenue Fund		\$	14,693,242	\$	14,694,369

General Services Fund Group

4800 490606	Senior Community Outreach and Education	\$	372,518	\$	372,523
TOTAL GSF General Services Fund Group		\$	372,518	\$	372,523

Federal Special Revenue Fund Group

3220 490618	Federal Aging Grants	\$	14,000,000	\$	14,000,000
3C40 490623	Long Term Care Budget	\$	3,525,000	\$	3,525,000
3M40 490612	Federal Independence Services	\$	63,655,080	\$	63,655,080
TOTAL FED Federal Special Revenue Fund Group		\$	81,180,080	\$	81,180,080

State Special Revenue Fund Group

4C40 490609	Regional Long-Term Care Ombudsman Program	\$	935,000	\$	935,000
5BA0 490620	Ombudsman Support	\$	750,000	\$	750,000
5K90 490613	Long Term Care Consumers Guide	\$	1,059,400	\$	1,059,400
5W10 490616	Resident Services Coordinator Program	\$	344,692	\$	344,700
TOTAL SSR State Special Revenue Fund Group		\$	3,089,092	\$	3,089,100
TOTAL ALL BUDGET FUND GROUPS		\$	99,334,932	\$	99,336,072

SECTION 209.20. LONG-TERM CARE

Pursuant to an interagency agreement, the Department of Job and Family Services shall designate the Department of Aging to perform assessments under section 5111.204 of the Revised Code. The Department of Aging shall provide long-term care consultations under section 173.42 of the Revised Code to assist individuals in planning for their long-term health care needs.

The Department of Aging shall administer the Medicaid waiver-funded PASSPORT Home Care Program, the Choices Program, the Assisted Living Program, and the PACE Program as delegated by the Department of Job and

Family Services in an interagency agreement. The foregoing appropriation items 490423, Long Term Care Budget - State, and 490623, Long Term Care Budget, may be used to support the Department of Aging's administrative costs associated with operating the PASSPORT, Choices, Assisted Living, and PACE programs.

SECTION 209.30. LONG-TERM CARE OMBUDSMAN

The foregoing appropriation item 490410, Long-Term Care Ombudsman, shall be used for a program to fund ombudsman program activities as authorized in sections 173.14 to 173.27 and section 173.99 of the Revised Code.

SENIOR COMMUNITY SERVICES

The foregoing appropriation item 490411, Senior Community Services, shall be used for services designated by the Department of Aging, including, but not limited to, home-delivered and congregate meals, transportation services, personal care services, respite services, adult day services, home repair, care coordination, and decision support systems. Service priority shall be given to low income, frail, and cognitively impaired persons 60 years of age and over. The department shall promote cost sharing by service recipients for those services funded with senior community services funds, including, when possible, sliding-fee scale payment systems based on the income of service recipients.

ALZHEIMER'S RESPITE

The foregoing appropriation item 490414, Alzheimer's Respite, shall be used to fund only Alzheimer's disease services under section 173.04 of the Revised Code.

SENIOR COMMUNITY OUTREACH AND EDUCATION

The foregoing appropriation item 490606, Senior Community Outreach and Education, may be used to provide training to workers in the field of aging pursuant to division (G) of section 173.02 of the Revised Code.

TRANSFER OF APPROPRIATIONS - FEDERAL INDEPENDENCE SERVICES AND FEDERAL AGING GRANTS

At the request of the Director of Aging, the Director of Budget and Management may transfer appropriation between appropriation items 490612, Federal Independence Services, and 490618, Federal Aging Grants. The amounts transferred shall not exceed 30 per cent of the appropriation from which the transfer is made. Any transfers shall be reported by the Department of Aging to the Controlling Board at the next scheduled meeting of the board.

REGIONAL LONG-TERM CARE OMBUDSMAN PROGRAM

The foregoing appropriation item 490609, Regional Long-Term Care Ombudsman Program, shall be used to pay the costs of operating the regional long-term care ombudsman programs designated by the Long-Term Care Ombudsman.

TRANSFER OF RESIDENT PROTECTION FUNDS

In each fiscal year, the Director of Budget and Management may transfer up to \$750,000 cash from the Resident Protection Fund (Fund 4E30), which is used by the Department of Job and Family Services, to the Ombudsman Support Fund (Fund 5BA0), which is used by the Department of Aging. The moneys in the Ombudsman Support Fund may be used by the state office of the Long-Term Care Ombudsman Program and by regional ombudsman programs to promote person-centered care in nursing homes.

On July 1, 2011, or as soon as possible thereafter, the Department of Aging shall certify to the Director of Budget and Management the amount of the cash balance in the Ombudsman Support Fund at the end of fiscal year 2011.

LONG-TERM CARE CONSUMERS GUIDE

The foregoing appropriation item 490613, Long-Term Care Consumers Guide, shall be used to conduct annual customer satisfaction surveys and to pay for other administrative expenses related to the publication of the Ohio Long-Term Care Consumer Guide.

During fiscal year 2012 and fiscal year 2013, the Department of Aging shall identify methods and tools for assessing consumer satisfaction with adult care facilities and with the providers of home and community-based services. The Department shall also consider the development of a provider fee structure to support the inclusion of information about adult care facilities and providers of home and community-based services among the types of providers reviewed in the Ohio Long-Term Care Consumer Guide.

SECTION 209.40. UNIFIED LONG-TERM CARE SYSTEM ADVISORY WORKGROUP

(A) As used in this section, "long-term care services" means both of the following:

(1) Services of long-term care facilities as defined in section 173.14 of the Revised Code;

(2) Community-based long-term care services as defined in section 173.14 of the Revised Code.

(B) There is hereby created for fiscal year 2012 and fiscal year 2013 the Unified Long-Term Care System Advisory Workgroup. The Workgroup shall consist of the following members:

- (1) The Director of Aging, or the Director's designee;
- (2) The following persons appointed by the Governor:
 - (a) Advocates for individuals who use long-term care services;
 - (b) Representatives of providers of long-term care services;
 - (c) Representatives of managed care organizations under contract with the Department of Job and Family Services under section 5111.17 of the Revised Code;
 - (d) State policy makers.
- (3) One member of the House of Representatives from the majority party and one member of the House of Representatives from the minority party, appointed by the Speaker of the House of Representatives;
- (4) One member of the Senate from the majority party and one member of the Senate from the minority party, appointed by the President of the Senate.

(C) Members of the Workgroup shall be appointed not later than fifteen days after the effective date of this section. Except to the extent that serving on the Workgroup is part of a member's regular employment duties, a member of the Workgroup shall not be paid for the member's service on the Workgroup. Members of the Workgroup shall not be reimbursed for their expenses incurred in serving on the Workgroup.

(D) The Director of Aging or the Director's designee shall serve as chairperson of the Workgroup. The Departments of Aging and Job and Family Services shall provide staff and other support services for the Workgroup.

(E) The Workgroup shall serve in an advisory capacity in the implementation of a unified system of long-term care services that facilitates all of the following:

- (1) Providing consumers choices of long-term care services that meet their health-care needs and improve their quality of life;
- (2) Providing a continuum of long-term care services that meets consumers' needs throughout life and promotes consumers' independence and autonomy;
- (3) Assuring that the state has a system of long-term care services that is cost effective and connects disparate services across agencies and jurisdictions.

(F) The Workgroup, with the assistance of the Directors of Job and Family Services and Budget and Management, shall submit two reports to the General Assembly in accordance with section 101.68 of the Revised Code regarding a unified system of long-term care services. The first report is due not later than July 1, 2012. The second report is due not later than

July 1, 2013. A report due before the unified system of long-term care services is established shall discuss the progress being made in establishing the system. A report due after the system is established shall discuss the system's effectiveness.

SECTION 209.50. UNIFIED LONG-TERM CARE SYSTEM
ADVISORY WORKGROUP SUBCOMMITTEES

The Unified Long-Term Care System Advisory Workgroup shall convene four subcommittees.

The first subcommittee shall study the current and future capacity of nursing facilities in this state, the configuration of that capacity, and strategies for addressing nursing facility capacity, including the ability of nursing facility operators to determine the number of beds to certify for participation in the Medicaid program. The subcommittee shall complete a report of the part of the study regarding the ability of nursing facility operators to determine the number of beds to certify for participation in the Medicaid program not later than September 1, 2011.

For purposes related to division (D) of section 5111.244 of the Revised Code, the second subcommittee shall study the quality incentive payments to be paid to nursing facilities under the Medicaid program for fiscal year 2013, including accountability measures to be used in awarding points for the quality incentive payments and the methodology for calculating the quality incentive payments. The subcommittee shall complete a report of its study not later than September 1, 2011.

The third subcommittee shall study the process of making Medicaid eligibility determinations for individuals seeking nursing facility services. The subcommittee shall complete a report of its study not later than December 31, 2011.

The fourth subcommittee shall study Medicaid reimbursement for nursing facility services, including issues related to the composition of peer groups, methodologies used to calculate reimbursement for capital costs, and the proportion of the total nursing facility reimbursement rate that should be based on the quality of care nursing facilities provide. The subcommittee shall complete a report of its study not later than December 31, 2012.

Each subcommittee shall submit its report to the General Assembly in accordance with section 101.68 of the Revised Code and to the Directors of Aging, Health, and Job and Family Services. A subcommittee shall cease to exist on the submission of its report.

SECTION 211.10. AGR DEPARTMENT OF AGRICULTURE

General Revenue Fund

GRF 700401	Animal Disease Control	\$	3,936,687	\$	3,936,687
GRF 700403	Dairy Division	\$	1,088,115	\$	1,088,115
GRF 700404	Ohio Proud	\$	50,000	\$	50,000
GRF 700406	Consumer Analytical Lab	\$	1,287,556	\$	1,287,556
GRF 700407	Food Safety	\$	848,792	\$	848,792
GRF 700409	Farmland Preservation	\$	72,750	\$	72,750
GRF 700412	Weights and Measures	\$	600,000	\$	600,000
GRF 700415	Poultry Inspection	\$	392,978	\$	392,978
GRF 700418	Livestock Regulation Program	\$	1,108,071	\$	1,108,071
GRF 700424	Livestock Testing and Inspections	\$	102,770	\$	102,770
GRF 700499	Meat Inspection Program - State Share	\$	4,175,097	\$	4,175,097
GRF 700501	County Agricultural Societies	\$	391,413	\$	391,413
TOTAL GRF	General Revenue Fund	\$	14,054,229	\$	14,054,229

General Services Fund Group

5DA0 700644	Laboratory Administration Support	\$	1,094,867	\$	1,094,867
5GH0 700655	Central Support Indirect Cost	\$	4,456,842	\$	4,456,842
TOTAL GSF	General Services Fund Group	\$	5,551,709	\$	5,551,709

Federal Special Revenue Fund Group

3260 700618	Meat Inspection Program - Federal Share	\$	4,950,000	\$	4,950,000
3360 700617	Ohio Farm Loan Revolving Fund	\$	150,000	\$	150,000
3820 700601	Cooperative Contracts	\$	2,000,000	\$	2,000,000
3AB0 700641	Agricultural Easement	\$	1,000,000	\$	1,000,000
3J40 700607	Indirect Cost	\$	600,000	\$	600,000
3R20 700614	Federal Plant Industry	\$	1,000,000	\$	1,000,000
TOTAL FED	Federal Special Revenue Fund Group	\$	9,700,000	\$	9,700,000

State Special Revenue Fund Group

4960 700626	Ohio Grape Industries	\$	846,611	\$	846,611
4970 700627	Commodity Handlers Regulatory Program	\$	483,402	\$	483,402
4C90 700605	Commercial Feed and Seed	\$	1,816,897	\$	1,816,897
4D20 700609	Auction Education	\$	41,000	\$	41,000
4E40 700606	Utility Radiological Safety	\$	131,785	\$	131,785
4P70 700610	Food Safety Inspection	\$	1,085,836	\$	1,085,836
4R00 700636	Ohio Proud Marketing	\$	30,500	\$	30,500
4R20 700637	Dairy Industry Inspection	\$	1,758,247	\$	1,758,247
4T60 700611	Poultry and Meat Inspection	\$	180,000	\$	180,000
4T70 700613	Ohio Proud International and Domestic Market Development	\$	50,000	\$	50,000
5780 700620	Ride Inspection Fees	\$	1,175,142	\$	1,175,142
5B80 700629	Auctioneers	\$	359,823	\$	359,823
5FC0 700648	Plant Pest Program	\$	1,164,000	\$	1,164,000

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5H20	700608	Metrology Lab and Scale Certification	\$	750,000	\$	750,000
5HP0	700656	Livestock Care Standards Board	\$	80,000	\$	80,000
5L80	700604	Livestock Management Program	\$	584,000	\$	584,000
6520	700634	Animal and Consumer Analytical Laboratory	\$	4,366,383	\$	4,366,383
6690	700635	Pesticide, Fertilizer, and Lime Inspection Program	\$	3,418,041	\$	3,418,041
TOTAL SSR State Special Revenue Fund Group			\$	18,321,667	\$	18,321,667
Clean Ohio Conservation Fund Group						
7057	700632	Clean Ohio Agricultural Easement	\$	310,000	\$	310,000
TOTAL CLF Clean Ohio Conservation Fund Group			\$	310,000	\$	310,000
TOTAL ALL BUDGET FUND GROUPS			\$	47,937,605	\$	47,937,605

COUNTY AGRICULTURAL SOCIETIES

The foregoing appropriation item 700501, County Agricultural Societies, shall be used to reimburse county and independent agricultural societies for expenses related to Junior Fair activities.

CLEAN OHIO AGRICULTURAL EASEMENT

The foregoing appropriation item 700632, Clean Ohio Agricultural Easement, shall be used by the Department of Agriculture in administering Ohio Agricultural Easement Fund (Fund 7057) projects pursuant to sections 901.21, 901.22, and 5301.67 to 5301.70 of the Revised Code.

SECTION 213.10. AIR AIR QUALITY DEVELOPMENT AUTHORITY**General Services Fund Group**

5EG0	898608	Energy Strategy Development	\$	240,382	\$	240,681
TOTAL GSF General Services Fund			\$	240,382	\$	240,681

Agency Fund Group

4Z90	898602	Small Business Ombudsman	\$	288,050	\$	288,232
5700	898601	Operating Expenses	\$	323,980	\$	323,980
5A00	898603	Small Business Assistance	\$	71,087	\$	71,087
TOTAL AGY Agency Fund Group			\$	683,117	\$	683,299
TOTAL ALL BUDGET FUND GROUPS			\$	923,499	\$	923,980

SECTION 213.20. ENERGY STRATEGY DEVELOPMENT

The Ohio Air Quality Development Authority shall establish the Energy Strategy Development Program for the purpose of developing energy initiatives, projects, and policy for the state. Issues addressed by such initiatives, projects, and policy shall not be limited to those governed by Chapter 3706. of the Revised Code.

There is hereby created in the state treasury the Energy Strategy Development Fund (Fund 5EG0). The fund shall consist of money credited to it and money obtained for advanced energy projects from federal or private grants, loans, or other sources. Money in the fund shall be used to carry out the purposes of the program. Interest earned on the money in the fund shall be credited to the General Revenue Fund.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management may transfer cash from the funds specified below, in the amounts specified below, to the Energy Strategy Development Fund. Fund 5EG0 may accept contributions and transfers made to the fund. On July 1, 2013, or as soon as possible thereafter, the Director shall transfer to the General Revenue Fund all cash credited to Fund 5EG0. Upon completion of the transfer, Fund 5EG0 is abolished.

<u>Fund</u>	<u>Fund Name</u>	<u>User</u>	<u>FY 2012</u>	<u>FY 2013</u>
1170	Office Services	Department of Administrative Services	\$27,405	\$27,439
5GH0	Central Support Indirect Cost	Department of Agriculture	\$27,405	\$27,439
1350	Supportive Services	Department of Development	\$27,405	\$27,439
2190	Central Support Indirect Cost	Environmental Protection Agency	\$27,405	\$27,439
1570	Central Support Indirect Chargeback	Department of Natural Resources	\$27,405	\$27,439
7002	Highway Operating	Department of Transportation	\$39,150	\$39,199

SECTION 213.30. REIMBURSEMENT TO AIR QUALITY DEVELOPMENT AUTHORITY TRUST ACCOUNT

Notwithstanding any other provision of law to the contrary, the Air Quality Development Authority may reimburse the Air Quality Development Authority trust account established under section 3706.10 of the Revised Code from all operating funds of the agency for expenses pertaining to the administration and shared costs incurred by the Air Quality Development Authority in the execution of responsibilities as prescribed in Chapter 3706. of the Revised Code. Reimbursement shall be made by voucher and completed in accordance with the administrative indirect costs allocation plan approved by the Office of Budget and Management.

SECTION 215.10. ADA DEPARTMENT OF ALCOHOL AND DRUG
ADDICTION SERVICES

General Revenue Fund

GRF 038401	Treatment Services	\$	11,225,590	\$	7,020,974
GRF 038404	Prevention Services	\$	868,659	\$	868,659
GRF 038501	Medicaid Match	\$	23,959,113	\$	0
TOTAL GRF General Revenue Fund		\$	36,053,362	\$	7,889,633

General Services Fund

5T90 038616	Problem Gambling Services	\$	335,000	\$	335,000
TOTAL GSF General Services Fund Group		\$	335,000	\$	335,000

Federal Special Revenue Fund Group

3G40 038614	Substance Abuse Block Grant	\$	69,000,000	\$	69,000,000
3H80 038609	Demonstration Grants	\$	8,675,580	\$	8,675,580
3J80 038610	Medicaid	\$	69,200,000	\$	0
3N80 038611	Administrative Reimbursement	\$	300,000	\$	300,000

TOTAL FED Federal Special Revenue Fund Group		\$	147,175,580	\$	77,975,580
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State Special Revenue Fund Group

4750 038621	Statewide Treatment and Prevention	\$	16,000,000	\$	14,000,000
5JW0 038615	Board Match Reimbursement	\$	3,000,000	\$	3,000,000
6890 038604	Education and Conferences	\$	75,000	\$	75,000

TOTAL SSR State Special Revenue Fund Group		\$	19,075,000	\$	17,075,000
TOTAL ALL BUDGET FUND GROUPS		\$	202,638,942	\$	103,275,213

SECTION 215.20. ALCOHOL AND DRUG ADDICTION MEDICAID MATCH

(A) As used in this section, "community alcohol and drug addiction Medicaid services" means services provided under the component, or aspect of the component, of the Medicaid program that the Department of Alcohol and Drug Addiction Services administers pursuant to a contract entered into with the Department of Job and Family Services under section 5111.91 of the Revised Code.

(B) Subject to division (C) of this section, the foregoing appropriation item 038501, Medicaid Match, shall be used by the Department of Alcohol and Drug Addiction Services to make payments for community alcohol and drug addiction Medicaid services.

(C) For state fiscal year 2012, the Department shall allocate foregoing appropriation item 038501, Medicaid Match, and a portion of appropriation item 038621, Statewide Treatment and Prevention, to boards of alcohol, drug addiction, and mental health services in accordance with a distribution

methodology the Department shall establish. Notwithstanding sections 5111.911 and 5111.913 of the Revised Code, the boards shall use the funds allocated to them under this section to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards shall use all federal financial participation that the Department receives for claims paid for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 as the first payment source to pay claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012. The boards are not required to use any funds other than the funds allocated to them under this section and the federal financial participation received for claims for community alcohol and drug addiction Medicaid services provided during fiscal year 2012 to pay for such claims.

(D) The Department shall enter into an agreement with each board regarding the issue of paying claims that are for community alcohol and drug addiction Medicaid services provided before July 1, 2011, and submitted for payment on or after that date. Such claims shall be paid in accordance with the agreements. A board shall receive the federal financial participation received for claims for community alcohol and drug addiction Medicaid services that were provided before July 1, 2011, and paid by the board.

SECTION 217.10. ARC ARCHITECTS BOARD

General Services Fund Group

4K90 891609	Operating Expenses	\$	494,459	\$	478,147
TOTAL GSF General Services Fund Group					
		\$	494,459	\$	478,147
TOTAL ALL BUDGET FUND GROUPS					
		\$	494,459	\$	478,147

SECTION 219.10. ART OHIO ARTS COUNCIL

General Revenue Fund

GRF 370321	Operating Expenses	\$	1,605,704	\$	1,605,704
GRF 370502	State Program Subsidies	\$	6,000,000	\$	8,000,000
TOTAL GRF General Revenue Fund					
		\$	7,605,704	\$	9,605,704

General Services Fund Group

4600 370602	Management Expenses and Donations	\$	247,000	\$	247,000
4B70 370603	Percent for Art Acquisitions	\$	247,000	\$	247,000
TOTAL GSF General Services Fund Group					
		\$	494,000	\$	494,000

Federal Special Revenue Fund Group

3140 370601	Federal Support	\$	1,000,000	\$	1,000,000
TOTAL FED Federal Special Revenue Fund Group					
		\$	1,000,000	\$	1,000,000

TOTAL ALL BUDGET FUND GROUPS	\$	9,099,704	\$	11,099,704
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FEDERAL SUPPORT

Notwithstanding any provision of law to the contrary, the foregoing appropriation item 370601, Federal Support, shall be used by the Ohio Arts Council for subsidies only, and not for its administrative costs, unless the Council is required to use a portion of the funds for administrative costs under conditions of the federal grant.

SECTION 221.10. ATH ATHLETIC COMMISSION**General Services Fund Group**

4K90 175609	Operating Expenses	\$	281,904	\$	292,509
TOTAL GSF General Services Fund Group		\$	281,904	\$	292,509
TOTAL ALL BUDGET FUND GROUPS		\$	281,904	\$	292,509

SECTION 223.10. AGO ATTORNEY GENERAL**General Revenue Fund**

GRF 055321	Operating Expenses	\$	42,514,169	\$	42,514,169
GRF 055405	Law-Related Education	\$	100,000	\$	100,000
GRF 055411	County Sheriffs' Pay Supplement	\$	757,921	\$	757,921
GRF 055415	County Prosecutors' Pay Supplement	\$	831,499	\$	831,499
TOTAL GRF General Revenue Fund		\$	44,203,589	\$	44,203,589

General Services Fund Group

1060 055612	General Reimbursement	\$	43,357,968	\$	43,011,277
1950 055660	Workers' Compensation Section	\$	8,415,504	\$	8,415,504
4180 055615	Charitable Foundations	\$	7,286,000	\$	7,286,000
4200 055603	Attorney General Antitrust	\$	1,871,674	\$	1,839,074
4210 055617	Police Officers' Training Academy Fee	\$	2,124,942	\$	2,088,805
4Z20 055609	BCI Asset Forfeiture and Cost Reimbursement	\$	1,529,685	\$	1,521,731
5900 055633	Peace Officer Private Security Fund	\$	98,370	\$	98,370
5A90 055618	Telemarketing Fraud Enforcement	\$	7,500	\$	7,500
5L50 055619	Law Enforcement Assistance Program	\$	300,222	\$	0
6310 055637	Consumer Protection Enforcement	\$	3,799,115	\$	3,718,973
TOTAL GSF General Services Fund Group		\$	68,790,980	\$	67,987,234

Federal Special Revenue Fund Group

3060 055620	Medicaid Fraud Control	\$	4,211,235	\$	4,122,399
3810 055611	Civil Rights Legal Service	\$	402,540	\$	402,540
3830 055634	Crime Victims Assistance	\$	13,000,000	\$	13,000,000
3E50 055638	Attorney General	\$	1,223,606	\$	1,222,172

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		Pass-Through Funds			
3R60	055613	Attorney General Federal Funds	\$	3,823,251	\$ 3,673,251
TOTAL FED Federal Special Revenue Fund Group					
			\$	22,660,632	\$ 22,420,362
State Special Revenue Fund Group					
4020	055616	Victims of Crime	\$	26,000,000	\$ 26,000,000
4170	055621	Domestic Violence Shelter	\$	25,000	\$ 25,000
4190	055623	Claims Section	\$	44,197,843	\$ 41,953,025
4L60	055606	DARE Programs	\$	4,477,962	\$ 4,477,962
4Y70	055608	Title Defect Recision	\$	600,000	\$ 600,000
6590	055641	Solid and Hazardous Waste Background Investigations	\$	662,227	\$ 651,049
TOTAL SSR State Special Revenue Fund Group					
			\$	75,963,032	\$ 73,707,036
Holding Account Redistribution Fund Group					
R004	055631	General Holding Account	\$	1,000,000	\$ 1,000,000
R005	055632	Antitrust Settlements	\$	1,000	\$ 1,000
R018	055630	Consumer Frauds	\$	750,000	\$ 750,000
R042	055601	Organized Crime	\$	25,025	\$ 25,025
Commission Distributions					
R054	055650	Collection Outside Counsel Payments	\$	4,500,000	\$ 4,500,000
TOTAL 090 Holding Account Redistribution Fund Group					
			\$	6,276,025	\$ 6,276,025
Tobacco Master Settlement Agreement Fund Group					
J087	055635	Law Enforcement Technology, Training, and Facility Enhancements	\$	2,300,000	\$ 0
U087	055402	Tobacco Settlement Oversight, Administration, and Enforcement	\$	2,527,992	\$ 2,514,690
TOTAL TSF Tobacco Master Settlement Agreement Fund Group					
			\$	4,827,992	\$ 2,514,690
TOTAL ALL BUDGET FUND GROUPS					
			\$	222,722,250	\$ 217,108,936

COUNTY SHERIFFS' PAY SUPPLEMENT

The foregoing appropriation item 055411, County Sheriffs' Pay Supplement, shall be used for the purpose of supplementing the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055411, County Sheriffs' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county sheriffs as required by section 325.06 of the Revised Code.

COUNTY PROSECUTORS' PAY SUPPLEMENT

The foregoing appropriation item 055415, County Prosecutors' Pay

Supplement, shall be used for the purpose of supplementing the annual compensation of certain county prosecutors as required by section 325.111 of the Revised Code.

At the request of the Attorney General, the Director of Budget and Management may transfer appropriation from appropriation item 055321, Operating Expenses, to appropriation item 055415, County Prosecutors' Pay Supplement. Any appropriation so transferred shall be used to supplement the annual compensation of county prosecutors as required by section 325.111 of the Revised Code.

GENERAL REIMBURSEMENT FUND

Notwithstanding any other provision of law to the contrary, on July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$160,000 cash from the General Revenue Fund to the General Reimbursement Fund (Fund 1060) used by the Office of the Attorney General.

WORKERS' COMPENSATION SECTION

The Workers' Compensation Fund (Fund 1950) is entitled to receive payments from the Bureau of Workers' Compensation and the Ohio Industrial Commission at the beginning of each quarter of each fiscal year to fund legal services to be provided to the Bureau of Workers' Compensation and the Ohio Industrial Commission during the ensuing quarter. The advance payment shall be subject to adjustment.

In addition, the Bureau of Workers' Compensation shall transfer payments at the beginning of each quarter for the support of the Workers' Compensation Fraud Unit.

All amounts shall be mutually agreed upon by the Attorney General, the Bureau of Workers' Compensation, and the Ohio Industrial Commission.

ATTORNEY GENERAL PASS-THROUGH FUNDS

The foregoing appropriation item 055638, Attorney General Pass-Through Funds, shall be used to receive federal grant funds provided to the Attorney General by other state agencies, including, but not limited to, the Department of Youth Services and the Department of Public Safety.

GENERAL HOLDING ACCOUNT

The foregoing appropriation item 055631, General Holding Account, shall be used to distribute moneys under the terms of relevant court orders or other settlements received in a variety of cases involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ANTITRUST SETTLEMENTS

The foregoing appropriation item 055632, Antitrust Settlements, shall

be used to distribute moneys under the terms of relevant court orders or other out of court settlements in antitrust cases or antitrust matters involving the Office of the Attorney General. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

CONSUMER FRAUDS

The foregoing appropriation item 055630, Consumer Frauds, shall be used for distribution of moneys from court-ordered judgments against sellers in actions brought by the Office of Attorney General under sections 1334.08 and 4549.48 and division (B) of section 1345.07 of the Revised Code. These moneys shall be used to provide restitution to consumers victimized by the fraud that generated the court-ordered judgments. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

ORGANIZED CRIME COMMISSION DISTRIBUTIONS

The foregoing appropriation item 055601, Organized Crime Commission Distributions, shall be used by the Organized Crime Investigations Commission, as provided by section 177.011 of the Revised Code, to reimburse political subdivisions for the expenses the political subdivisions incur when their law enforcement officers participate in an organized crime task force. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

COLLECTION OUTSIDE COUNSEL PAYMENTS

The foregoing appropriation item 055650, Collection Outside Counsel Payments, shall be used for the purpose of paying contingency counsel fees for cases where debtors mistakenly paid the client agencies instead of the Attorney General's Revenue Recovery/Collections Enforcement Section. If it is determined that additional amounts are necessary for this purpose, the amounts are hereby appropriated.

SECTION 225.10. AUD AUDITOR OF STATE

General Revenue Fund

GRF 070321	Operating Expenses	\$	27,434,452	\$	27,434,452
GRF 070403	Fiscal Watch/Emergency Technical Assistance	\$	800,000	\$	800,000
TOTAL GRF General Revenue Fund		\$	28,234,452	\$	28,234,452

Auditor of State Fund Group

1090 070601	Public Audit Expense - Intra-State	\$	9,000,000	\$	8,700,000
4220 070602	Public Audit Expense - Local Government	\$	31,422,959	\$	31,052,999
5840 070603	Training Program	\$	181,250	\$	181,250

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5JZ0	070606	LEAP Revolving Loans	\$	850,000	\$	650,000
6750	070605	Uniform Accounting Network	\$	3,500,000	\$	3,500,000
TOTAL AUD Auditor of State Fund						
Group			\$	44,954,209	\$	44,084,249
TOTAL ALL BUDGET FUND GROUPS			\$	73,188,661	\$	72,318,701

FISCAL WATCH/EMERGENCY TECHNICAL ASSISTANCE

The foregoing appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, shall be used for expenses incurred by the Office of the Auditor of State in its role relating to fiscal watch or fiscal emergency activities under Chapters 118. and 3316. of the Revised Code. Expenses include, but are not limited to, the following: duties related to the determination or termination of fiscal watch or fiscal emergency of municipal corporations, counties, townships, or school districts; development of preliminary accounting reports; performance of annual forecasts; provision of performance audits; and supervisory, accounting, or auditing services for the municipal corporations, counties, townships, or school districts.

An amount equal to the unexpended, unencumbered portion of appropriation item 070403, Fiscal Watch/Emergency Technical Assistance, at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

SECTION 227.10. BRB BOARD OF BARBER EXAMINERS**General Services Fund Group**

4K90	877609	Operating Expenses	\$	656,320	\$	649,211
TOTAL GSF General Services Fund						
Group			\$	656,320	\$	649,211
TOTAL ALL BUDGET FUND GROUPS			\$	656,320	\$	649,211

SECTION 229.10. OBM OFFICE OF BUDGET AND MANAGEMENT**General Revenue Fund**

GRF	042321	Budget Development and Implementation	\$	2,362,025	\$	2,378,166
GRF	042409	Commission Closures	\$	50,000	\$	50,000
GRF	042416	Office of Health Transformation	\$	306,285	\$	0
GRF	042423	Liquor Enterprise Transaction	\$	500,000	\$	0
TOTAL GRF General Revenue Fund			\$	3,218,310	\$	2,428,166

General Services Fund Group

1050	042603	State Accounting and Budgeting	\$	21,917,230	\$	22,006,331
5N40	042602	OAKS Project Implementation	\$	1,358,000	\$	1,309,500
5Z80	042608	Office of Health Transformation	\$	57,752	\$	0

Administration			
TOTAL GSF General Services Fund Group	\$	23,332,982	\$ 23,315,831
Federal Special Revenue Fund Group			
3CM0 042606 Office of Health Transformation - Federal	\$	384,037	\$ 145,500
TOTAL FED Federal Special Revenue Fund Group	\$	384,037	\$ 145,500
Agency Fund Group			
5EH0 042604 Forgery Recovery	\$	50,000	\$ 50,000
TOTAL AGY Agency Fund Group	\$	50,000	\$ 50,000
TOTAL ALL BUDGET FUND GROUPS	\$	26,985,329	\$ 25,939,497

COMMISSION CLOSURES

The foregoing appropriation item 042409, Commission Closures, may be used to pay obligations associated with the closure of the Commission on Dispute Resolution and Conflict Management, the School Employees Health Care Board, the Legal Rights Service, and the Workers' Compensation Council. Notwithstanding any provision of law to the contrary, this appropriation item may also be used to pay final payroll expenses occurring after the closure of the Commission on Dispute Resolution and Conflict Management, the School Employees Health Care Board, the Legal Rights Service, and the Workers' Compensation Council in the event that appropriations or cash in the closing agency are insufficient to do so.

The Director of Budget and Management may request Controlling Board approval for funds to be transferred to appropriation item 042409, Commission Closures, from appropriation item 911614, CB Emergency Purposes, for anticipated expenses associated with agency closures.

LIQUOR ENTERPRISE TRANSACTION

The foregoing appropriation item 042423, Liquor Enterprise Transaction, shall be used by the Director of Budget and Management, without need for any other approval, to retain or contract for the services of commercial appraisers, underwriters, investment bankers, and financial advisers, as are necessary in the Director's judgment to commence negotiation of the transfer agreement referred to in sections 4313.01 and 4313.02 of the Revised Code, as enacted by this act. Any amounts expended from appropriation item 042423 shall be reimbursed from the proceeds of the enterprise acquisition project transaction authorized in those sections.

The Director of Budget and Management, in consultation with the Director of Commerce, may negotiate an initial agreement with JobsOhio, which shall be executed by the Directors of Budget and Management and Commerce upon its completion.

AUDIT COSTS AND DUES

All centralized audit costs associated with either Single Audit Schedules or financial statements prepared in conformance with generally accepted

accounting principles for the state shall be paid from the foregoing appropriation item 042603, State Accounting and Budgeting.

Costs associated with the audit of the Auditor of State and national association dues shall be paid from the foregoing appropriation item 042321, Budget Development and Implementation.

SHARED SERVICES CENTER

The Director of Budget and Management shall use the OAKS Project Implementation Fund (Fund 5N40) and the Accounting and Budgeting Fund (Fund 1050) to support a Shared Services Center within the Office of Budget and Management for the purpose of consolidating statewide business functions and common transactional processes.

The Director of Budget and Management shall include the recovery of costs to operate the Shared Services Center in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies for services rendered. The Director of Budget and Management shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of Fund 1050.

INTERNAL CONTROL AND AUDIT OVERSIGHT

The Director of Budget and Management shall include the recovery of costs to operate the Internal Control and Audit Oversight Program in the accounting and budgeting services payroll rate and through a direct charge using intrastate transfer vouchers to agencies reviewed by the program. The Director of Budget and Management, with advice from the Internal Audit Advisory Council, shall determine the cost recovery methodology. Such cost recovery revenues shall be deposited to the credit of the Accounting and Budgeting Fund (Fund 1050).

FORGERY RECOVERY

The foregoing appropriation item 042604, Forgery Recovery, shall be used to reissue warrants that have been certified as forgeries by the rightful recipient as determined by the Bureau of Criminal Identification and Investigation and the Treasurer of State. Upon receipt of funds to cover the reissuance of the warrant, the Director of Budget and Management shall reissue a state warrant of the same amount.

GRF TRANSFER TO THE OAKS PROJECT IMPLEMENTATION FUND

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer an amount not to exceed \$1,100,000 in cash from the General Revenue Fund to the OAKS Project Implementation Fund (Fund 5N40).

SECTION 231.10. CSR CAPITOL SQUARE REVIEW AND
ADVISORY BOARD

General Revenue Fund

GRF 874100	Personal Services	\$	1,272,017	\$	1,272,017
GRF 874320	Maintenance and Equipment	\$	529,391	\$	529,391
TOTAL GRF General Revenue Fund		\$	1,801,408	\$	1,801,408

General Services Fund Group

4G50 874603	Capitol Square Education Center and Arts	\$	15,000	\$	15,000
4S70 874602	Statehouse Gift Shop/Events	\$	686,708	\$	686,708
TOTAL GSF General Services Fund Group		\$	701,708	\$	701,708

Underground Parking Garage

2080 874601	Underground Parking Garage Operations	\$	3,290,052	\$	3,186,573
TOTAL UPG Underground Parking Garage		\$	3,290,052	\$	3,186,573
TOTAL ALL BUDGET FUND GROUPS		\$	5,793,168	\$	5,689,689

WAREHOUSE PAYMENTS

Of the foregoing appropriation item 874601, Underground Parking Garage Operations, \$48,000 in each fiscal year shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, to the Ohio Building Authority for bond service charges relating to the purchase and improvement of a warehouse acquired pursuant to section 105.41 of the Revised Code, in which to store items of the Capitol Collection Trust and, whenever necessary, equipment or other property of the Board.

UNDERGROUND PARKING GARAGE FUND

Notwithstanding division (G) of section 105.41 of the Revised Code and any other provision to the contrary, moneys in the Underground Parking Garage Fund (Fund 2080) may be used for personnel and operating costs related to the operations of the Statehouse and the Statehouse Underground Parking Garage.

SECTION 233.10. SCR STATE BOARD OF CAREER COLLEGES
AND SCHOOLS

General Services Fund Group

4K90 233601	Operating Expenses	\$	558,658	\$	579,328
TOTAL GSF General Services Fund Group		\$	558,658	\$	579,328
TOTAL ALL BUDGET FUND GROUPS		\$	558,658	\$	579,328

SECTION 235.10. CAC CASINO CONTROL COMMISSION

State Special Revenue Fund Group

5HS0 955321	Casino Control - Operating	\$	8,263,312	\$	13,121,283
TOTAL SSR State Special Revenue Fund Group		\$	8,263,312	\$	13,121,283
TOTAL ALL BUDGET FUND GROUPS		\$	8,263,312	\$	13,121,283

SECTION 237.10. CDP CHEMICAL DEPENDENCY PROFESSIONALS BOARD

General Services Fund Group

4K90 930609	Operating Expenses	\$	433,734	\$	417,827
TOTAL GSF General Services Fund Group		\$	433,734	\$	417,827
TOTAL ALL BUDGET FUND GROUPS		\$	433,734	\$	417,827

SECTION 239.10. CHR STATE CHIROPRACTIC BOARD

General Services Fund Group

4K90 878609	Operating Expenses	\$	592,916	\$	584,925
TOTAL GSF General Services Fund Group		\$	592,916	\$	584,925
TOTAL ALL BUDGET FUND GROUPS		\$	592,916	\$	584,925

SECTION 241.10. CIV OHIO CIVIL RIGHTS COMMISSION

General Revenue Fund

GRF 876321	Operating Expenses	\$	4,725,784	\$	4,725,784
TOTAL GRF General Revenue Fund		\$	4,725,784	\$	4,725,784

General Services Fund Group

2170 876604	Operations Support	\$	8,000	\$	8,000
TOTAL GSF General Services Fund Group		\$	8,000	\$	8,000

Federal Special Revenue Fund Group

3340 876601	Federal Programs	\$	2,762,000	\$	2,762,000
TOTAL FED Federal Special Revenue Fund Group		\$	2,762,000	\$	2,762,000
TOTAL ALL BUDGET FUND GROUPS		\$	7,495,784	\$	7,495,784

SECTION 243.10. COM DEPARTMENT OF COMMERCE

General Services Fund Group

1630 800620	Division of Administration	\$	6,200,000	\$	6,200,000
1630 800637	Information Technology	\$	5,999,892	\$	6,011,977
5430 800602	Unclaimed Funds-Operating	\$	7,836,107	\$	7,841,473
5430 800625	Unclaimed Funds-Claims	\$	69,700,000	\$	69,800,000
5F10 800635	Small Government Fire Departments	\$	300,000	\$	300,000
TOTAL GSF General Services Fund Group		\$	90,035,999	\$	90,153,450

Federal Special Revenue Fund Group

3480	800622	Underground Storage Tanks	\$	1,129,518	\$	1,129,518
3480	800624	Leaking Underground Storage Tanks	\$	1,556,211	\$	1,556,211
TOTAL FED Federal Special Revenue Fund Group			\$	2,685,729	\$	2,685,729

State Special Revenue Fund Group

4B20	800631	Real Estate Appraisal Recovery	\$	35,000	\$	35,000
4H90	800608	Cemeteries	\$	268,067	\$	268,293
4X20	800619	Financial Institutions	\$	2,186,271	\$	1,990,693
5440	800612	Banks	\$	7,242,364	\$	6,942,336
5450	800613	Savings Institutions	\$	2,257,220	\$	2,259,536
5460	800610	Fire Marshal	\$	15,400,000	\$	15,501,562
5460	800639	Fire Department Grants	\$	1,698,802	\$	1,698,802
5470	800603	Real Estate Education/Research	\$	125,000	\$	125,000
5480	800611	Real Estate Recovery	\$	25,000	\$	25,000
5490	800614	Real Estate	\$	3,413,708	\$	3,332,308
5500	800617	Securities	\$	4,312,434	\$	4,314,613
5520	800604	Credit Union	\$	3,450,390	\$	3,450,390
5530	800607	Consumer Finance	\$	3,613,016	\$	3,516,861
5560	800615	Industrial Compliance	\$	27,639,372	\$	27,664,695
5FW0800616		Financial Literacy Education	\$	240,000	\$	240,000
5GK0800609		Securities Investor Education/Enforcement	\$	1,135,000	\$	485,000
5HV0800641		Cigarette Enforcement	\$	120,000	\$	120,000
5X60	800623	Video Service	\$	340,299	\$	340,630
6530	800629	UST Registration/Permit Fee	\$	1,854,675	\$	1,509,653
6A40	800630	Real Estate Appraiser-Operating	\$	699,565	\$	648,890
TOTAL SSR State Special Revenue Fund Group			\$	76,056,183	\$	74,469,262

Liquor Control Fund Group

7043	800601	Merchandising	\$	472,209,274	\$	0
7043	800627	Liquor Control Operating	\$	13,398,274	\$	10,110,479
7043	800633	Development Assistance Debt Service	\$	51,973,200	\$	0
7043	800636	Revitalization Debt Service	\$	21,129,800	\$	0
TOTAL LCF Liquor Control Fund Group			\$	558,710,548	\$	10,110,479
TOTAL ALL BUDGET FUND GROUPS			\$	727,488,459	\$	177,418,920

SMALL GOVERNMENT FIRE DEPARTMENTS

Notwithstanding section 3737.17 of the Revised Code, the foregoing appropriation item 800635, Small Government Fire Departments, may be used to provide loans to private fire departments.

UNCLAIMED FUNDS PAYMENTS

The foregoing appropriation item 800625, Unclaimed Funds-Claims, shall be used to pay claims under section 169.08 of the Revised Code. If it is determined that additional amounts are necessary, the amounts are

appropriated.

UNCLAIMED FUNDS TRANSFERS

Notwithstanding division (A) of section 169.05 of the Revised Code, during the FY 2012-FY 2013 biennium, the Director of Budget and Management shall request the Director of Commerce to transfer to the General Revenue Fund up to \$215,000,000 of unclaimed funds that have been reported by holders of unclaimed funds under section 169.05 of the Revised Code, irrespective of the allocation of the unclaimed funds under that section. The Director of Commerce shall transfer the funds at the times requested by the Director of Budget and Management.

FIRE DEPARTMENT GRANTS

Of the foregoing appropriation item 800639, Fire Department Grants, up to \$1,647,140 in each fiscal year shall be used to make annual grants to the following eligible recipients: volunteer fire departments, fire departments that serve one or more small municipalities or small townships, joint fire districts comprised of fire departments that primarily serve small municipalities or small townships, local units of government responsible for such fire departments, and local units of government responsible for the provision of fire protection services for small municipalities or small townships. For the purposes of these grants, a private fire company, as that phrase is defined in section 9.60 of the Revised Code, that is providing fire protection services under a contract to a political subdivision of the state, is an additional eligible recipient for a training grant.

Eligible recipients that consist of small municipalities or small townships that all intend to contract with the same fire department or private fire company for fire protection services may jointly apply and be considered for a grant. If a joint applicant is awarded a grant, the State Fire Marshal shall, if feasible, proportionately award the grant and any equipment purchased with grant funds to each of the joint applicants based upon each applicant's contribution to and demonstrated need for fire protection services.

If the grant awarded to joint applicants is an equipment grant and the equipment to be purchased cannot be readily distributed or possessed by multiple recipients, each of the joint applicants shall be awarded by the State Fire Marshal an ownership interest in the equipment so purchased in proportion to each applicant's contribution to and demonstrated need for fire protection services. The joint applicants shall then mutually agree on how the equipment is to be maintained, operated, stored, or disposed of. If, for any reason, the joint applicants cannot agree as to how jointly owned equipment is to be maintained, operated, stored, or disposed of or any of the

joint applicants no longer maintain a contract with the same fire protection service provider as the other applicants, then the joint applicants shall, with the assistance of the State Fire Marshal, mutually agree as to how the jointly owned equipment is to be maintained, operated, stored, disposed of, or owned. If the joint applicants cannot agree how the grant equipment is to be maintained, operated, stored, disposed of, or owned, the State Fire Marshal may, in its discretion, require all of the equipment acquired by the joint applicants with grant funds to be returned to the State Fire Marshal. The State Fire Marshal may then award the returned equipment to any eligible recipients.

The grants shall be used by recipients to purchase firefighting or rescue equipment or gear or similar items, to provide full or partial reimbursement for the documented costs of firefighter training, or, at the discretion of the State Fire Marshal, to cover fire department costs for providing fire protection services in that grant recipient's jurisdiction.

Grant awards for firefighting or rescue equipment or gear or for fire department costs of providing fire protection services shall be up to \$15,000 per fiscal year, or up to \$25,000 per fiscal year if an eligible entity serves a jurisdiction in which the Governor declared a natural disaster during the preceding or current fiscal year in which the grant was awarded. In addition to any grant funds awarded for rescue equipment or gear, or for fire department costs associated with the provision of fire protection services, an eligible entity may receive a grant for up to \$15,000 per fiscal year for full or partial reimbursement of the documented costs of firefighter training. For each fiscal year, the State Fire Marshal shall determine the total amounts to be allocated for each eligible purpose.

The grant program shall be administered by the State Fire Marshal in accordance with rules the State Fire Marshal adopts as part of the state fire code adopted pursuant to section 3737.82 of the Revised Code that are necessary for the administration and operation of the grant program. The rules may further define the entities eligible to receive grants and establish criteria for the awarding and expenditure of grant funds, including methods the State Fire Marshal may use to verify the proper use of grant funds or to obtain reimbursement for or the return of equipment for improperly used grant funds. Any amounts in appropriation item 800639, Fire Department Grants, in excess of the amount allocated for these grants may be used for the administration of the grant program.

CASH TRANSFERS TO THE DIVISION OF SECURITIES INVESTOR EDUCATION AND ENFORCEMENT EXPENSE FUND

The Director of Budget and Management, upon the request of the

Director of Commerce, shall transfer up to \$485,000 in cash in each fiscal year from the Division of Securities Fund (Fund 5500) to the Division of Securities Investor Education and Enforcement Expense Fund (Fund 5GK0) created in section 1707.37 of the Revised Code.

CASH TRANSFER TO VIDEO SERVICE AUTHORIZATION FUND

The Director of Budget and Management, upon the request of the Director of Commerce, shall transfer up to \$340,000 in cash in each fiscal year from the Division of Administration Fund (Fund 1630) to the Video Service Authorization Fund (Fund 5X60).

INCREASED APPROPRIATION - MERCHANDISING

The foregoing appropriation item 800601, Merchandising, shall be used under section 4301.12 of the Revised Code. If it is determined that additional expenditures are necessary, the amounts are hereby appropriated.

DEVELOPMENT ASSISTANCE DEBT SERVICE

The foregoing appropriation item 800633, Development Assistance Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made during the period from July 1, 2011, to June 30, 2012, for bond service charges on obligations issued under Chapter 166. of the Revised Code. If it is determined that additional appropriations are necessary for this purpose, such amounts are appropriated, subject to the limitations set forth in section 166.11 of the Revised Code. An appropriation for this purpose is not required, but is made in this form and in this act for record purposes only.

REVITALIZATION DEBT SERVICE

The foregoing appropriation item 800636, Revitalization Debt Service, shall be used to pay debt service and related financing costs at the times they are required to be made pursuant to sections 151.01 and 151.40 of the Revised Code during the period from July 1, 2011, to June 30, 2012. If it is determined that additional appropriations are necessary for this purpose, such amounts are hereby appropriated. The General Assembly acknowledges the priority of the pledge of a portion of receipts from that source to obligations issued and to be issued under Chapter 166. of the Revised Code.

LIQUOR CONTROL FUND TRANSFER

On January 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$10,600,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant

to Chapter 4301. of the Revised Code.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management may transfer up to \$21,800,000 in cash from the General Revenue Fund to the Liquor Control Fund (Fund 7043) for the liquor permitting and compliance functions of the Division of Liquor Control in the Department of Commerce and for the operations of the Liquor Control Commission and the Department of Public Safety pursuant to Chapter 4301. of the Revised Code.

ADMINISTRATIVE ASSESSMENTS

Notwithstanding any other provision of law to the contrary, the Division of Administration Fund (Fund 1630) is entitled to receive assessments from all operating funds of the Department in accordance with procedures prescribed by the Director of Commerce and approved by the Director of Budget and Management.

SECTION 245.10. OCC OFFICE OF CONSUMERS' COUNSEL

General Services Fund Group

5F50 053601	Operating Expenses	\$	5,641,093	\$	4,142,070
TOTAL GSF General Services Fund Group		\$	5,641,093	\$	4,142,070
TOTAL ALL BUDGET FUND GROUPS		\$	5,641,093	\$	4,142,070

SECTION 247.10. CEB CONTROLLING BOARD

General Revenue Fund

GRF 911441	Ballot Advertising Costs	\$	475,000	\$	475,000
TOTAL GRF General Revenue Fund		\$	475,000	\$	475,000

General Services Fund Group

5KM0911614	CB Emergency Purposes	\$	10,000,000	\$	10,000,000
TOTAL GSF General Services Fund Group		\$	10,000,000	\$	10,000,000
TOTAL ALL BUDGET FUND GROUPS		\$	10,475,000	\$	10,475,000

FEDERAL SHARE

In transferring appropriations to or from appropriation items that have federal shares identified in this act, the Controlling Board shall add or subtract corresponding amounts of federal matching funds at the percentages indicated by the state and federal division of the appropriations in this act. Such changes are hereby appropriated.

DISASTER SERVICES

Pursuant to requests submitted by the Department of Public Safety, the Controlling Board may approve transfers from the Disaster Services Fund (5E20) to a fund and appropriation item used by the Department of Public Safety to provide for assistance to political subdivisions made necessary by natural disasters or emergencies. These transfers may be requested and

approved prior to the occurrence of any specific natural disasters or emergencies in order to facilitate the provision of timely assistance. The Emergency Management Agency of the Department of Public Safety shall use the funding to fund the State Disaster Relief Program for disasters that have been declared by the Governor, and the State Individual Assistance Program for disasters that have been declared by the Governor and the federal Small Business Administration. The Ohio Emergency Management Agency shall publish and make available application packets outlining procedures for the State Disaster Relief Program and the State Individual Assistance Program.

Fund 5E20 shall be used by the Controlling Board, pursuant to requests submitted by state agencies, to transfer cash and appropriations to any fund and appropriation item for the payment of state agency disaster relief program expenses for disasters declared by the Governor, if the Director of Budget and Management determines that sufficient funds exist.

BALLOT ADVERTISING COSTS

Pursuant to section 3501.17 of the Revised Code, and upon requests submitted by the Secretary of State, the Controlling Board shall approve transfers from the foregoing appropriation item 911441, Ballot Advertising Costs, to appropriation item 050621, Statewide Ballot Advertising, in order to pay for the cost of public notices associated with statewide ballot initiatives.

CAPITAL APPROPRIATION INCREASE FOR FEDERAL STIMULUS ELIGIBILITY

A state agency director shall request that the Controlling Board increase the amount of the agency's capital appropriations if the director determines such an increase is necessary for the agency to receive and use funds under the federal American Recovery and Reinvestment Act of 2009. The Controlling Board may increase the capital appropriations pursuant to the request up to the exact amount necessary under the federal act if the Board determines it is necessary for the agency to receive and use those federal funds.

SECTION 249.10. COS STATE BOARD OF COSMETOLOGY

General Services Fund Group

4K90 879609 Operating Expenses	\$	3,439,545	\$	3,364,030
TOTAL GSF General Services Fund Group	\$	3,439,545	\$	3,364,030
TOTAL ALL BUDGET FUND GROUPS	\$	3,439,545	\$	3,364,030

SECTION 251.10. CSW COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

General Services Fund Group

4K90 899609	Operating Expenses	\$	1,204,235	\$	1,234,756
TOTAL GSF General Services Fund					
Group		\$	1,204,235	\$	1,234,756
TOTAL ALL BUDGET FUND GROUPS					

SECTION 253.10. CLA COURT OF CLAIMS

General Revenue Fund

GRF 015321	Operating Expenses	\$	2,573,508	\$	2,501,052
TOTAL GRF General Revenue Fund					

State Special Revenue Fund Group

5K20 015603	CLA Victims of Crime	\$	1,582,684	\$	1,582,684
TOTAL SSR State Special Revenue					
Fund Group		\$	1,582,684	\$	1,582,684
TOTAL ALL BUDGET FUND GROUPS					

SECTION 255.10. AFC OHIO CULTURAL FACILITIES COMMISSION

General Revenue Fund

GRF 371321	Operating Expenses	\$	98,636	\$	98,636
GRF 371401	Lease Rental Payments	\$	27,804,900	\$	28,465,000
TOTAL GRF General Revenue Fund					

State Special Revenue Fund Group

4T80 371601	Riffe Theatre Equipment Maintenance	\$	80,891	\$	80,891
4T80 371603	Project Administration Services	\$	1,200,000	\$	1,200,000
TOTAL SSR State Special Revenue Group					
TOTAL ALL BUDGET FUND GROUPS					

LEASE RENTAL PAYMENTS

The foregoing appropriation item 371401, Lease Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011 through June 30, 2013, from the Ohio Cultural Facilities Commission under the primary leases and agreements for those arts and sports facilities made under Chapters 152. and 154. of the Revised Code. These appropriations are the source of funds pledged for bond service charges on related obligations issued under Chapters 152. and 154. of the Revised Code.

OPERATING EXPENSES

The foregoing appropriation item 371321, Operating Expenses, shall be

used by the Ohio Cultural Facilities Commission to carry out its responsibilities under this section and Chapter 3383. of the Revised Code.

The foregoing appropriation item 371603, Project Administration Services, shall be used by the Ohio Cultural Facilities Commission in administering Cultural and Sports Facilities Building Fund (Fund 7030) projects pursuant to Chapter 3383. of the Revised Code.

By the tenth day following each calendar quarter in each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall determine the amount of cash from interest earnings to be transferred from the Cultural and Sports Facilities Building Fund (Fund 7030) to the Cultural Facilities Commission Administration Fund (Fund 4T80).

As soon as possible after each bond issuance made on behalf of the Cultural Facilities Commission, the Director of Budget and Management shall determine the amount of cash from any premium paid on each issuance that is available to be transferred, after all issuance costs have been paid, from the Cultural and Sports Facilities Building Fund (Fund 7030) to the Cultural Facilities Commission Administration Fund (Fund 4T80).

CAPITAL DONATIONS FUND CERTIFICATIONS AND APPROPRIATIONS

The Executive Director of the Cultural Facilities Commission shall certify to the Director of Budget and Management the amount of cash receipts and related investment income, irrevocable letters of credit from a bank, or certification of the availability of funds that have been received from a county or a municipal corporation for deposit into the Capital Donations Fund (Fund 5A10) and that are related to an anticipated project. These amounts are hereby appropriated to appropriation item C37146, Capital Donations. Prior to certifying these amounts to the Director, the Executive Director shall make a written agreement with the participating entity on the necessary cash flows required for the anticipated construction or equipment acquisition project.

SECTION 257.10. DEN STATE DENTAL BOARD

General Services Fund Group			
4K90 880609	Operating Expenses	\$	1,574,715 \$ 1,545,684
TOTAL GSF General Services Fund			
Group		\$	1,574,715 \$ 1,545,684
TOTAL ALL BUDGET FUND GROUPS		\$	1,574,715 \$ 1,545,684

SECTION 259.10. BDP BOARD OF DEPOSIT

General Services Fund Group

2945

4M20 974601	Board of Deposit	\$	1,876,000	\$	1,876,000
TOTAL GSF General Services Fund					
Group		\$	1,876,000	\$	1,876,000
TOTAL ALL BUDGET FUND GROUPS					
		\$	1,876,000	\$	1,876,000

BOARD OF DEPOSIT EXPENSE FUND

Upon receiving certification of expenses from the Treasurer of State, the Director of Budget and Management shall transfer cash from the Investment Earnings Redistribution Fund (Fund 6080) to the Board of Deposit Expense Fund (Fund 4M20). The latter fund shall be used pursuant to section 135.02 of the Revised Code to pay for any and all necessary expenses of the Board of Deposit or for banking charges and fees required for the operation of the State of Ohio Regular Account.

SECTION 261.10. DEV DEPARTMENT OF DEVELOPMENT**General Revenue Fund**

GRF 195401	Thomas Edison Program	\$	14,820,354	\$	0
GRF 195402	Coal Development Office	\$	260,983	\$	261,205
GRF 195404	Small Business Development	\$	1,565,770	\$	0
GRF 195405	Minority Business Enterprise Division	\$	1,118,528	\$	0
GRF 195407	Travel and Tourism	\$	5,000,000	\$	0
GRF 195412	Rapid Outreach Grants	\$	9,000,000	\$	0
GRF 195415	Strategic Business Investment Division and Regional Offices	\$	4,500,000	\$	0
GRF 195416	Governor's Office of Appalachia	\$	3,700,000	\$	3,700,000
GRF 195422	Technology Action	\$	547,341	\$	0
GRF 195426	Clean Ohio Implementation	\$	468,365	\$	0
GRF 195432	Global Markets	\$	3,500,000	\$	0
GRF 195434	Industrial Training Grants	\$	10,000,000	\$	0
GRF 195497	CDBG Operating Match	\$	1,015,000	\$	0
GRF 195501	Appalachian Local Development Districts	\$	391,482	\$	391,482
GRF 195502	Appalachian Regional Commission Dues	\$	195,000	\$	195,000
GRF 195528	Economic Development Projects	\$	0	\$	26,943,518
GRF 195901	Coal Research & Development General Obligation Debt Service	\$	7,861,100	\$	5,577,700
GRF 195905	Third Frontier Research & Development General Obligation Debt Service	\$	29,323,300	\$	63,640,300
GRF 195912	Job Ready Site Development General Obligation Debt Service	\$	9,859,200	\$	15,680,500
TOTAL GRF General Revenue Fund		\$	103,126,423	\$	116,389,705
General Services Fund Group					

2946

1350	195684	Supportive Services	\$	11,700,000	\$	11,700,000
4W10	195646	Minority Business Enterprise Loan	\$	2,500,000	\$	2,500,000
5AD0	195633	Legacy Projects	\$	15,000,000	\$	15,000,000
5AD0	195677	Economic Development Contingency	\$	10,000,000	\$	0
5W50	195690	Travel and Tourism Cooperative Projects	\$	50,000	\$	50,000
6850	195636	Direct Cost Recovery Expenditures	\$	750,000	\$	750,000
TOTAL GSF General Services Fund Group			\$	40,000,000	\$	30,000,000
Federal Special Revenue Fund Group						
3080	195602	Appalachian Regional Commission	\$	475,000	\$	475,000
3080	195603	Housing and Urban Development	\$	6,000,000	\$	6,000,000
3080	195605	Federal Projects	\$	85,028,606	\$	85,470,106
3080	195609	Small Business Administration	\$	6,438,143	\$	5,511,381
3080	195618	Energy Federal Grants	\$	38,000,000	\$	3,400,000
3350	195610	Energy Conservation and Emerging Technology	\$	1,100,000	\$	1,100,000
3AE0	195643	Workforce Development Initiatives	\$	16,300,000	\$	16,300,000
3DB0	195642	Federal Stimulus - Energy Efficiency & Conservation Block Grants	\$	3,000,000	\$	42,485
3EG0	195608	Federal Energy Training	\$	5,000,000	\$	1,344,056
3K80	195613	Community Development Block Grant	\$	76,795,818	\$	65,210,000
3K90	195611	Home Energy Assistance Block Grant	\$	115,743,608	\$	115,743,608
3K90	195614	HEAP Weatherization	\$	22,000,000	\$	22,000,000
3L00	195612	Community Services Block Grant	\$	27,240,217	\$	27,240,217
3V10	195601	HOME Program	\$	40,000,000	\$	40,000,000
TOTAL FED Federal Special Revenue Fund Group			\$	443,121,392	\$	389,836,853
State Special Revenue Fund Group						
4500	195624	Minority Business Bonding Program Administration	\$	160,110	\$	159,069
4510	195625	Economic Development Financing Operating	\$	3,000,000	\$	3,000,000
4F20	195639	State Special Projects	\$	180,437	\$	180,436
4F20	195676	Marketing Initiatives	\$	5,000,000	\$	0
4F20	195699	Utility Provided Funds	\$	500,000	\$	500,000
4S00	195630	Tax Incentive Programs	\$	650,800	\$	650,800
5CG0	195679	Alternative Fuel Transportation	\$	750,000	\$	750,000
5HJ0	195604	Motion Picture Tax Credit Program	\$	50,000	\$	50,000
5HR0	195526	Ohio Workforce Job	\$	20,000,000	\$	30,000,000

		Training			
5HR0	195622	Defense Development Assistance	\$	5,000,000	\$ 5,000,000
5JR0	195656	New Market Tax Credit Program	\$	50,000	\$ 50,000
5KD0	195621	Brownfield Stormwater Loan	\$	50,000	\$ 50,000
5KN0	195640	Local Government Innovation	\$	0	\$ 45,000,000
5M40	195659	Low Income Energy Assistance	\$	245,000,000	\$ 245,000,000
5M50	195660	Advanced Energy Programs	\$	8,000,000	\$ 0
5W60	195691	International Trade Cooperative Projects	\$	160,000	\$ 160,000
6170	195654	Volume Cap Administration	\$	94,397	\$ 92,768
6460	195638	Low- and Moderate-Income Housing Trust Fund	\$	53,000,000	\$ 53,000,000
TOTAL SSR State Special Revenue Fund Group			\$	341,645,744	\$ 383,643,073
Facilities Establishment Fund Group					
5S90	195628	Capital Access Loan Program	\$	1,500,000	\$ 1,500,000
7009	195664	Innovation Ohio	\$	15,000,000	\$ 15,000,000
7010	195665	Research and Development	\$	22,000,000	\$ 22,000,000
7037	195615	Facilities Establishment	\$	50,000,000	\$ 50,000,000
TOTAL 037 Facilities Establishment Fund Group			\$	88,500,000	\$ 88,500,000
Clean Ohio Revitalization Fund					
7003	195663	Clean Ohio Operating	\$	950,000	\$ 950,000
TOTAL 7003 Clean Ohio Revitalization Fund			\$	950,000	\$ 950,000
Third Frontier Research & Development Fund Group					
7011	195686	Third Frontier Operating	\$	1,149,750	\$ 1,149,750
7011	195687	Third Frontier Research & Development Projects	\$	183,850,250	\$ 133,850,250
7014	195620	Third Frontier Operating - Tax	\$	1,700,000	\$ 1,700,000
7014	195692	Research & Development Taxable Bond Projects	\$	38,300,000	\$ 38,300,000
TOTAL 011 Third Frontier Research & Development Fund Group			\$	225,000,000	\$ 175,000,000
Job Ready Site Development Fund Group					
7012	195688	Job Ready Site Operating	\$	800,000	\$ 800,000
TOTAL 012 Job Ready Site Development Fund Group			\$	800,000	\$ 800,000
Tobacco Master Settlement Agreement Fund Group					
M087	195435	Biomedical Research and Technology Transfer	\$	1,999,224	\$ 1,999,224
TOTAL TSF Tobacco Master Settlement Agreement Fund Group			\$	1,999,224	\$ 1,999,224
TOTAL ALL BUDGET FUND GROUPS			\$	1,245,142,783	\$ 1,187,118,855

The foregoing appropriation item 195401, Thomas Edison Program, shall be used for the purposes of sections 122.28 to 122.38 of the Revised Code. Of the foregoing appropriation item 195401, Thomas Edison Program, not more than ten per cent in each fiscal year shall be used for operating expenditures in administering the programs of the Technology and Innovation Division.

SECTION 261.10.20. SMALL BUSINESS DEVELOPMENT

The foregoing appropriation item 195404, Small Business Development, shall be used as matching funds for grants from the United States Small Business Administration and other federal agencies, pursuant to Pub. L. No. 96-302 (1980) as amended by Pub. L. No. 98-395 (1984), and regulations and policy guidelines for the programs pursuant thereto. This appropriation item also may be used to provide grants to local organizations to support the operation of small business development centers and other local economic development activities that promote small business development and entrepreneurship.

SECTION 261.10.30. RAPID OUTREACH GRANTS

Appropriation item 195412, Rapid Outreach Grants, shall be used as an incentive for attracting, expanding, and retaining business opportunities for the state in accordance with Chapter 166. of the Revised Code. Of the amount appropriated, no more than five per cent in each fiscal year shall be used for administrative costs of the Rapid Outreach Program.

The department shall award funds directly to business entities considering Ohio for their expansion or new site location opportunities. Rapid Outreach grants shall be used by recipients to purchase equipment, make infrastructure improvements, make real property improvements, or fund other fixed assets. To meet the particular needs of economic development in a region, the department may elect to award funds directly to a political subdivision to assist with making on- or off-site infrastructure improvements to water and sewage treatment facilities, electric or gas service connections, fiber optic access, rail facilities, site preparation, and parking facilities. The Director of Development may recommend that the funds be used for alternative purposes when considered appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director including, but not limited to, construction, rehabilitation, and acquisition projects for rail freight assistance as requested by the Department of Transportation. The Director of Transportation shall

submit the proposed projects to the Director of Development for an evaluation of potential economic benefit.

Moneys awarded directly to business entities from the foregoing appropriation item 195412, Rapid Outreach Grants, may be expended only after the submission of a request to the Controlling Board by the Department of Development outlining the planned use of the funds, and the subsequent approval of the request by the Controlling Board.

SECTION 261.10.40. STRATEGIC BUSINESS INVESTMENT DIVISION AND REGIONAL OFFICES

The foregoing appropriation item 195415, Strategic Business Investment Division and Regional Offices, shall be used for the operating expenses of the Strategic Business Investment Division and the regional economic development offices and for grants for cooperative economic development ventures.

SECTION 261.10.50. GOVERNOR'S OFFICE OF APPALACHIA

The foregoing appropriation item 195416, Governor's Office of Appalachia, may be used for the administrative costs of planning and liaison activities for the Governor's Office of Appalachia, to provide financial assistance to projects in Ohio's Appalachian counties, and to match federal funds from the Appalachian Regional Commission.

SECTION 261.10.60. TECHNOLOGY ACTION

The foregoing appropriation item 195422, Technology Action, shall be used for operating expenses the Department of Development incurs for administering sections 184.10 to 184.20 of the Revised Code. If the appropriation is insufficient to cover the operating expenses, the Department may request Controlling Board approval to appropriate the additional amount needed in appropriation item 195686, Third Frontier Operating. The Department shall not request an amount in excess of the amount needed.

SECTION 261.10.70. CLEAN OHIO IMPLEMENTATION

The foregoing appropriation item 195426, Clean Ohio Implementation, shall be used to fund the costs of administering the Clean Ohio Revitalization program and other urban revitalization programs that may be implemented by the Department of Development.

SECTION 261.10.80. GLOBAL MARKETS

The foregoing appropriation item 195432, Global Markets, shall be used to administer Ohio's foreign trade and investment programs, including operation and maintenance of Ohio's out-of-state trade and investment offices. This appropriation item also shall be used to fund the Global Markets Division and to assist Ohio manufacturers, agricultural producers, and service providers in exporting to foreign countries and to assist in the attraction of foreign direct investment.

SECTION 261.10.90. OHIO WORKFORCE GUARANTEE PROGRAM

The foregoing appropriation item 195434, Industrial Training Grants, may be used for the Ohio Workforce Guarantee Program to promote training through grants to businesses and, in the case of a business consortium, training and education providers for the reimbursement of eligible training expenses.

SECTION 261.20.10. ECONOMIC DEVELOPMENT PROJECTS

The foregoing appropriation item 195528, Economic Development Projects, may be used for the purposes of Chapter 122. of the Revised Code. This appropriation item is made in anticipation of the evaluation of all powers, functions, and duties of the Department of Development by the Director of Development, as prescribed in Section 187.05 of the Revised Code. It is the intent of the General Assembly that the appropriations in the appropriation item be reallocated upon completion of the evaluation.

SECTION 261.20.20. OHIO FILM OFFICE

The Ohio Film Office shall promote media productions in the state and help the industry optimize its production experience in the state by enhancing local economies through increased employment and tax revenues and ensuring an accurate portrayal of Ohio. The Office shall serve as an informational clearinghouse and provide technical assistance to the media production industry and business entities engaged in media production in the state. The Office shall promote Ohio as the ideal site for media production and help those in the industry benefit from their experience in the state.

The primary objective of the Office shall be to encourage development of a strong capital base for electronic media production in order to achieve an independent, self-supporting industry in Ohio. Other objectives shall

include:

- (A) Attracting private investment for the electronic media production industry;
- (B) Developing a tax infrastructure that encourages private investment;
- and
- (C) Encouraging increased employment opportunities within this sector and increased competition with other states.

SECTION 261.20.30. COAL RESEARCH AND DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation line item 195901, Coal Research and Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period July 1, 2011, through June 30, 2013 for obligations issued under sections 151.01 and 151.07 of the Revised Code.

THIRD FRONTIER RESEARCH & DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195905, Third Frontier Research & Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for research and development purposes under sections 151.01 and 151.10 of the Revised Code.

JOB READY SITE DEVELOPMENT GENERAL OBLIGATION DEBT SERVICE

The foregoing appropriation item 195912, Job Ready Site Development General Obligation Debt Service, shall be used to pay all debt service and related financing costs during the period from July 1, 2011, through June 30, 2013, on obligations issued for job ready site development purposes under sections 151.01 and 151.11 of the Revised Code.

SECTION 261.20.40. SUPPORTIVE SERVICES

The Director of Development may assess divisions of the department for the cost of central service operations. An assessment shall contain the characteristics of administrative ease and uniform application. A division's payments shall be credited to the Supportive Services Fund (Fund 1350) using an intrastate transfer voucher.

ECONOMIC DEVELOPMENT CONTINGENCY

The foregoing appropriation item 195677, Economic Development Contingency, may be used to award funds directly to either (1) business

entities considering Ohio for expansion or new site location opportunities or (2) political subdivisions to assist with necessary costs involved in attracting a business entity. In addition, the Director of Development may award funds for alternative purposes when appropriate to satisfy an economic development opportunity or need deemed extraordinary in nature by the Director.

DIRECT COST RECOVERY EXPENDITURES

The foregoing appropriation item 195636, Direct Cost Recovery Expenditures, shall be used for reimbursable costs. Revenues to the General Reimbursement Fund (Fund 6850) shall consist of moneys charged for administrative costs that are not central service costs.

SECTION 261.20.50. HEAP WEATHERIZATION

Up to fifteen per cent of the federal funds deposited to the credit of the Home Energy Assistance Block Grant Fund (Fund 3K90) may be expended from appropriation item 195614, HEAP Weatherization, to provide home weatherization services in the state as determined by the Director of Development. Any transfers or increases in appropriation for the foregoing appropriation items 195614, HEAP Weatherization, or 195611, Home Energy Assistance Block Grant, shall be subject to approval by the Controlling Board.

SECTION 261.20.60. STATE SPECIAL PROJECTS

The State Special Projects Fund (Fund 4F20), may be used for the deposit of private-sector funds from utility companies and for the deposit of other miscellaneous state funds. State moneys so deposited shall be used to match federal housing grants for the homeless and to market economic development opportunities in the state. Private-sector moneys shall be deposited for use in appropriation item 195699, Utility Provided Funds, and shall be used to (1) pay the expenses of verifying the income-eligibility of HEAP applicants, (2) leverage additional federal funds, (3) fund special projects to assist homeless individuals, (4) fund special projects to assist with the energy efficiency of households eligible to participate in the Percentage of Income Payment Plan, and (5) assist with training programs for agencies that administer low-income customer assistance programs.

SECTION 261.20.70. TAX INCENTIVE PROGRAMS OPERATING

The foregoing appropriation item 195630, Tax Incentive Programs,

shall be used for the operating costs of the Office of Grants and Tax Incentives.

SECTION 261.20.80. MINORITY BUSINESS ENTERPRISE LOAN

All repayments from the Minority Development Financing Advisory Board Loan Program and the Ohio Mini-Loan Guarantee Program shall be deposited in the State Treasury to the credit of the Minority Business Enterprise Loan Fund (Fund 4W10). Operating costs of administering the Minority Business Enterprise Loan Fund may be paid from the Minority Business Enterprise Loan Fund (Fund 4W10).

MINORITY BUSINESS BONDING FUND

Notwithstanding Chapters 122., 169., and 175. of the Revised Code, the Director of Development may, upon the recommendation of the Minority Development Financing Advisory Board, pledge up to \$10,000,000 in the fiscal year 2012-fiscal year 2013 biennium of unclaimed funds administered by the Director of Commerce and allocated to the Minority Business Bonding Program under section 169.05 of the Revised Code. The transfer of any cash by the Director of Budget and Management from the Department of Commerce's Unclaimed Funds Fund (Fund 5430) to the Department of Development's Minority Business Bonding Fund (Fund 4490) shall occur, if requested by the Director of Development, only if such funds are needed for payment of losses arising from the Minority Business Bonding Program, and only after proceeds of the initial transfer of \$2,700,000 by the Controlling Board to the Minority Business Bonding Program has been used for that purpose. Moneys transferred by the Director of Budget and Management from the Department of Commerce for this purpose may be moneys in custodial funds held by the Treasurer of State. If expenditures are required for payment of losses arising from the Minority Business Bonding Program, such expenditures shall be made from appropriation item 195623, Minority Business Bonding Contingency in the Minority Business Bonding Fund, and such amounts are hereby appropriated.

SECTION 261.20.90. OHIO INCUMBENT WORKFORCE TRAINING VOUCHERS

(A) On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$20,000,000 from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development.

On July 1, 2012, or as soon as possible thereafter, the Director of Budget and Management shall transfer up to \$30,000,000 from the Economic Development Programs Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development.

(B) Of the foregoing appropriation item 195526, Ohio Workforce Job Training, up to \$20,000,000 in fiscal year 2012 and up to \$30,000,000 in fiscal year 2013 shall be used to support the Ohio Incumbent Workforce Training Voucher Program. The Director of Development and the Chief Investment Officer of JobsOhio may enter into an agreement to operate the program pursuant to the contract between the Department of Development and JobsOhio under section 187.04 of the Revised Code. The agreement may include a provision for granting, loaning, or transferring funds from appropriation item 195526, Ohio Incumbent Workforce Job Training, to JobsOhio to provide training for incumbent workers.

(C) Regardless of any agreement between the Director and the Chief Investment Officer under division (B) of this section, the Ohio Incumbent Workforce Training Voucher Program shall conform to guidelines for the operation of the program, including, but not limited to, the following:

(1) A requirement that a training voucher under the program shall not exceed \$6,000 per worker per year;

(2) A provision for an employer of an eligible employee to apply for a voucher on behalf of the eligible employee;

(3) A provision for an eligible employee to apply directly for a training voucher with the pre-approval of the employee's employer; and

(4) A requirement that an employee participating in the program, or the employee's employer, shall pay for not less than thirty-three per cent of the training costs under the program.

DEFENSE DEVELOPMENT ASSISTANCE

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$5,000,000 in cash from the Economic Development Projects Fund (Fund 5JC0) used by the Board of Regents to the Ohio Incumbent Workforce Job Training Fund (Fund 5HR0) used by the Department of Development. The transferred funds are hereby appropriated in appropriation item 195622, Defense Development Assistance.

The foregoing appropriation item 195622, Defense Development Assistance, shall be used for economic development programs and the creation of new jobs to leverage and support mission gains at Department of Defense facilities in Ohio by working with future base realignment and

closure activities and ongoing Department of Defense efficiency initiatives, assisting efforts to secure Department of Defense support contracts for Ohio companies, assessing and supporting regional job training and workforce development needs generated by the Department of Defense and the Ohio aerospace industry, and for expanding job training and economic development programs in human performance related initiatives. These funds shall be matched by private industry partners or the Department of Defense in an aggregate amount of \$6,000,000 over the FY 2012-FY 2013 biennium.

SECTION 261.20.93. LOCAL GOVERNMENT INNOVATION FUND

The foregoing appropriation item 195640, Local Government Innovation, shall be used for the purposes of making loans and grants to political subdivisions under the Local Government Innovation Program in accordance with sections 189.01 to 189.10 of the Revised Code. Of the foregoing appropriation item 195640, Local Government Innovation, up to \$100,000 in fiscal year 2013 shall be used for administrative costs incurred by the Department of Development.

SECTION 261.30.10. ADVANCED ENERGY FUND

The foregoing appropriation item 195660, Advanced Energy Programs, shall be used to provide financial assistance to customers for eligible advanced energy projects for residential, commercial, and industrial business, local government, educational institution, nonprofit, and agriculture customers, and to pay for the program's administrative costs as provided in sections 4928.61 to 4928.63 of the Revised Code and rules adopted by the Director of Development.

On July 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer \$750,000 in cash from the Advanced Energy Fund (Fund 5M50) to the Alternative Fuel Transportation Grant Fund (Fund 5CG0).

VOLUME CAP ADMINISTRATION

The foregoing appropriation item 195654, Volume Cap Administration, shall be used for expenses related to the administration of the Volume Cap Program. Revenues received by the Volume Cap Administration Fund (Fund 6170) shall consist of application fees, forfeited deposits, and interest earned from the custodial account held by the Treasurer of State.

SECTION 261.30.20. INNOVATION OHIO LOAN FUND

The foregoing appropriation item 195664, Innovation Ohio, shall be used to provide for innovation Ohio purposes, including loan guarantees and loans under Chapter 166. and particularly sections 166.12 to 166.16 of the Revised Code.

RESEARCH AND DEVELOPMENT

The foregoing appropriation item 195665, Research and Development, shall be used to provide for research and development purposes, including loans, under Chapter 166. and particularly sections 166.17 to 166.21 of the Revised Code.

LOGISTICS AND DISTRIBUTION INFRASTRUCTURE

Appropriation item 195698, Logistics and Distribution Infrastructure, shall be used for eligible logistics and distribution infrastructure projects as defined in section 166.01 of the Revised Code. Any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2011 is hereby reappropriated for the same purpose in fiscal year 2012, and any unexpended and unencumbered portion of the appropriation item at the end of fiscal year 2012 is hereby reappropriated for the same purpose in fiscal year 2013.

After all encumbrances have been paid, the Director of Budget and Management shall transfer the remaining cash balance in the Logistics and Distribution Infrastructure Fund (Fund 7008) to the Facilities Establishment Fund (Fund 7037).

FACILITIES ESTABLISHMENT FUND

The foregoing appropriation item 195615, Facilities Establishment (Fund 7037), shall be used for the purposes of the Facilities Establishment Fund under Chapter 166. of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, an amount not to exceed \$1,000,000 in cash in fiscal year 2012 may be transferred from the Facilities Establishment Fund (Fund 7037) to the Economic Development Financing Operating Fund (Fund 4510). The transfer is subject to Controlling Board approval under division (B) of section 166.03 of the Revised Code.

Notwithstanding Chapter 166. of the Revised Code, the Director of Budget and Management may transfer an amount not to exceed \$2,500,000 in cash in each fiscal year from the Facilities Establishment Fund (Fund 7037) to the Minority Business Enterprise Loan Fund (Fund 4W10).

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered

cash balance in the Urban Development Loans Fund (Fund 5D20) to the Facilities Establishment Fund (Fund 7037).

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer the unexpended and unencumbered cash balance in the Rural Industrial Park Loan Fund (Fund 4Z60) to the Facilities Establishment Fund (Fund 7037).

CAPITAL ACCESS LOAN PROGRAM

The foregoing appropriation item 195628, Capital Access Loan Program, shall be used for operating, program, and administrative expenses of the program. Funds of the Capital Access Loan Program shall be used to assist participating financial institutions in making program loans to eligible businesses that face barriers in accessing working capital and obtaining fixed-asset financing.

SECTION 261.30.30. CLEAN OHIO OPERATING EXPENSES

The foregoing appropriation item 195663, Clean Ohio Operating, shall be used by the Department of Development in administering Clean Ohio Revitalization Fund (Fund 7003) projects pursuant to sections 122.65 to 122.658 of the Revised Code.

SECTION 261.30.40. THIRD FRONTIER OPERATING

The foregoing appropriation items 195686, Third Frontier Operating, and 195620, Third Frontier Operating - Tax, shall be used for operating expenses incurred by the Department of Development in administering projects pursuant to sections 184.10 to 184.20 of the Revised Code. Operating expenses paid from item 195686 shall be limited to the administration of projects funded from the Third Frontier Research & Development Fund (Fund 7011) and operating expenses paid from item 195620 shall be limited to the administration of projects funded from the Third Frontier Research & Development Taxable Bond Project Fund (Fund 7014).

SECTION 261.30.50. THIRD FRONTIER RESEARCH AND DEVELOPMENT PROJECTS AND RESEARCH AND DEVELOPMENT TAXABLE BOND PROJECTS

The foregoing appropriation items 195687, Third Frontier Research & Development Projects, 195692, Research & Development Taxable Bond Projects, and 195620, Third Frontier Operating - Tax, shall be used by the

Department of Development to fund selected projects. Eligible costs are those costs of research and development projects to which the proceeds of the Third Frontier Research & Development Fund (Fund 7011) and the Research & Development Taxable Bond Project Fund (Fund 7014) are to be applied.

TRANSFERS OF THIRD FRONTIER APPROPRIATIONS

The Director of Budget and Management may approve written requests from the Director of Development for the transfer of appropriations between appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, based upon awards recommended by the Third Frontier Commission. The transfers are subject to approval by the Controlling Board.

On or before June 30, 2012, any unexpended and unencumbered portions of the foregoing appropriation items 195687, Third Frontier Research & Development Projects, and 195692, Research & Development Taxable Bond Projects, for fiscal year 2012 are hereby reappropriated to the Department of Development for the same purposes for fiscal year 2013.

AUTHORITY TO ISSUE AND SELL ORIGINAL OBLIGATIONS

The Ohio Public Facilities Commission, upon request of the Department of Development, is hereby authorized to issue and sell, in accordance with Section 2p of Article VIII, Ohio Constitution, and particularly sections 151.01 and 151.10 of the Revised Code, original obligations of the State of Ohio in an aggregate amount not to exceed \$400,000,000 in addition to the original issuance of obligations authorized by prior acts of the General Assembly. The authorized obligations shall be issued and sold from time to time and in amounts necessary to ensure sufficient moneys to the credit of the Third Frontier Research and Development Fund (Fund 7011) to pay costs of research and development projects.

SECTION 261.30.60. JOB READY SITE OPERATING

The foregoing appropriation item 195688, Job Ready Site Operating, shall be used for operating expenses incurred by the Department of Development in administering Job Ready Site Development Fund (Fund 7012) projects pursuant to sections 122.085 to 122.0820 of the Revised Code. Operating expenses include, but are not limited to, certain qualified expenses of the District Public Works Integrating Committees, as applicable, engineering review of submitted applications by the State Architect or a third party engineering firm, audit and accountability activities, and costs associated with formal certifications verifying that site infrastructure is in place and is functional.

SECTION 261.30.70. OHIO COAL DEVELOPMENT OFFICE

On July 1, 2011, or as soon as possible thereafter, the Director of Budget and Management shall transfer any unexpended and unencumbered portion of appropriation item 898604, Coal Research and Development Fund, used by the Ohio Air Quality Development Authority, to a new capital appropriation item in the Department of Development, to be determined by the Director. The Director also shall cancel all outstanding encumbrances against appropriation item 898604, Coal Research and Development Fund, and reestablish them against the foregoing new capital appropriation item. The amounts of the transfer and the reestablished encumbrances, plus \$2,283,264, are hereby appropriated for fiscal year 2012 in the foregoing new appropriation item and shall be used to provide funding for coal research and development purposes.

SECTION 261.30.80. THIRD FRONTIER BIOMEDICAL RESEARCH AND COMMERCIALIZATION SUPPORT

The General Assembly and the Governor recognize the role that the biomedical industry has in job creation, innovation, and economic development throughout Ohio. It is the intent of the General Assembly, the Governor, the Director of Development, and the Director of Budget and Management to work together in continuing to provide comprehensive state support for the biomedical industry.

SECTION 261.30.90. UNCLAIMED FUNDS TRANSFER

(A) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed \$25,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2013, shall transfer to the Job Development Initiatives Fund (Fund 5AD0) an amount not to exceed \$15,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed

funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

(B) Notwithstanding division (A) of section 169.05 of the Revised Code, upon the request of the Director of Budget and Management, the Director of Commerce, before June 30, 2012, shall transfer to the State Special Projects Fund (Fund 4F20) an amount not to exceed \$5,000,000 in cash of the unclaimed funds that have been reported by the holders of unclaimed funds under section 169.05 of the Revised Code, regardless of the allocation of the unclaimed funds described under that section.

SECTION 261.40.10. WORKFORCE DEVELOPMENT

The Director of Development and the Director of Job and Family Services may enter into one or more interagency agreements between the two departments and take other actions the directors consider appropriate to further integrate workforce development into a larger economic development strategy, to implement the recommendations of the Workforce Policy Board, and to complete activities related to the transition of the administration of employment programs identified by the board. Subject to the approval of the Director of Budget and Management, the Department of Development and the Department of Job and Family Services may expend moneys to support the recommendations of the Workforce Policy Board in the area of integration of employment functions as described in this paragraph and to complete implementation and transition activities from the appropriations to those departments.

SECTION 263.10. DDD DEPARTMENT OF DEVELOPMENTAL DISABILITIES

General Revenue Fund

GRF 320321	Central Administration	\$	4,422,794	\$	4,422,794
GRF 320412	Protective Services	\$	2,174,826	\$	1,957,343
GRF 320415	Lease-Rental Payments	\$	18,394,250	\$	19,907,900
GRF 322407	Medicaid State Match	\$	218,034,162	\$	214,902,506
GRF 322451	Family Support Services	\$	5,932,758	\$	5,932,758
GRF 322501	County Boards Subsidies	\$	40,906,365	\$	44,449,280
GRF 322503	Tax Equity	\$	14,000,000	\$	14,000,000
TOTAL GRF General Revenue Fund		\$	303,865,155	\$	305,572,581

General Services Fund Group

1520 323609	Developmental Center and Residential Operating Services	\$	3,414,317	\$	3,414,317
TOTAL GSF General Services Fund Group		\$	3,414,317	\$	3,414,317

Federal Special Revenue Fund Group

2961

3A50	320613	DD Council	\$	3,341,572	\$	3,341,572
3250	322612	Community Social Service Programs	\$	11,017,754	\$	10,604,896
3DZ0	322648	Enhanced Medicaid - Federal	\$	10,000,000	\$	0
3G60	322639	Medicaid Waiver - Federal	\$	866,566,007	\$	985,566,007
3M70	322650	CAFS Medicaid	\$	29,349,502	\$	29,349,502
3A40	323605	Developmental Center and Residential Facility Services and Support	\$	180,266,029	\$	179,384,881
TOTAL FED Federal Special Revenue Fund Group			\$	1,100,540,864	\$	1,208,246,858
State Special Revenue Fund Group						
5GE0	320606	Operating and Services	\$	7,406,609	\$	7,407,297
2210	322620	Supplement Service Trust	\$	150,000	\$	150,000
4K80	322604	Medicaid Waiver - State Match	\$	12,000,000	\$	12,000,000
5CT0	322632	Intensive Behavioral Needs	\$	1,000,000	\$	1,000,000
5DJ0	322625	Targeted Case Management Match	\$	21,000,000	\$	24,000,000
5DJ0	322626	Targeted Case Management Services	\$	57,307,357	\$	66,000,000
5DK0	322629	Capital Replacement Facilities	\$	750,000	\$	750,000
5EV0	322627	Program Fees	\$	685,000	\$	685,000
5H00	322619	Medicaid Repayment	\$	160,000	\$	160,000
5JX0	322651	Interagency Workgroup - Autism	\$	45,000		45,000
5Z10	322624	County Board Waiver Match	\$	235,000,000	\$	290,000,000
4890	323632	Developmental Center Direct Care Support	\$	16,497,170	\$	16,497,169
5S20	590622	Medicaid Administration & Oversight	\$	20,875,567	\$	21,727,540
TOTAL SSR State Special Revenue Fund Group			\$	372,876,703	\$	440,422,006
TOTAL ALL BUDGET FUND GROUPS			\$	1,780,697,039	\$	1,957,655,762

SECTION 263.10.10. LEASE-RENTAL PAYMENTS

The foregoing appropriation item 320415, Lease-Rental Payments, shall be used to meet all payments at the times they are required to be made during the period from July 1, 2011, through June 30, 2013, by the Department of Developmental Disabilities under leases and agreements made under section 154.20 of the Revised Code. These appropriations are the source of funds pledged for bond service charges or obligations issued pursuant to Chapter 154. of the Revised Code.

SECTION 263.10.20. MEDICAID - STATE MATCH (GRF)

Except as otherwise provided in section 5123.0416 of the Revised Code, the purposes for which the foregoing appropriation item 322407, Medicaid

State Match, shall be used include the following:

(A) Home and community-based waiver services under Title XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C. 301, as amended.

(B) To pay the nonfederal share of the cost of one or more new intermediate care facilities for the mentally retarded certified beds, if the Director of Developmental Disabilities is required by this act to transfer cash from funds used by the Department to any fund used by the Department of Job and Family Services to pay such nonfederal share.

(C) To implement the requirements of the agreement settling the consent decree in *Sermak v. Manuel*, Case No. C-2-80-220, United States District Court for the Southern District of Ohio, Eastern Division.

(D) To implement the requirements of the agreement settling the consent decree in the *Martin v. Strickland*, Case No. 89-CV-00362, United States District Court for the Southern District of Ohio, Eastern Division.

(E) Developmental center and residential facilities services.

(F) Other programs as identified by the Director of Developmental Disabilities.

SECTION 263.10.30. FAMILY SUPPORT SERVICES SUBSIDY

(A) The foregoing appropriation item 322451, Family Support Services, may be used as follows in fiscal year 2012 and fiscal year 2013:

(1) The appropriation item may be used to provide a subsidy to county boards of developmental disabilities for family support services provided under section 5126.11 of the Revised Code. The subsidy shall be paid in quarterly installments and allocated to county boards according to a formula the Director of Developmental Disabilities shall develop in consultation with representatives of county boards. A county board shall use not more than seven per cent of its subsidy for administrative costs.

(2) The appropriation item may be used to distribute funds to county boards for the purpose of addressing economic hardships and to promote efficiency of operations. In consultation with representatives of county boards, the Director shall determine the amount of funds to distribute for these purposes and the criteria for distributing the funds.

(B) Each county board shall submit reports to the Department of Developmental Disabilities on the use of funds received under this section. The reports shall be submitted at the times and in the manner specified in rules the Director shall adopt in accordance with Chapter 119. of the Revised Code.

SECTION 263.10.40. STATE SUBSIDY TO COUNTY DD BOARDS

(A) Except as otherwise provided in the section of this act titled "NONFEDERAL SHARE OF NEW ICF/MR BEDS," the foregoing appropriation item 322501, County Boards Subsidies, shall be used for the following purposes:

(1) To provide a subsidy to county boards of developmental disabilities in quarterly installments and allocated according to a formula developed by the Director of Developmental Disabilities in consultation with representatives of county boards. Except as otherwise provided in section 5126.0511 of the Revised Code, or in division (B) of this section, county boards shall use the subsidy for early childhood services and adult services provided under section 5126.05 of the Revised Code, service and support administration provided under section 5126.15 of the Revised Code, or supported living as defined in section 5126.01 of the Revised Code.

(2) To provide funding, as determined necessary by the Director of Developmental Disabilities, for residential services, including room and board, and support service programs that enable individuals with developmental disabilities to live in the community.

(3) To distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

(B) In collaboration with the county's family and children first council, a county board of developmental disabilities may transfer portions of funds received under this section, to a flexible funding pool in accordance with the section of this act titled "FAMILY AND CHILDREN FIRST FLEXIBLE FUNDING POOL."

SECTION 263.10.50. COUNTY BOARD SHARE OF WAIVER SERVICES

As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

The Director of Developmental Disabilities shall establish a methodology to be used in fiscal year 2012 and fiscal year 2013 to estimate the quarterly amount each county board of developmental disabilities is to pay of the nonfederal share of home and community-based services that section 5126.0510 of the Revised Code requires county boards to pay. Each

quarter, the Director shall submit to a county board written notice of the amount the county board is to pay for that quarter. The notice shall specify when the payment is due.

SECTION 263.10.60. TAX EQUITY

Notwithstanding section 5126.18 of the Revised Code, the foregoing appropriation item 322503, Tax Equity, may be used to distribute funds to county boards of developmental disabilities to address economic hardships and promote efficiency of operations. The Director shall determine, in consultation with representatives of county boards, the amount of funds to distribute for these purposes and the criteria for distributing the funds.

SECTION 263.10.70. MEDICAID WAIVER - STATE MATCH

The foregoing appropriation item 322604, Medicaid Waiver - State Match (Fund 4K80), shall be used as state matching funds for home and community-based waivers.

SECTION 263.10.80. ICF/MR CONVERSION

(A) As used in this section, "home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(B) For each quarter of the biennium, the Director of Developmental Disabilities shall certify to the Director of Budget and Management the estimated amount needed to fund the provision of home and community-based services made available by the slots sought under section 5111.877 of the Revised Code. On receipt of certification, the Director of Budget and Management shall transfer the estimated amount in cash from the General Revenue Fund to the Home and Community-Based Services Fund (Fund 4K80), used by the Department of Developmental Disabilities. Upon completion of the transfer, appropriation item 600525, Health Care/Medicaid, is hereby reduced by the amount transferred under this section plus the corresponding federal share. The amount transferred to Fund 4K80 is hereby appropriated to appropriation item 322604, Medicaid Waiver – State Match.

(C) If receipts credited to the Medicaid Waiver Fund (Fund 3G60) exceed the amounts appropriated from the fund, the Director of Developmental Disabilities may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon the approval of the Director of Budget and

Management, the additional amounts are hereby appropriated.

(D) If receipts credited to the Interagency Reimbursement Fund (Fund 3G50) exceed the amounts appropriated from the fund, the Director of Job and Family Services may request the Director of Budget and Management to authorize expenditures from the fund in excess of the amounts appropriated. Upon approval of the Director of Budget and Management, the additional amounts are hereby appropriated.

SECTION 263.10.90. TARGETED CASE MANAGEMENT SERVICES

County boards of developmental disabilities shall pay the nonfederal portion of targeted case management costs to the Department of Developmental Disabilities.

The Directors of Developmental Disabilities and Job and Family Services may enter into an interagency agreement under which the Department of Developmental Disabilities shall transfer cash from the Targeted Case Management Fund (Fund 5DJ0) to the Medicaid Program Support - State Fund (Fund 5C90) used by the Department of Job and Family Services in an amount equal to the nonfederal portion of the cost of targeted case management services paid by county boards, and the Department of Job and Family Services shall pay the total cost of targeted case management claims. The transfer shall be made using an intrastate transfer voucher.

SECTION 263.20.10. WITHHOLDING OF FUNDS OWED THE DEPARTMENT

If a county board of developmental disabilities does not fully pay any amount owed to the Department of Developmental Disabilities by the due date established by the Department, the Director of Developmental Disabilities may withhold the amount the county board did not pay from any amounts due to the county board. The Director may use any appropriation item or fund used by the Department to transfer cash to any other fund used by the Department in an amount equal to the amount owed the Department that the county board did not pay. Transfers under this section shall be made using an intrastate transfer voucher.

SECTION 263.20.20. TRANSFER TO MEDICAID REPAYMENT FUND

On July 1, 2011, or as soon as possible thereafter, the Director of

Developmental Disabilities shall request that the Director of Budget and Management transfer the cash balance in the Purchase of Service Fund (Fund 4880) to the Medicaid Repayment Fund (Fund 5H00). Upon completion of the transfer, Fund 4880 is hereby abolished. The Director of Developmental Disabilities shall cancel any existing encumbrances against appropriation item 322603, Provider Audit Refunds, and re-establish them against appropriation item 322619, Medicaid Repayment. The re-established encumbrances are hereby appropriated.

SECTION 263.20.30. DEVELOPMENTAL CENTER BILLING FOR SERVICES

Developmental centers of the Department of Developmental Disabilities may provide services to persons with mental retardation or developmental disabilities living in the community or to providers of services to these persons. The Department may develop a method for recovery of all costs associated with the provisions of these services.

SECTION 263.20.40. TRANSFER OF FUNDS FOR DEVELOPMENTAL CENTER PHARMACY PROGRAMS

The Director of Developmental Disabilities shall quarterly transfer cash from the Medicaid - Medicare Fund (Fund 3A40) to the Medicaid Program Support - State Fund (Fund 5C90) used by the Department of Job and Family Services, in an amount equal to the nonfederal share of Medicaid prescription drug claim costs for all developmental centers paid by the Department of Job and Family Services. The quarterly transfer shall be made using an intrastate transfer voucher.

SECTION 263.20.50. NONFEDERAL MATCH FOR ACTIVE TREATMENT SERVICES

Any county funds received by the Department of Developmental Disabilities from county boards for active treatment shall be deposited in the Developmental Disabilities Operating Fund (Fund 4890).

SECTION 263.20.60. NONFEDERAL SHARE OF NEW ICF/MR BEDS

(A) As used in this section, "intermediate care facility for the mentally retarded" has the same meaning as in section 5111.20 of the Revised Code.

(B) If the Department of Developmental Disabilities is required by section 5111.211 of the Revised Code to pay the nonfederal share of claims

submitted for services that are covered by the Medicaid program and provided to an eligible Medicaid recipient by an intermediate care facility for the mentally retarded, the Director of Developmental Disabilities shall transfer cash to the Department of Job and Family Services to pay the nonfederal share of the claims. The transfer shall be made using an intrastate transfer voucher. Except as otherwise provided in section 5123.0416 of the Revised Code, the Director shall use only the following appropriation items for the transfer:

- (1) Appropriation item 322407, Medicaid State Match;
- (2) Appropriation item 322501, County Boards Subsidies.

(C) If the intermediate care facility for the mentally retarded is located in a county served by a county board of developmental disabilities that initiates or supports the facility's certification as an intermediate care facility for the mentally retarded by the Director of Health, the cash that the Director transfers under division (B) of this section shall be moneys that the Director has allocated to the county board serving the county in which the facility is located unless the amount of the allocation is insufficient to pay the entire nonfederal share of the claims submitted by the facility. If the allocation is insufficient, the Director shall use as much of such moneys allocated to other counties as is needed to make up the difference.

SECTION 263.20.70. RATE INCREASE FOR WAIVER PROVIDERS SERVING FORMER RESIDENTS OF DEVELOPMENTAL CENTERS

Subject to approval by the Centers for Medicare and Medicaid Services, the Department of Job and Family Services shall increase the rate paid to a provider under the Individual Options Waiver by fifty-two cents for each fifteen minutes of routine homemaker/personal care provided to an individual for up to a year if all of the following apply:

(A) The individual was a resident of a developmental center immediately prior to enrollment in the waiver;

(B) The provider begins serving the individual on or after July 1, 2011;

(C) The Director of Developmental Disabilities determines that the increased rate is warranted by the individual's special circumstances, including the individual's diagnosis, service needs, or length of stay at the developmental center, and that serving the individual through the Individual Options Waiver is fiscally prudent for the Medicaid program.

SECTION 263.20.80. ODODD INNOVATIVE PILOT PROJECTS

(A) In fiscal year 2012 and fiscal year 2013, the Director of

Developmental Disabilities may authorize the implementation of one or more innovative pilot projects that, in the judgment of the Director, are likely to assist in promoting the objectives of Chapter 5123. or 5126. of the Revised Code. Subject to division (B) of this section and notwithstanding any provision of Chapters 5123. and 5126. of the Revised Code and any rule adopted under either chapter, a pilot project authorized by the Director may be implemented in a manner inconsistent with one or more provisions of Chapter 5123. or 5126. of the Revised Code or one or more rules adopted under either chapter. Before authorizing a pilot program, the Director shall consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, the Ohio Association of County Boards of Developmental Disabilities, and the ARC of Ohio.

(B) The Director may not authorize a pilot project to be implemented in a manner that would cause the state to be out of compliance with any requirements for a program funded in whole or in part with federal funds.

SECTION 263.20.90. OHIO DEVELOPMENTAL DISABILITIES COUNCIL REMOTE ATTENDANCE PILOT PROGRAM

(A) The Ohio Developmental Disabilities Council may establish a pilot program to allow Council members to attend a public Council meeting by teleconference or video conference in lieu of physically attending the meeting. If the pilot program is established, it shall be operated until two years after the effective date of this section.

A member who attends a Council meeting by teleconference or video conference shall be counted for purposes of determining whether a quorum is present for the transaction of business. The member shall be permitted to vote at the meeting.

At each Council meeting that includes members in attendance by teleconference or video conference, at least three Council members shall be physically present. Any Council meeting may be held with members in attendance by teleconference or video conference, except that the Council shall hold at least one meeting during each year of the pilot program at which members are not permitted to attend by teleconference or video conference.

(B) If the pilot program is established, the Council shall submit a report to the General Assembly not later than one year after the effective date of this section to assist the General Assembly in determining whether legislation establishing remote attendance by teleconference or video conference for the meetings of other public bodies would be beneficial. The report shall be submitted in accordance with section 101.68 of the Revised

Code. The report shall include all of the following:

- (1) A description of the effect of teleconferencing or video conferencing on the operation of the Council meetings;
- (2) An accounting of any costs incurred or savings realized by the Council through the use of teleconferencing or video conferencing;
- (3) Regarding the Council meetings held during the pilot program, all of the following:
 - (a) The notice of each meeting;
 - (b) Attendance records for all Council members;
 - (c) A description of public and media attendance;
 - (d) A summary or copy of any comments made by the public or media regarding the use of teleconferencing or video conferencing;
 - (e) A copy of the minutes for each meeting;
 - (f) An accounting of the costs incurred for each meeting;
 - (g) A description of any local media coverage of a teleconference or video conference meeting.

(C) The Ohio Developmental Disabilities Council may adopt any rules the Council considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

At a minimum, the rules shall do the following:

- (1) Allow Council members to remotely attend a public Council meeting by teleconference or video conference in lieu of physically attending the meeting;
- (2) Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference or video conference;
- (3) Establish a policy for distributing and circulating necessary documents to Council members, the public, and the media in advance of a meeting at which members are permitted to attend by teleconference or video conference.

SECTION 265.10. OBD OHIO BOARD OF DIETETICS

General Services Fund Group			
4K90 860609	Operating Expenses	\$ 355,789	\$ 330,592
TOTAL GSF General Services Fund			
Group		\$ 355,789	\$ 330,592
TOTAL ALL BUDGET FUND GROUPS		\$ 355,789	\$ 330,592

SECTION 267.10. EDU DEPARTMENT OF EDUCATION

General Revenue Fund			
GRF 200100	Personal Services	\$ 8,579,178	\$ 8,579,178
GRF 200320	Maintenance and Equipment	\$ 2,830,407	\$ 2,830,407

2970

GRF 200408	Early Childhood Education	\$	23,268,341	\$	23,268,341
GRF 200416	Career-Technical Education Match	\$	2,233,195	\$	2,233,195
GRF 200420	Computer/Application/Network Development	\$	4,241,296	\$	4,241,296
GRF 200421	Alternative Education Programs	\$	7,403,998	\$	7,403,998
GRF 200422	School Management Assistance	\$	2,842,812	\$	3,000,000
GRF 200424	Policy Analysis	\$	328,558	\$	328,558
GRF 200425	Tech Prep Consortia Support	\$	260,542	\$	260,542
GRF 200426	Ohio Educational Computer Network	\$	17,974,489	\$	17,974,489
GRF 200427	Academic Standards	\$	4,346,060	\$	3,700,000
GRF 200437	Student Assessment	\$	55,002,167	\$	55,002,167
GRF 200439	Accountability/Report Cards	\$	3,579,279	\$	3,579,279
GRF 200442	Child Care Licensing	\$	827,140	\$	827,140
GRF 200446	Education Management Information System	\$	6,833,070	\$	6,833,070
GRF 200447	GED Testing	\$	879,551	\$	879,551
GRF 200448	Educator Preparation	\$	786,737	\$	786,737
GRF 200455	Community Schools and Choice Programs	\$	2,200,000	\$	2,200,000
GRF 200502	Pupil Transportation	\$	438,248,936	\$	442,113,527
GRF 200505	School Lunch Match	\$	9,100,000	\$	9,100,000
GRF 200511	Auxiliary Services	\$	124,194,099	\$	126,194,099
GRF 200532	Nonpublic Administrative Cost Reimbursement	\$	56,164,384	\$	57,006,850
GRF 200540	Special Education Enhancements	\$	135,820,668	\$	135,820,668
GRF 200545	Career-Technical Education Enhancements	\$	8,802,699	\$	8,802,699
GRF 200550	Foundation Funding	\$	5,536,347,861	\$	5,610,290,686
GRF 200901	Property Tax Allocation - Education	\$	1,086,500,000	\$	1,095,000,000
TOTAL GRF General Revenue Fund		\$	7,539,595,467	\$	7,628,256,477
General Services Fund Group					
1380 200606	Computer Services-Operational Support	\$	7,600,090	\$	7,600,090
4520 200638	Miscellaneous Educational Services	\$	300,000	\$	300,000
4L20 200681	Teacher Certification and Licensure	\$	8,147,756	\$	8,147,756
5960 200656	Ohio Career Information System	\$	529,761	\$	529,761
5H30 200687	School District Solvency Assistance	\$	25,000,000	\$	25,000,000
TOTAL GSF General Services Fund Group		\$	41,577,607	\$	41,577,607
Federal Special Revenue Fund Group					
3090 200601	Neglected and Delinquent Education	\$	2,168,642	\$	2,168,642
3670 200607	School Food Services	\$	6,803,472	\$	6,959,906

3690	200616	Career-Technical Education Federal Enhancement	\$	5,000,000	\$	5,000,000
3700	200624	Education of Exceptional Children	\$	1,905,000	\$	0
3780	200660	Learn and Serve	\$	619,211	\$	619,211
3AF0	200603	Schools Medicaid Administrative Claims	\$	639,000	\$	639,000
3AN0	200671	School Improvement Grants	\$	20,400,000	\$	20,400,000
3AX0	200698	Improving Health and Educational Outcomes of Young People	\$	630,954	\$	630,954
3BK0	200628	Longitudinal Data Systems	\$	500,000	\$	250,000
3C50	200661	Early Childhood Education	\$	14,554,749	\$	14,554,749
3CG0	200646	Teacher Incentive Fund	\$	1,925,881	\$	0
3D10	200664	Drug Free Schools	\$	1,500,000	\$	0
3D20	200667	Math Science Partnerships	\$	9,500,001	\$	9,500,001
3DG0	200630	Federal Stimulus - McKinney Vento Grants	\$	330,512	\$	0
3DJ0	200699	IDEA Part B - Federal Stimulus	\$	21,886,803	\$	0
3DK0	200642	Title 1A - Federal Stimulus	\$	18,633,673	\$	0
3DL0	200650	IDEA Preschool - Federal Stimulus	\$	670,000	\$	0
3DM0	200651	Title IID Technology - Federal Stimulus	\$	1,195,100	\$	0
3DP0	200652	Title I School Improvement - Federal Stimulus	\$	48,500,000	\$	30,000,000
3EC0	200653	Teacher Incentive - Federal Stimulus	\$	7,500,000	\$	7,500,000
3EH0	200620	Migrant Education	\$	2,645,905	\$	2,645,905
3EJ0	200622	Homeless Children Education	\$	1,759,782	\$	1,759,782
3EN0	200655	State Data Systems - Federal Stimulus	\$	2,500,000	\$	2,500,000
3ES0	200657	General Supervisory Enhancement Grant	\$	500,000	\$	500,000
3ET0	200658	Education Jobs Fund	\$	300,000,000	\$	50,000,000
3FD0	200665	Race to the Top	\$	100,000,000	\$	100,000,000
3FE0	200669	Striving Readers	\$	180,000	\$	100,000
3H90	200605	Head Start Collaboration Project	\$	225,000	\$	225,000
3L60	200617	Federal School Lunch	\$	327,516,539	\$	337,323,792
3L70	200618	Federal School Breakfast	\$	87,596,850	\$	90,224,756
3L80	200619	Child/Adult Food Programs	\$	100,850,833	\$	103,876,359
3L90	200621	Career-Technical Education Basic Grant	\$	48,466,864	\$	48,466,864
3M00	200623	ESEA Title 1A	\$	530,010,000	\$	530,010,000
3M20	200680	Individuals with Disabilities Education Act	\$	443,170,050	\$	443,170,050
3S20	200641	Education Technology	\$	9,487,397	\$	9,487,397
3T40	200613	Public Charter Schools	\$	14,291,353	\$	14,291,353
3Y20	200688	21st Century Community Learning Centers	\$	43,720,462	\$	45,906,485
3Y60	200635	Improving Teacher Quality	\$	101,900,000	\$	101,900,000
3Y70	200689	English Language	\$	8,373,995	\$	8,373,995

		Acquisition			
3Y80	200639	Rural and Low Income Technical Assistance	\$	1,500,000	\$ 1,500,000
3Z20	200690	State Assessments	\$	11,882,258	\$ 11,882,258
3Z30	200645	Consolidated Federal Grant Administration	\$	8,949,280	\$ 8,949,280
TOTAL FED Federal Special Revenue Fund Group			\$	2,310,389,566	\$ 2,011,315,739
State Special Revenue Fund Group					
4540	200610	Guidance and Testing	\$	1,050,000	\$ 1,050,000
4550	200608	Commodity Foods	\$	24,000,000	\$ 24,000,000
4R70	200695	Indirect Operational Support	\$	6,500,000	\$ 6,600,000
4V70	200633	Interagency Operational Support	\$	1,117,725	\$ 1,117,725
5980	200659	Auxiliary Services Reimbursement	\$	1,328,910	\$ 1,328,910
5BB0	200696	State Action for Education Leadership	\$	231,300	\$ 0
5BJ0	200626	Half-Mill Maintenance Equalization	\$	17,300,000	\$ 18,000,000
5U20	200685	National Education Statistics	\$	300,000	\$ 300,000
6200	200615	Educational Improvement Grants	\$	3,000,000	\$ 3,000,000
TOTAL SSR State Special Revenue Fund Group			\$	54,827,935	\$ 55,396,635
Lottery Profits Education Fund Group					
7017	200612	Foundation Funding	\$	717,500,000	\$ 680,500,000
TOTAL LPE Lottery Profits Education Fund Group			\$	717,500,000	\$ 680,500,000
Revenue Distribution Fund Group					
7047	200909	School District Property Tax Replacement-Business	\$	722,000,000	\$ 475,000,000
7053	200900	School District Property Tax Replacement-Utility	\$	34,000,000	\$ 30,000,000
TOTAL RDF Revenue Distribution Fund Group			\$	756,000,000	\$ 505,000,000
TOTAL ALL BUDGET FUND GROUPS			\$	11,419,890,575	\$ 10,922,046,458

SECTION 267.10.10. EARLY CHILDHOOD EDUCATION

The Department of Education shall distribute the foregoing appropriation item 200408, Early Childhood Education, to pay the costs of early childhood education programs.

(A) As used in this section:

(1) "Provider" means a city, local, exempted village, or joint vocational school district, or an educational service center.

(2) In the case of a city, local, or exempted village school district, "new eligible provider" means a district that did not receive state funding for Early Childhood Education in the previous fiscal year or demonstrates a

need for early childhood programs as defined in division (D) of this section.

(3) "Eligible child" means a child who is at least three years of age as of the district entry date for kindergarten, is not of the age to be eligible for kindergarten, and whose family earns not more than two hundred per cent of the federal poverty guidelines as defined in division (A)(3) of section 5101.46 of the Revised Code. Children with an Individualized Education Program and where the Early Childhood Education program is the least restrictive environment may be enrolled on their third birthday.

(B) In each fiscal year, up to two per cent of the total appropriation may be used by the Department for program support and technical assistance. The Department shall distribute the remainder of the appropriation in each fiscal year to serve eligible children.

(C) The Department shall provide an annual report to the Governor, the Speaker of the House of Representatives, and the President of the Senate and post the report to the Department's web site, regarding early childhood education programs operated under this section and the early learning program guidelines.

(D) After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2012, the Department shall distribute funds first to recipients of funds for early childhood education programs under Section 265.10.20 of Am. Sub. H.B. 1 of the 128th General Assembly in the previous fiscal year and the balance to new eligible providers of early childhood education programs under this section or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

After setting aside the amounts to make payments due from the previous fiscal year, in fiscal year 2013, the Department shall distribute funds first to providers of early childhood education programs under this section in the previous fiscal year and the balance to new eligible providers or to existing providers to serve more eligible children or for purposes of program expansion, improvement, or special projects to promote quality and innovation.

Awards under this section shall be distributed on a per-pupil basis, and in accordance with division (H) of this section. The Department may adjust the per-pupil amount so that the per-pupil amount multiplied by the number of eligible children enrolled and receiving services on the first day of December or the business day closest to that date equals the amount allocated under this section.

(E) Costs for developing and administering an early childhood education program may not exceed fifteen per cent of the total approved

costs of the program.

All providers shall maintain such fiscal control and accounting procedures as may be necessary to ensure the disbursement of, and accounting for, these funds. The control of funds provided in this program, and title to property obtained, shall be under the authority of the approved provider for purposes provided in the program unless, as described in division (J) of this section, the program waives its right for funding or a program's funding is eliminated or reduced due to its inability to meet financial or early learning program guidelines. The approved provider shall administer and use such property and funds for the purposes specified.

(F) The Department may examine a provider's financial and program records. If the financial practices of the program are not in accordance with standard accounting principles or do not meet financial standards outlined under division (E) of this section, or if the program fails to substantially meet the early learning program guidelines or exhibits below average performance as measured against the guidelines, the early childhood education program shall propose and implement a corrective action plan that has been approved by the Department. The approved corrective action plan shall be signed by the chief executive officer and the executive of the official governing body of the provider. The corrective action plan shall include a schedule for monitoring by the Department. Such monitoring may include monthly reports, inspections, a timeline for correction of deficiencies, and technical assistance to be provided by the Department or obtained by the early childhood education program. The Department may withhold funding pending corrective action. If an early childhood education program fails to satisfactorily complete a corrective action plan, the Department may deny expansion funding to the program or withdraw all or part of the funding to the program and establish a new eligible provider through a selection process established by the Department.

(G) Each early childhood education program shall do all of the following:

(1) Meet teacher qualification requirements prescribed by section 3301.311 of the Revised Code;

(2) Align curriculum to the early learning content standards developed by the Department;

(3) Meet any child or program assessment requirements prescribed by the Department;

(4) Require teachers, except teachers enrolled and working to obtain a degree pursuant to section 3301.311 of the Revised Code, to attend a minimum of twenty hours every two years of professional development as

prescribed by the Department;

(5) Document and report child progress as prescribed by the Department;

(6) Meet and report compliance with the early learning program guidelines as prescribed by the Department.

(H) Per-pupil funding for programs subject to this section shall be sufficient to provide eligible children with services for a standard early childhood schedule which shall be defined in this section as a minimum of twelve and one-half hours per school week as defined in section 3313.62 of the Revised Code for the minimum school year as defined in sections 3313.48, 3313.481, and 3313.482 of the Revised Code. Nothing in this section shall be construed to prohibit program providers from utilizing other funds to serve eligible children in programs that exceed the twelve and one-half hours per week or that exceed the minimum school year. For any provider for which a standard early childhood education schedule creates a hardship or for which the provider shows evidence that the provider is working in collaboration with a preschool special education program, the provider may submit a waiver to the Department requesting an alternate schedule. If the Department approves a waiver for an alternate schedule that provides services for less time than the standard early childhood education schedule, the Department may reduce the provider's annual allocation proportionately. Under no circumstances shall an annual allocation be increased because of the approval of an alternate schedule.

(I) Each provider shall develop a sliding fee scale based on family incomes and shall charge families who earn more than two hundred per cent of the federal poverty guidelines, as defined in division (A)(3) of section 5101.46 of the Revised Code, for the early childhood education program.

The Department shall conduct an annual survey of each provider to determine whether the provider charges families tuition or fees, the amount families are charged relative to family income levels, and the number of families and students charged tuition and fees for the early childhood program.

(J) If an early childhood education program voluntarily waives its right for funding, or has its funding eliminated for not meeting financial standards or the early learning program guidelines, the provider shall transfer control of title to property, equipment, and remaining supplies obtained through the program to providers designated by the Department and return any unexpended funds to the Department along with any reports prescribed by the Department. The funding made available from a program that waives its right for funding or has its funding eliminated or reduced may be used by

the Department for new grant awards or expansion grants. The Department may award new grants or expansion grants to eligible providers who apply. The eligible providers who apply must do so in accordance with the selection process established by the Department.

(K) As used in this section, "early learning program guidelines" means the guidelines established by the Department pursuant to division (C)(3) of Section 206.09.54 of Am. Sub. H.B. 66 of the 126th General Assembly.

(L) Eligible expenditures for the Early Childhood Education program shall be claimed each fiscal year to help meet the state's TANF maintenance of effort requirement. The Superintendent of Public Instruction and the Director of Job and Family Services shall enter into an interagency agreement to carry out the requirements under this division, which shall include developing reporting guidelines for these expenditures.

SECTION 267.10.20. CAREER-TECHNICAL EDUCATION MATCH

The foregoing appropriation item 200416, Career-Technical Education Match, shall be used by the Department of Education to provide vocational administration matching funds under 20 U.S.C. 2311.

The Director of Budget and Management shall transfer any remaining appropriation from appropriation item 200416, Career-Technical Education Match, to appropriation item 200426, Ohio Educational Computer Network, to support the Ohio Educational Computer Network.

COMPUTER/APPLICATION/NETWORK DEVELOPMENT

The foregoing appropriation item 200420, Computer/Application/Network Development, shall be used to support the development and implementation of information technology solutions designed to improve the performance and services of the Department of Education. Funds may be used for personnel, maintenance, and equipment costs related to the development and implementation of these technical system projects. Implementation of these systems shall allow the Department to provide greater levels of assistance to school districts and to provide more timely information to the public, including school districts, administrators, and legislators. Funds may also be used to support data-driven decision-making and differentiated instruction, as well as to communicate academic content standards and curriculum models to schools through web-based applications.

SECTION 267.10.30. ALTERNATIVE EDUCATION PROGRAMS

The foregoing appropriation item 200421, Alternative Education

Programs, shall be used for the renewal of successful implementation grants and for competitive matching grants to school districts for alternative educational programs for existing and new at-risk and delinquent youth. Programs shall be focused on youth in one or more of the following categories: those who have been expelled or suspended, those who have dropped out of school or who are at risk of dropping out of school, those who are habitually truant or disruptive, or those on probation or on parole from a Department of Youth Services facility. Grants shall be awarded according to the criteria established by the Alternative Education Advisory Council in 1999. Grants shall be awarded only to programs in which the grant will not serve as the program's primary source of funding. These grants shall be administered by the Department of Education.

The Department of Education may waive compliance with any minimum education standard established under section 3301.07 of the Revised Code for any alternative school that receives a grant under this section on the grounds that the waiver will enable the program to more effectively educate students enrolled in the alternative school.

Of the foregoing appropriation item 200421, Alternative Education Programs, a portion may be used for program administration, monitoring, technical assistance, support, research, and evaluation.

SECTION 267.10.40. SCHOOL MANAGEMENT ASSISTANCE

Of the foregoing appropriation item 200422, School Management Assistance, \$1,000,000 in fiscal year 2012 and \$1,300,000 in fiscal year 2013 shall be used by the Auditor of State in consultation with the Department of Education for expenses incurred in the Auditor of State's role relating to fiscal caution, fiscal watch, and fiscal emergency activities as defined in Chapter 3316. of the Revised Code and may also be used by the Auditor of State to conduct performance audits of other school districts with priority given to districts in fiscal distress. Districts in fiscal distress shall be determined by the Auditor of State and shall include districts that the Auditor of State, in consultation with the Department of Education, determines are employing fiscal practices or experiencing budgetary conditions that could produce a state of fiscal watch or fiscal emergency.

The remainder of appropriation item 200422, School Management Assistance, shall be used by the Department of Education to provide fiscal technical assistance and inservice education for school district management personnel and to administer, monitor, and implement the fiscal caution, fiscal watch, and fiscal emergency provisions under Chapter 3316. of the Revised Code.

SECTION 267.10.50. POLICY ANALYSIS

The foregoing appropriation item 200424, Policy Analysis, shall be used by the Department of Education to support a system of administrative, statistical, and legislative education information to be used for policy analysis. Staff supported by this appropriation shall administer the development of reports, analyses, and briefings to inform education policymakers of current trends in education practice, efficient and effective use of resources, and evaluation of programs to improve education results. The database shall be kept current at all times. These research efforts shall be used to supply information and analysis of data to the General Assembly and other state policymakers, including the Office of Budget and Management, the Governor's Office of 21st Century Education, and the Legislative Service Commission.

The Department of Education may use funding from this appropriation item to purchase or contract for the development of software systems or contract for policy studies that will assist in the provision and analysis of policy-related information. Funding from this appropriation item also may be used to monitor and enhance quality assurance for research-based policy analysis and program evaluation to enhance the effective use of education information to inform education policymakers.

A portion of the foregoing appropriation item 200424, Policy Analysis, may be used in conjunction with appropriation item 200439, Accountability/Report Cards, to support a fiscal reporting dimension that shall contain fiscal data reported for the prior fiscal year. The fiscal information contained therein shall be updated and reported annually in a form and in a manner as determined by the Department.

TECH PREP CONSORTIA SUPPORT

The foregoing appropriation item 200425, Tech Prep Consortia Support, shall be used by the Department of Education to support state-level activities designed to support, promote, and expand tech prep programs. Use of these funds shall include, but not be limited to, administration of grants, program evaluation, professional development, curriculum development, assessment development, program promotion, communications, and statewide coordination of tech prep consortia.

SECTION 267.10.60. OHIO EDUCATIONAL COMPUTER NETWORK

The foregoing appropriation item 200426, Ohio Educational Computer Network, shall be used by the Department of Education to maintain a system

of information technology throughout Ohio and to provide technical assistance for such a system in support of the P-16 State Education Technology Plan developed under section 3353.09 of the Revised Code.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$10,705,569 in each fiscal year shall be used by the Department of Education to support connection of all public school buildings and participating chartered nonpublic schools to the state's education network, to each other, and to the Internet. In each fiscal year the Department of Education shall use these funds to assist information technology centers or school districts with the operational costs associated with this connectivity. The Department of Education shall develop a formula and guidelines for the distribution of these funds to information technology centers or individual school districts. As used in this section, "public school building" means a school building of any city, local, exempted village, or joint vocational school district, any community school established under Chapter 3314. of the Revised Code, any STEM school established under Chapter 3326. of the Revised Code, any educational service center building used for instructional purposes, the Ohio School for the Deaf and the Ohio School for the Blind, high schools chartered by the Ohio Department of Youth Services, or high schools operated by Ohio Department of Rehabilitation and Corrections' Ohio Central School System.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$1,440,000 in each fiscal year shall be used for the Union Catalog and InfOhio Network and to support the provision of electronic resources with priority given to resources that support the teaching of state academic content standards in all public schools. Consideration shall be given by the Department of Education to coordinating the allocation of these moneys with the efforts of Libraries Connect Ohio, whose members include OhioLINK, the Ohio Public Information Network, and the State Library of Ohio.

Of the foregoing appropriation item 200426, Ohio Educational Computer Network, up to \$5,220,000 in each fiscal year shall be used, through a formula and guidelines devised by the Department, to subsidize the activities of designated information technology centers, as defined by State Board of Education rules, to provide school districts and chartered nonpublic schools with computer-based student and teacher instructional and administrative information services, including approved computerized financial accounting, and to ensure the effective operation of local automated administrative and instructional systems.

The remainder of appropriation item 200426, Ohio Educational

Computer Network, shall be used to support the work of the development, maintenance, and operation of a network of uniform and compatible computer-based information and instructional systems. This technical assistance shall include, but not be restricted to, development and maintenance of adequate computer software systems to support network activities. In order to improve the efficiency of network activities, the Department and information technology centers may jointly purchase equipment, materials, and services from funds provided under this appropriation for use by the network and, when considered practical by the Department, may utilize the services of appropriate state purchasing agencies.

SECTION 267.10.70. ACADEMIC STANDARDS

The foregoing appropriation item 200427, Academic Standards, shall be used by the Department of Education to develop, revise, and communicate to school districts academic content standards and curriculum models.

SECTION 267.10.80. STUDENT ASSESSMENT

Of the foregoing appropriation item 200437, Student Assessment, up to \$95,000 in each fiscal year may be used to support the assessments required under section 3301.0715 of the Revised Code.

The remainder of appropriation item 200437, Student Assessment, shall be used to develop, field test, print, distribute, score, report results, and support other associated costs for the tests required under sections 3301.0710, 3301.0711, and 3301.0712 of the Revised Code and for similar purposes as required by section 3301.27 of the Revised Code. If funds remain in this appropriation after these purposes have been fulfilled, the Department may use the remainder of the appropriation to develop end-of-course exams.

DEPARTMENT OF EDUCATION APPROPRIATION TRANSFERS FOR STUDENT ASSESSMENT

In fiscal year 2012 and fiscal year 2013, if the Superintendent of Public Instruction determines that additional funds are needed to fully fund the requirements of sections 3301.0710, 3301.0711, and 3301.27 of the Revised Code and this act for assessments of student performance, the Superintendent of Public Instruction may recommend the reallocation of unexpended and unencumbered General Revenue Fund appropriations within the Department of Education to appropriation item 200437, Student Assessment, to the Director of Budget and Management. If the Director of

Budget and Management determines that such a reallocation is required, the Director of Budget and Management may transfer unexpended and unencumbered appropriations within the Department of Education as necessary to appropriation item 200437, Student Assessment. If these transferred appropriations are not sufficient to fully fund the assessment requirements in fiscal year 2012 or fiscal year 2013, the Superintendent of Public Instruction may request that the Controlling Board transfer up to \$9,000,000 cash from the Lottery Profits Education Reserve Fund (Fund 7018) to the General Revenue Fund. Upon approval of the Controlling Board, the Director of Budget and Management shall transfer the cash. These transferred funds are hereby appropriated for the same purpose as appropriation item 200437, Student Assessment.

SECTION 267.10.90. (A) Notwithstanding anything to the contrary in section 3301.0710, 3301.0711, 3301.0715 or 3313.608 of the Revised Code, the administration of the English language arts assessments for elementary grades as a replacement for the separate reading and writing assessments prescribed by sections 3301.0710 and 3301.0711 of the Revised Code, as those sections were amended by Am. Sub. H.B. 1 of the 128th General Assembly, shall not be required until a date prescribed by rule of the State Board of Education. Until that date, the Department of Education and school districts and schools shall continue to administer separate reading assessments for elementary grades, as prescribed by the versions of sections 3301.0710 and 3301.0711 of the Revised Code that were in effect prior to the effective date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly. The intent for delaying implementation of the replacement English language arts assessment is to provide adequate time for the complete development of the new assessment.

(B) Notwithstanding anything to the contrary in section 3301.0710 of the Revised Code, the State Board shall not prescribe the three ranges of scores for the assessments prescribed by division (A)(2) of section 3301.0710 of the Revised Code, as amended by Am. Sub. H.B. 1 of the 128th General Assembly, until the Board adopts the rule required by division (A) of this section. Until that date, the Board shall continue to prescribe the five ranges of scores required by the version of section 3301.0710 of the Revised Code in effect prior to the effective date of Section 265.20.15 of Am. Sub. H.B. 1 of the 128th General Assembly, and the following apply:

(1) The range of scores designated by the State Board as a proficient level of skill remains the passing score on the Ohio Graduation Tests for

purposes of sections 3313.61, 3313.611, 3313.612, and 3325.08 of the Revised Code;

(2) The range of scores designated as a limited level of skill remains the standard for applying the third-grade reading guarantee under division (A) of section 3313.608 of the Revised Code;

(3) The range of scores designated by the State Board as a proficient level of skill remains the standard for the summer remediation requirement of division (B)(2) of section 3313.608 of the Revised Code.

(C) This section is not subject to expiration after June 30, 2013, under Section 809.10 of this act.

SECTION 267.20.10. Notwithstanding anything to the contrary in sections 3301.0710 and 3301.0711 of the Revised Code, in the 2011-2012 and 2012-2013 school years, the Department of Education shall not furnish, and school districts and schools shall not administer, the elementary writing and social studies achievement assessments prescribed by section 3301.0710 of the Revised Code, unless the Superintendent of Public Instruction determines the Department has sufficient funds to pay the costs of furnishing and scoring those assessments.

SECTION 267.20.20. ACCOUNTABILITY/REPORT CARDS

Of the foregoing appropriation item 200439, Accountability/Report Cards, a portion in each fiscal year may be used to train district and regional specialists and district educators in the use of the value-added progress dimension and in the use of data as it relates to improving student achievement. This training may include teacher and administrator professional development in the use of data to improve instruction and student learning, and teacher and administrator training in understanding teacher value-added reports and how they can be used as a component in measuring teacher and administrator effectiveness. A portion of this funding may be provided to a credible nonprofit organization with expertise in value-added progress dimensions.

The remainder of appropriation item 200439, Accountability/Report Cards, shall be used by the Department to incorporate a statewide value-added progress dimension into performance ratings for school districts and for the development of an accountability system that includes the preparation and distribution of school report cards and funding and expenditure accountability reports under sections 3302.03 and 3302.031 of the Revised Code.

CHILD CARE LICENSING

The foregoing appropriation item 200442, Child Care Licensing, shall be used by the Department of Education to license and to inspect preschool and school-age child care programs under sections 3301.52 to 3301.59 of the Revised Code.

SECTION 267.20.30. EDUCATION MANAGEMENT INFORMATION SYSTEM

The foregoing appropriation item 200446, Education Management Information System, shall be used by the Department of Education to improve the Education Management Information System (EMIS).

Of the foregoing appropriation item 200446, Education Management Information System, up to \$729,000 in each fiscal year shall be distributed to designated information technology centers for costs relating to processing, storing, and transferring data for the effective operation of the EMIS. These costs may include, but are not limited to, personnel, hardware, software development, communications connectivity, professional development, and support services, and to provide services to participate in the State Education Technology Plan developed under section 3353.09 of the Revised Code.

The remainder of appropriation item 200446, Education Management Information System, shall be used to develop and support a common core of data definitions and standards as adopted by the Education Management Information System Advisory Board, including the ongoing development and maintenance of the data dictionary and data warehouse. In addition, such funds shall be used to support the development and implementation of data standards and the design, development, and implementation of a new data exchange system.

Any provider of software meeting the standards approved by the Education Management Information System Advisory Board shall be designated as an approved vendor and may enter into contracts with local school districts, community schools, STEMS schools, information technology centers, or other educational entities for the purpose of collecting and managing data required under Ohio's education management information system (EMIS) laws. On an annual basis, the Department of Education shall convene an advisory group of school districts, community schools, and other education-related entities to review the Education Management Information System data definitions and data format standards. The advisory group shall recommend changes and enhancements based upon surveys of its members, education agencies in other states, and current

industry practices, to reflect best practices, align with federal initiatives, and meet the needs of school districts.

School districts, STEMS schools, and community schools not implementing a common and uniform set of data definitions and data format standards for Education Management Information System purposes shall have all EMIS funding withheld until they are in compliance.

SECTION 267.20.40. GED TESTING

The foregoing appropriation item 200447, GED Testing, shall be used to provide General Educational Development (GED) testing under rules adopted by the State Board of Education.

SECTION 267.20.50. EDUCATOR PREPARATION

Of the foregoing appropriation item 200448, Educator Preparation, up to \$150,000 in each fiscal year may be used by the Department of Education to monitor and support Ohio's State System of Support in accordance with the "No Child Left Behind Act of 2011," 20 U.S.C. 6317.

The remainder of appropriation item 200448, Educator Preparation, may be used by the Department to support the Educator Standards Board under section 3319.61 of the Revised Code and reforms under sections 3302.042, 3302.06 through 3302.068, 3302.12, 3302.20 through 3302.22, and 3319.58 of the Revised Code.

SECTION 267.20.60. COMMUNITY SCHOOLS AND CHOICE PROGRAMS

The foregoing appropriation item 200455, Community Schools and Choice Programs, may be used by the Department of Education for additional services and responsibilities under section 3314.11 of the Revised Code and for operation of the school choice programs.

Of the foregoing appropriation item 200455, Community Schools and Choice Programs, a portion in each fiscal year may be used by the Department of Education for developing and conducting training sessions for community schools and sponsors and prospective sponsors of community schools as prescribed in division (A)(1) of section 3314.015 of the Revised Code, and other schools participating in school choice programs. In developing the community school training sessions, the Department shall collect and disseminate examples of best practices used by sponsors of independent charter schools in Ohio and other states.

SECTION 267.20.70. PUPIL TRANSPORTATION

Of the foregoing appropriation item 200502, Pupil Transportation, up to \$838,930 in each fiscal year may be used by the Department of Education for training prospective and experienced school bus drivers in accordance with training programs prescribed by the Department. Up to \$60,469,220 in each fiscal year may be used by the Department of Education for special education transportation reimbursements to school districts and county DD boards for transportation operating costs as provided in division (J) of section 3317.024 of the Revised Code. Up to \$650,000 in each fiscal year may be used to partially reimburse school districts for costs of providing transportation services to nontraditional schools when those schools are open on a day the traditional school district is not scheduled to open. Up to \$5,000,000 in each fiscal year may be used by the Department of Education to reimburse school districts that make payments to parents in lieu of transportation under section 3327.02 of the Revised Code and whose transportation is not funded under division (C) of section 3317.024 of the Revised Code.

The remainder of appropriation item 200502, Pupil Transportation, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act.

SECTION 267.20.80. SCHOOL LUNCH MATCH

The foregoing appropriation item 200505, School Lunch Match, shall be used to provide matching funds to obtain federal funds for the school lunch program.

Any remaining appropriation after providing matching funds for the school lunch program may be used to partially reimburse school buildings within school districts that are required to have a school breakfast program under section 3313.813 of the Revised Code, at a rate decided by the Department.

SECTION 267.20.90. AUXILIARY SERVICES

The foregoing appropriation item 200511, Auxiliary Services, shall be used by the Department of Education for the purpose of implementing section 3317.06 of the Revised Code. Of the appropriation, up to \$1,789,943 in each fiscal year may be used for payment of the Post-Secondary Enrollment Options Program for nonpublic students. Notwithstanding

section 3365.10 of the Revised Code, the Department shall distribute funding according to rules adopted by the Department in accordance with Chapter 119. of the Revised Code.

SECTION 267.30.10. NONPUBLIC ADMINISTRATIVE COST REIMBURSEMENT

The foregoing appropriation item 200532, Nonpublic Administrative Cost Reimbursement, shall be used by the Department of Education for the purpose of implementing section 3317.063 of the Revised Code.

SECTION 267.30.20. SPECIAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,206,875 in each fiscal year shall be used for home instruction for children with disabilities.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$45,282,959 in each fiscal year shall be used to fund special education and related services at county boards of developmental disabilities for eligible students under section 3317.20 of the Revised Code and at institutions for eligible students under section 3317.201 of the Revised Code. Notwithstanding the distribution formulas under sections 3317.20 and 3317.201 of the Revised Code, funding for DD boards and institutions for fiscal year 2012 and fiscal year 2013 shall be determined by providing the per pupil amount received by each DD board and institution for the prior fiscal year for each student served in the current fiscal year.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$1,333,468 in each fiscal year shall be used for parent mentoring programs.

Of the foregoing appropriation item 200540, Special Education Enhancements, up to \$2,537,824 in each fiscal year may be used for school psychology interns.

The remainder of appropriation item 200540, Special Education Enhancements, shall be distributed by the Department of Education to county boards of developmental disabilities, educational service centers, and school districts for preschool special education units and preschool supervisory units under section 3317.052 of the Revised Code. To the greatest extent possible, the Department of Education shall allocate these units to school districts and educational service centers.

The Department may reimburse county DD boards, educational service centers, and school districts for services provided by instructional assistants,

related services as defined in rule 3301-51-11 of the Administrative Code, physical therapy services provided by a licensed physical therapist or physical therapist assistant under the supervision of a licensed physical therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-27 of the Administrative Code and occupational therapy services provided by a licensed occupational therapist or occupational therapy assistant under the supervision of a licensed occupational therapist as required under Chapter 4755. of the Revised Code and Chapter 4755-7 of the Administrative Code. Nothing in this section authorizes occupational therapy assistants or physical therapist assistants to generate or manage their own caseloads.

The Department of Education shall require school districts, educational service centers, and county DD boards serving preschool children with disabilities to adhere to Ohio's Early Learning Program Guidelines and document child progress using research-based indicators prescribed by the Department and report results annually. The reporting dates and method shall be determined by the Department.

SECTION 267.30.30. CAREER-TECHNICAL EDUCATION ENHANCEMENTS

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,563,568 in each fiscal year shall be used to fund secondary career-technical education at institutions using a grant-based methodology, notwithstanding sections 3317.05, 3317.052, and 3317.053 of the Revised Code.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$2,838,281 in each fiscal year shall be used by the Department of Education to fund competitive grants to tech prep consortia that expand the number of students enrolled in tech prep programs. These grant funds shall be used to directly support expanded tech prep programs provided to students enrolled in school districts, including joint vocational school districts, and affiliated higher education institutions. This support may include the purchase of equipment.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$3,100,850 in each fiscal year shall be used by the Department of Education to support existing High Schools That Work (HSTW) sites, develop and support new sites, fund technical assistance, and support regional centers and middle school programs. The purpose of HSTW is to combine challenging academic courses and modern career-technical studies to raise the academic achievement of students.

HSTW provides intensive technical assistance, focused staff development, targeted assessment services, and ongoing communications and networking opportunities.

Of the foregoing appropriation item 200545, Career-Technical Education Enhancements, up to \$300,000 in each fiscal year shall be used by the Department of Education to enable students in agricultural programs to enroll in a fifth quarter of instruction based on the agricultural education model of delivering work-based learning through supervised agricultural experience. The Department of Education shall determine eligibility criteria and the reporting process for the Agriculture 5th Quarter Project and shall fund as many programs as possible given the set aside.

SECTION 267.30.40. FOUNDATION FUNDING

Of the foregoing appropriation item 200550, Foundation Funding, up to \$675,000 in each fiscal year shall be used to support the work of the College of Education and Human Ecology at the Ohio State University in reviewing and assessing the alignment of courses offered through the distance learning clearinghouse established in sections 3333.81 to 3333.88 of the Revised Code with the academic content standards adopted under division (A) of section 3301.079 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$250,000 in each fiscal year may be used by the Department to fund a shared services pilot project involving at least two educational service centers. The pilot project shall focus on the design, implementation, and evaluation of a shared service delivery model. The educational service centers participating in the pilot project shall submit a report not later than September 1, 2013, to the Governor, members of the General Assembly, and members of the State Board of Education, reviewing the opportunities and challenges of implementing shared services initiatives as well as any real or projected cost efficiencies achieved through the pilot project.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$50,000 shall be expended in each fiscal year for court payments under section 2151.362 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$8,100,000 in each fiscal year shall be used to fund gifted education at educational service centers. Notwithstanding division (D)(5) of section 3317.018 of the Revised Code, the Department shall distribute the funding through the unit-based funding methodology in place under division (L) of section 3317.024, division (E) of section 3317.05, and divisions (A), (B), and (C) of section 3317.053 of the Revised Code as they existed prior to

fiscal year 2010.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$10,000,000 in each fiscal year shall be used to provide additional state aid to school districts, joint vocational school districts, and community schools for special education students under division (C)(3) of section 3317.022 of the Revised Code, except that the Controlling Board may increase these amounts if presented with such a request from the Department of Education at the final meeting of the fiscal year; and up to \$2,000,000 in each fiscal year shall be reserved for Youth Services tuition payments under section 3317.024 of the Revised Code.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$41,760,000 in fiscal year 2012 and up to \$35,496,000 in fiscal year 2013 shall be reserved to fund the state reimbursement of educational service centers under section 3317.11 of the Revised Code and the section of this act entitled "EDUCATIONAL SERVICE CENTERS FUNDING"; and up to \$3,545,752 in each fiscal year shall be distributed to educational service centers for School Improvement Initiatives. Educational service centers shall be required to support districts in the development and implementation of their continuous improvement plans as required in section 3302.04 of the Revised Code and to provide technical assistance and support in accordance with Title I of the "No Child Left Behind Act of 2001," 115 Stat. 1425, 20 U.S.C. 6317.

Of the foregoing appropriation item 200550, Foundation Funding, up to \$700,000 in each fiscal year shall be used by the Department of Education for a program to pay for educational services for youth who have been assigned by a juvenile court or other authorized agency to any of the facilities described in division (A) of the section of this act entitled "PRIVATE TREATMENT FACILITY PROJECT."

Of the foregoing appropriation item 200550, Foundation Funding, up to \$12,522,860 in each fiscal year shall be used to support the Cleveland school choice program.

Of the portion of the funds distributed to the Cleveland Municipal School District under this section, up to \$11,901,887 in each fiscal year shall be used to operate the school choice program in the Cleveland Municipal School District under sections 3313.974 to 3313.979 of the Revised Code. Notwithstanding divisions (B) and (C) of section 3313.978 and division (C) of section 3313.979 of the Revised Code, up to \$1,000,000 in each fiscal year of this amount shall be used by the Cleveland Municipal School District to provide tutorial assistance as provided in division (H) of section 3313.974 of the Revised Code. The Cleveland Municipal School District

shall report the use of these funds in the district's three-year continuous improvement plan as described in section 3302.04 of the Revised Code in a manner approved by the Department of Education.

Of the foregoing appropriation item 200550, Foundation Funding, an amount shall be available in each fiscal year to be paid to joint vocational school districts in accordance with the section of this act entitled "FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS."

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to city, exempted village, and local school districts in accordance with the section of this act entitled "SUPPLEMENTAL SCHOOL DISTRICT FUNDING."

Of the foregoing appropriation item 200550, Foundation Funding, a portion in each fiscal year shall be paid to school districts and community schools in accordance with the section of this act entitled "SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS."

The remainder of appropriation item 200550, Foundation Funding, shall be used to distribute the amounts calculated for formula aid under Section 267.30.50 of this act.

Appropriation items 200502, Pupil Transportation, 200540, Special Education Enhancements, and 200550, Foundation Funding, other than specific set-asides, are collectively used in each fiscal year to pay state formula aid obligations for school districts, community schools, STEM schools, and joint vocational school districts under this act. The first priority of these appropriation items, with the exception of specific set-asides, is to fund state formula aid obligations. It may be necessary to reallocate funds among these appropriation items or use excess funds from other general revenue fund appropriation items in the Department of Education's budget in each fiscal year, in order to meet state formula aid obligations. If it is determined that it is necessary to transfer funds among these appropriation items or to transfer funds from other General Revenue Fund appropriations in the Department of Education's budget to meet state formula aid obligations, the Department of Education shall seek approval from the Controlling Board to transfer funds as needed.

SECTION 267.30.50. FUNDING FOR CITY, EXEMPTED VILLAGE, AND LOCAL SCHOOL DISTRICTS

(A) For each of fiscal years 2012 and 2013, the Department of Education shall compute and pay operating funding for each city, exempted village, and local school district according to the following formula:

[(The final amount computed for fiscal year 2011 under

the line on the district's PASS form entitled "State Resources for the Foundation Funding Program" / the district's recalculated fiscal year 2011 formula ADM) X the district's current year formula ADM] - the district's adjustment amount

Where:

(1) "PASS form" means the form for calculating operating payments to school districts as prescribed by former section 3306.012 of the Revised Code.

(2) "Recalculated fiscal year 2011 formula ADM" means the district's average daily membership reported in October 2010 under 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, 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.

(3) "Current year formula ADM" means the district's formula ADM for the current fiscal year as defined in section 3317.02 of the Revised Code.

(4) "The district's adjustment amount" means the amount computed under division (B)(5) of this section.

If the computation made under division (A) of this section results in a negative number, the district's funding under this section shall be zero.

(B) To make the computation required by division (A) of this section, the Department shall determine all of the following:

(1) Each district's charge-off valuation per pupil, which shall be the valuation used to determine the district's state share of the adequacy amount for fiscal year 2011, under former section 3306.13 of the Revised Code, divided by the district's recalculated fiscal year 2011 formula ADM;

(2) The statewide median charge-off valuation per pupil;

(3) Each district's charge-off valuation index, which shall be the district's charge-off valuation per pupil divided by the statewide median charge-off valuation per pupil;

(4) The statewide per pupil adjustment amount. The Department shall determine that amount so that the total statewide formula aid obligation for school districts does not exceed the aggregate amount appropriated for formula aid under line items 200502, 200550, and 200612.

(5) Each district's adjustment amount, which shall be the district's charge-off valuation index multiplied by the statewide per pupil adjustment amount multiplied by the district's current year formula ADM.

(C) On the form that the Department uses to compute funding for a school district in accordance with this section, the Department also shall indicate the amount of that funding allocated to special education and related services, the amount allocated to career-technical education, and the amount allocated to gifted education. The amounts allocated for special education and career-technical education shall be the amounts indicated on the PASS form for fiscal year 2011. Each school district that receives an allocation for career-technical education shall spend the funds only for purposes the Department of Education designates as approved for career-technical education expenses. Career-technical education expenses approved by the Department shall include only expenses connected to the delivery of career-technical programming to students enrolled in state-approved career-technical programs. If a school district informs the Department that it is unable to spend the full allocation on approved career-technical education expenses, the Department may reallocate the district's unexpended amount of the career-technical education allocation to other school districts. The overall funding levels calculated under division (A) of this section for districts affected by a reallocation under this division shall be adjusted accordingly. The Department shall first allocate the funds to school districts within the original school district's vocational education planning district that have growth in career-technical enrollment from the previous fiscal year. If there are no such districts, the Department shall allocate the funds to other school districts, with priority given to districts according to each district's growth in career-technical enrollment from the previous fiscal year. The amounts allocated to gifted education shall be the amounts districts received for gifted unit funding and supplemental identification funds in fiscal year 2009, either directly or through funds allocated to educational service centers. The Department shall require each school district to report data annually so that the Department may monitor and enforce the district's compliance with the requirements regarding the manner in which allocations for career-technical education and gifted education may be spent.

(D) For fiscal years 2012 and 2013, wherever a provision of law refers to payments or adjustments for a school district made in accordance with any section of Chapter 3317. of the Revised Code, that reference shall be construed to include payments or adjustments made under this section.

SECTION 267.30.53. SUPPLEMENTAL SCHOOL DISTRICT FUNDING

(A) For each of fiscal years 2012 and 2013, the Department of Education shall compute and pay supplemental operating funding for each city, exempted village, and local school district according to the following formula:

(The final amount computed for fiscal year 2011 under the line on the district's PASS form entitled "State Resources for the Foundation Funding Program" minus the portion of that amount paid from funds received under the American Recovery and Reinvestment Act State Fiscal Stabilization Fund) minus the amount computed for the district for the current fiscal year under Section 267.30.50 of this act.

(B) If the computation made under division (A) of this section results in a negative number, the district's funding under that division shall be zero.

SECTION 267.30.56. SUBSIDY FOR HIGH PERFORMING SCHOOL DISTRICTS

In addition to any other payments made under Sections 267.30.50 and 267.30.53 of this act or under Chapter 3317. of the Revised Code, for each of fiscal years 2012 and 2013, the Department of Education shall pay to each qualifying school district or community school, established under Chapter 3314. of the Revised Code, the amount prescribed by this section.

The Department shall pay to each school district or community school rated as "excellent with distinction" or "excellent" on the report card issued for the district or community school under sections 3302.03 and 3314.012 of the Revised Code for the prior school year an amount equal to \$17 times the district's current-year formula ADM, in the case of a school district, or the number of students in the community school's enrollment report for the current year, in the case of a community school.

As used in this section, "the number of students in the community school's enrollment report" means "the final number of students reported under divisions (B)(2)(a) and (b) of section 3314.08 of the Revised Code at the end of a fiscal year, as verified by the Department."

SECTION 267.30.60. FUNDING FOR JOINT VOCATIONAL SCHOOL DISTRICTS

The Department of Education shall distribute funds within appropriation

item 200550, Foundation Funding, for joint vocational funding in each fiscal year to each joint vocational school district that received joint vocational funding in fiscal year 2011. The Department shall distribute to each such district joint vocational funding in an amount equal to the district's total state foundation aid as reported on the final JVS payment report produced by the Department for the previous fiscal year.

The joint vocational funding for each fiscal year for each district is the amount specified in this section less any general revenue fund spending reductions ordered by the Governor under section 126.05 of the Revised Code.

SECTION 267.30.70. PROPERTY TAX ALLOCATION - EDUCATION

The Superintendent of Public Instruction shall not request, and the Controlling Board shall not approve, the transfer of appropriation from appropriation item 200901, Property Tax Allocation - Education, to any other appropriation item.

The appropriation item 200901, Property Tax Allocation - Education, is appropriated to pay for the state's costs incurred because of the homestead exemption, the property tax rollback, and payments required under division (C) of section 5705.2110 of the Revised Code. In cooperation with the Department of Taxation, the Department of Education shall distribute these funds directly to the appropriate school districts of the state, notwithstanding sections 321.24 and 323.156 of the Revised Code, which provide for payment of the homestead exemption and property tax rollback by the Tax Commissioner to the appropriate county treasurer and the subsequent redistribution of these funds to the appropriate local taxing districts by the county auditor.

Upon receipt of these amounts, each school district shall distribute the amount among the proper funds as if it had been paid as real or tangible personal property taxes. Payments for the costs of administration shall continue to be paid to the county treasurer and county auditor as provided for in sections 319.54, 321.26, and 323.156 of the Revised Code.

Any sums, in addition to the amount specifically appropriated in appropriation items 200901, Property Tax Allocation - Education, for the homestead exemption and the property tax rollback payments, and payments required under division (C) of section 5705.2110 of the Revised Code, which are determined to be necessary for these purposes, are hereby appropriated.

SECTION 267.30.80. TEACHER CERTIFICATION AND LICENSURE

The foregoing appropriation item 200681, Teacher Certification and Licensure, shall be used by the Department of Education in each year of the biennium to administer and support teacher certification and licensure activities.

SCHOOL DISTRICT SOLVENCY ASSISTANCE

(A) Of the foregoing appropriation item 200687, School District Solvency Assistance, \$20,000,000 in each fiscal year shall be allocated to the School District Shared Resource Account and \$5,000,000 in each fiscal year shall be allocated to the Catastrophic Expenditures Account. These funds shall be used to provide assistance and grants to school districts to enable them to remain solvent under section 3316.20 of the Revised Code. Assistance and grants shall be subject to approval by the Controlling Board. Except as provided under division (C) of this section, any required reimbursements from school districts for solvency assistance shall be made to the appropriate account in the School District Solvency Assistance Fund (Fund 5H30).

(B) Notwithstanding any provision of law to the contrary, upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may make transfers to the School District Solvency Assistance Fund (Fund 5H30) from any fund used by the Department of Education or the General Revenue Fund to maintain sufficient cash balances in Fund 5H30 in fiscal years 2012 and 2013. Any cash transferred is hereby appropriated. The transferred cash may be used by the Department of Education 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 the school district is unable to pay from existing resources. The Director of Budget and Management shall notify the members of the Controlling Board of any such transfers.

(C) If the cash balance of the School District Solvency Assistance Fund (Fund 5H30) is insufficient to pay solvency assistance in fiscal years 2012 and 2013, at the request of the Superintendent of Public Instruction, and with the approval of the Controlling Board, the Director of Budget and Management may transfer cash from the Lottery Profits Education Reserve Fund (Fund 7018) to Fund 5H30 to provide assistance and grants to school districts to enable them to remain solvent and to pay unforeseeable expenses of a temporary nature that they are unable to pay from existing resources under section 3316.20 of the Revised Code. Such transfers are hereby appropriated to appropriation item 200670, School District Solvency

Assistance – Lottery. Any required reimbursements from school districts for solvency assistance granted from appropriation item 200670, School District Solvency Assistance – Lottery, shall be made to Fund 7018.

SECTION 267.30.90. SCHOOLS MEDICAID ADMINISTRATIVE CLAIMS

Upon the request of the Superintendent of Public Instruction, the Director of Budget and Management may transfer up to \$639,000 cash in each fiscal year from the General Revenue Fund to the Schools Medicaid Administrative Claims Fund (Fund 3AF0). The transferred cash is to be used by the Department of Education to pay the expenses the Department incurs in administering the Medicaid School Component of the Medicaid program established under sections 5111.71 to 5111.715 of the Revised Code. On June 1 of each fiscal year, or as soon as possible thereafter, the Director of Budget and Management shall transfer cash from Fund 3AF0 back to the General Revenue Fund in an amount equal to the total amount transferred to Fund 3AF0 in that fiscal year.

The money deposited into Fund 3AF0 under division (B) of section 5111.714 of the Revised Code is hereby appropriated for fiscal years 2012 and 2013 and shall be used in accordance with division (D) of section 5111.714 of the Revised Code.

SECTION 267.40.10. HALF-MILL MAINTENANCE EQUALIZATION

The foregoing appropriation item 200626, Half-Mill Maintenance Equalization, shall be used to make payments pursuant to section 3318.18 of the Revised Code.

SECTION 267.40.20. AUXILIARY SERVICES REIMBURSEMENT

Notwithstanding section 3317.064 of the Revised Code, if the unexpended, unencumbered cash balance is sufficient, the Treasurer of State shall transfer \$1,500,000 in fiscal year 2012 within thirty days after the effective date of this section, and \$1,500,000 in fiscal year 2013 by August 1, 2012, from the Auxiliary Services Personnel Unemployment Compensation Fund to the Auxiliary Services Reimbursement Fund (Fund 5980) used by the Department of Education.

SECTION 267.40.30. LOTTERY PROFITS EDUCATION FUND

Appropriation item 200612, Foundation Funding (Fund 7017), shall be

used in conjunction with appropriation item 200550, Foundation Funding (GRF), to provide state foundation payments to school districts.

The Department of Education, with the approval of the Director of Budget and Management, shall determine the monthly distribution schedules of appropriation item 200550, Foundation Funding (GRF), and appropriation item 200612, Foundation Funding (Fund 7017). If adjustments to the monthly distribution schedule are necessary, the Department of Education shall make such adjustments with the approval of the Director of Budget and Management.

SECTION 267.40.40. LOTTERY PROFITS EDUCATION RESERVE FUND

(A) There is hereby created the Lottery Profits Education Reserve Fund (Fund 7018) in the State Treasury. Investment earnings of the Lottery Profits Education Reserve Fund shall be credited to the fund.

(B) Notwithstanding any other provision of law to the contrary, the Director of Budget and Management may transfer cash from Fund 7018 to the Lottery Profits Education Fund (Fund 7017) in fiscal year 2012 and fiscal year 2013. Amounts transferred under this section are hereby appropriated.

(C) On July 15, 2011, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$711,000,000 in fiscal year 2011. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018.

(D) On July 15, 2012, or as soon as possible thereafter, the Director of the Ohio Lottery Commission shall certify to the Director of Budget and Management the amount by which lottery profit transfers received by Fund 7017 exceeded \$717,500,000 in fiscal year 2012. The Director of Budget and Management may transfer the amount so certified, plus the cash balance in Fund 7017, to Fund 7018.

SECTION 267.40.50. GENERAL REVENUE FUND TRANSFERS TO SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS (FUND 7047)

Notwithstanding any provision of law to the contrary, in fiscal year 2012 and fiscal year 2013 the Director of Budget and Management may make temporary transfers between the General Revenue Fund and the

School District Property Tax Replacement – Business Fund (Fund 7047) in the Department of Education to ensure sufficient balances in Fund 7047 and to replenish the General Revenue Fund for such transfers.

SECTION 267.40.60. SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - BUSINESS

The foregoing appropriation item 200909, School District Property Tax Replacement – Business, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5751.21 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

SCHOOL DISTRICT PROPERTY TAX REPLACEMENT - UTILITY

The foregoing appropriation item 200900, School District Property Tax Replacement-Utility, shall be used by the Department of Education, in consultation with the Department of Taxation, to make payments to school districts and joint vocational school districts under section 5727.85 of the Revised Code. If it is determined by the Director of Budget and Management that additional appropriations are necessary for this purpose, such amounts are hereby appropriated.

DISTRIBUTION FORMULAS

The Department of Education shall report the following to the Director of Budget and Management and the Legislative Service Commission:

(A) Changes in formulas for distributing state appropriations, including administratively defined formula factors;

(B) Discretionary changes in formulas for distributing federal appropriations;

(C) Federally mandated changes in formulas for distributing federal appropriations.

Any such changes shall be reported two weeks prior to the effective date of the change.

SECTION 267.40.70. EDUCATIONAL SERVICE CENTERS FUNDING

In fiscal year 2012, each Educational Service Center shall receive funding equal to ninety per cent of the amount received in fiscal year 2011 under section 3317.11 of the Revised Code and Section 265.50.10 of Am. Sub. H.B. 1 of the 128th General Assembly.

In fiscal year 2013, each Educational Service Center shall receive

funding equal to eighty-five per cent of the amount received in fiscal year 2012 under this section.

Notwithstanding any provision of law to the contrary, the Department of Education shall modify the payments under this section as follows:

(A) If an educational service center ceases operation, the Department shall redistribute that center's funding, as calculated under this section, to the remaining centers in proportion to each center's service center ADM as defined in section 3317.11 of the Revised Code.

(B) If two or more educational service centers merge operations to create a single service center, the Department shall distribute the sum of the original service centers' funding, as calculated under this section, to the new service center.

SECTION 267.40.80. PRIVATE TREATMENT FACILITY PROJECT

(A) As used in this section:

(1) The following are "participating residential treatment centers":

(a) Private residential treatment facilities that have entered into a contract with the Department of Youth Services to provide services to children placed at the facility by the Department and which, in fiscal year 2012 or fiscal year 2013 or both, the Department pays through appropriation item 470401, RECLAIM Ohio;

(b) Abraxas, in Shelby;

(c) Paint Creek, in Bainbridge;

(d) F.I.R.S.T., in Mansfield.

(2) "Education program" means an elementary or secondary education program or a special education program and related services.

(3) "Served child" means any child receiving an education program pursuant to division (B) of this section.

(4) "School district responsible for tuition" means a city, exempted village, or local school district that, if tuition payment for a child by a school district is required under law that existed in fiscal year 1998, is the school district required to pay that tuition.

(5) "Residential child" means a child who resides in a participating residential treatment center and who is receiving an educational program under division (B) of this section.

(B) A youth who is a resident of the state and has been assigned by a juvenile court or other authorized agency to a residential treatment facility specified in division (A) of this section shall be enrolled in an approved educational program located in or near the facility. Approval of the educational program shall be contingent upon compliance with the criteria

established for such programs by the Department of Education. The educational program shall be provided by a school district or educational service center, or by the residential facility itself. Maximum flexibility shall be given to the residential treatment facility to determine the provider. In the event that a voluntary agreement cannot be reached and the residential facility does not choose to provide the educational program, the educational service center in the county in which the facility is located shall provide the educational program at the treatment center to children under twenty-two years of age residing in the treatment center.

(C) Any school district responsible for tuition for a residential child shall, notwithstanding any conflicting provision of the Revised Code regarding tuition payment, pay tuition for the child for fiscal year 2012 and fiscal year 2013 to the education program provider and in the amount specified in this division. If there is no school district responsible for tuition for a residential child and if the participating residential treatment center to which the child is assigned is located in the city, exempted village, or local school district that, if the child were not a resident of that treatment center, would be the school district where the child is entitled to attend school under sections 3313.64 and 3313.65 of the Revised Code, that school district, notwithstanding any conflicting provision of the Revised Code, shall pay tuition for the child for fiscal year 2012 and fiscal year 2013 under this division unless that school district is providing the educational program to the child under division (B) of this section.

A tuition payment under this division shall be made to the school district, educational service center, or residential treatment facility providing the educational program to the child.

The amount of tuition paid shall be:

(1) The amount of tuition determined for the district under division (A) of section 3317.08 of the Revised Code;

(2) In addition, for any student receiving special education pursuant to an individualized education program as defined in section 3323.01 of the Revised Code, a payment for excess costs. This payment shall equal the actual cost to the school district, educational service center, or residential treatment facility of providing special education and related services to the student pursuant to the student's individualized education program, minus the tuition paid for the child under division (C)(1) of this section.

A school district paying tuition under this division shall not include the child for whom tuition is paid in the district's average daily membership certified under division (A) of section 3317.03 of the Revised Code.

(D) In each of fiscal years 2012 and 2013, the Department of Education