

OHIO

SENATE

JOURNAL

TUESDAY, DECEMBER 19, 2006

TWO HUNDRED FIFTY-SECOND DAY
Senate Chamber, Columbus, Ohio
Tuesday, December 19, 2006, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Allen McClellan, Faith Assembly of God, London, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **Am. Sub. H. B. No. 699**-Representative Calvert, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Carey, Stivers, Niehaus, Clancy, Kearney.

YES - 13: JOHN A. CAREY, STEVE STIVERS, TOM NIEHAUS,
RAY MILLER, STEPHEN C. AUSTRIA, PATRICIA M.
CLANCY, TOM ROBERTS, DALE MILLER, ERIC H.
KEARNEY, JOY PADGETT, RANDY GARDNER,
GARY W. CATES, RON AMSTUTZ.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **Sub. H. B. No. 71**-Representative J. Stewart, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8: KEVIN J. COUGHLIN, PATRICIA M. CLANCY,
DAVID GOODMAN, JIM JORDAN, LARRY A.
MUMPER, RAY MILLER, ROBERT F. HAGAN,
CHARLES A. WILSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **Sub. H. B. No. 239**-Representative Schneider, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Jacobson, Jordan, Clancy, Gardner.

YES - 8: KEVIN J. COUGHLIN, PATRICIA M. CLANCY, DAVID GOODMAN, JEFF JACOBSON, JIM JORDAN, LARRY A. MUMPER, CHARLES A. WILSON, RANDY GARDNER.

NO - 3: RAY MILLER, ERIC D. FINGERHUT, ROBERT F. HAGAN.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **Am. Sub. H. B. No. 272**-Representative Schneider, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 11: KEVIN J. COUGHLIN, RANDY GARDNER, RAY MILLER, PATRICIA M. CLANCY, DAVID GOODMAN, JEFF JACOBSON, JIM JORDAN, CHARLES A. WILSON, ROBERT F. HAGAN, ERIC D. FINGERHUT, LARRY A. MUMPER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Niehaus submitted the following report:

The standing committee on Environment and Natural Resources, to which was referred **Am. Sub. H. B. No. 443**-Representative Uecker, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Niehaus.

YES - 5: LARRY A. MUMPER, ROBERT F. SPADA, JAY HOTTINGER, JOHN A. CAREY, TOM NIEHAUS.

NO - 3: ROBERT F. HAGAN, DALE MILLER, TERESA FEDOR.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Padgett submitted the following report:

The standing committee on Education, to which was referred **Am. H. B. No. 671**-Representative Webster, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Cates.

YES - 8: JEFF JACOBSON, JOHN A. CAREY, GARY W. CATES, RANDY GARDNER, JOY PADGETT, LARRY A. MUMPER, TERESA FEDOR, ERIC D. FINGERHUT.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 399**-Senator Stivers, having had the same under consideration, reports it back and recommends its passage.

YES - 10: JEFFRY J. ARMBRUSTER, STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, STEVE STIVERS, ERIC D. FINGERHUT, RAY MILLER, ERIC H. KEARNEY, JAY HOTTINGER, LYNN R. WACHTMANN, GARY W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **Am. Sub. H. B. No. 187**-Representative Buehrer, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Wachtmann, Cates.

YES - 10: JEFFRY J. ARMBRUSTER, STEVE STIVERS,
STEPHEN C. AUSTRIA, PATRICIA M. CLANCY, ERIC
D. FINGERHUT, RAY MILLER, ERIC H. KEARNEY,
JAY HOTTINGER, LYNN R. WACHTMANN, GARY
W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **Am. Sub. H. B. No. 403**-Representative Fessler, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 9: ERIC H. KEARNEY, ERIC D. FINGERHUT, JAY
HOTTINGER, STEVE STIVERS, JEFFRY J.
ARMBRUSTER, STEPHEN C. AUSTRIA, PATRICIA
M. CLANCY, LYNN R. WACHTMANN, GARY W.
CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **H. B. No. 487**-Representative Widener, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 9: JEFFRY J. ARMBRUSTER, RAY MILLER, ERIC H.
KEARNEY, PATRICIA M. CLANCY, STEVE STIVERS,

STEPHEN C. AUSTRIA, JAY HOTTINGER, LYNN R. WACHTMANN, GARY W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Stivers submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **Am. Sub. H. B. No. 690**-Representative Seitz, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Cates.

YES - 7: JAY HOTTINGER, LYNN R. WACHTMANN, PATRICIA M. CLANCY, JEFFRY J. ARMBRUSTER, STEVE STIVERS, STEPHEN C. AUSTRIA, GARY W. CATES.

NO - 3: ERIC H. KEARNEY, RAY MILLER, ERIC D. FINGERHUT.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

Gerald E. Bixler, Republican, from North Canton, Stark County, Ohio, as a Member of the Ohio Advisory Council for the Aging for a new term beginning November 27, 2006 and ending at the close of business November 22, 2009.

Billie J. Brandon, Democrat, from Mansfield, Richland County, Ohio, as a member of the Ohio Advisory Council for the Aging for a new term beginning November 27, 2006 and ending at the close of business November 22, 2009.

Sandra J. Calvert, Republican, from Medina, Medina County, Ohio, as a Member of the Ohio Advisory Council for the Aging for a term beginning November 27, 2006 and ending at the close of business November 22, 2009, replacing Gary A. Weiss, whose term expired.

John T. Campbell, Republican, from Columbus, Franklin County, Ohio, as a Member of the Hearing Aid Dealers and Fitters Licensing Board for a term

beginning November 9, 2006 and ending at the close of business January 25, 2010, replacing Phyllis Mosley, whose term expired.

Stephen M. Millett, Democrat, from Columbus, Franklin County, Ohio, as a Member of the State Board of Education for a new term beginning December 31, 2006 and ending at the close of business December 31, 2010.

David L. Parsons, Republican, from Albany, Athens County, Ohio, as a Member of the Board of Speech-Language Pathology and Audiology for a new term beginning November 9, 2006 and ending at the close of business September 26, 2009.

Virginia D. Ragan, Republican, from Westerville, Franklin County, Ohio, as a Member of the Ohio Advisory Council for the Aging for a new term beginning November 27, 2006 and ending at the close of business November 22, 2009.

Jacqueline Romer-Sensky, Republican, from Westerville, Delaware County, Ohio, as a Member of the Rehabilitation Services Commission for a new term beginning September 15, 2006 and ending at the close of business September 8, 2013.

Jennifer L. Sheets, Republican, from Pomeroy, Meigs County, Ohio, as a Member of the State Board of Education for a new term beginning December 31, 2006 and ending at the close of business December 31, 2010.

Carl F. Wick, Republican, from Centerville, Montgomery County, Ohio, as a Member of the State Board of Education for a new term beginning December 31, 2006 and ending at the close of business December 31, 2010.

Patricia M. Zurlinden, Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the Board of Speech-Language Pathology and Audiology for a new term beginning November 9, 2006 and ending at the close of business September 26, 2009.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 10: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, KIMBERLY A. ZURZ.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

Pursuant to Senate Rule No. 98, Senator Jacobson moved that the appointments of **Stephen M. Millet, Jennifer L. Sheets, and Carl F. Wick** be removed from the list and voted on separately.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate advise and consent to the appointments of **Stephen M. Millet, Jennifer L. Sheets, and Carl F. Wick?**"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

So the Senate advised and consented to said appointments.

The question being, "Shall the Senate advise and consent to the remaining appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the Senate advised and consented to said appointments.

HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

Sub. S. B. No. 279-Senators Stivers, Cates, Spada, Armbruster, Goodman, Mumper, Wachtmann -Representatives Smith, G., Daniels, Evans, D., Faber, Gibbs, Patton, T., Raussen, Wolpert, Blessing, Combs, Domenick, Evans, C., Flowers, Schaffer, Schneider.

To amend sections 3955.01, 3955.05, and 3955.12 of the Revised Code to exempt the Ohio Insurance Guaranty Association from being obligated to pay more than a single three hundred thousand dollar claim for injury or death to any one person and a claim of an insured whose net worth exceeds fifty million dollars and to exempt certain reciprocal insurers from participation in the Ohio Insurance Guaranty Association, were taken up.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 24, nays 9, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fingerhut
Gardner	Goodman	Grendell	Hottinger
Jacobson	Jordan	Kearney	Mumper
Niehaus	Padgett	Schuler	Schuring
Spada	Stivers	Wachtmann	Harris-24.

Those who voted in the negative were: Senators

Dann	Fedor	Hagan	Miller D
Miller R	Prentiss	Roberts	Wilson
			Zurz-9.

So the Senate concurred in the amendments of the House of Representatives.

The amendments of the House of Representatives to:

Sub. S. B. No. 393-Senators Mumper, Grendell, Niehaus, Schuler, Harris -Representatives Aslanides, Domenick, Gibbs, Schlichter, Widener, Distel, McGregor, J., Core, Reinhard, Blessing, Collier, Combs, Dolan, Evans, C., Hagan, Hood, Schneider, Setzer.

To amend sections 903.08 and 6111.04 and to enact section 6111.451 of the Revised Code to make changes to the national pollutant discharge elimination system program with respect to concentrated animal feeding facilities, to require the Director of Environmental Protection to adopt rules specifying certain construction activities that may be conducted prior to approval of plans for a treatment or disposal works under the Water Pollution Control Law, and to establish the Preconstruction Rules Working Group for the purpose of

developing the rules, were taken up.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 26, nays 7, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Fingerhut
Gardner	Goodman	Grendell	Hottinger
Jacobson	Jordan	Kearney	Mumper
Niehaus	Padgett	Prentiss	Schuler
Schuring	Spada	Stivers	Wachtmann
Zurz			Harris-26.

Senators Dann, Fedor, Hagan, Miller D, Miller R, Roberts, and Wilson voted in the negative-7.

So the Senate concurred in the amendments of the House of Representatives.

REPORTS OF CONFERENCE COMMITTEES

Sub. H. B. No. 259-Representatives Wagner, McGregor, J., Martin, Evans, C., Fende, Bubp, Wagoner, Seaver, Evans, D., Setzer, Hagan, Harwood, Gilb, Wolpert, Distel, Willamowski, Collier, Latta, Faber, Brown, Aslanides, Uecker, Allen, Perry, Mason, Hughes, Blessing, Daniels, DeBose, DeGeeter, Domenick, Fessler, Flowers, Gibbs, Law, Oelslager, Otterman, Patton, T., Reidelbach, Schaffer, Schlichter, Schneider, Smith, G., Stewart, J., Taylor, Williams.

To amend section 2921.38 of the Revised Code to prohibit a person, with intent to harass, annoy, threaten, or alarm a law enforcement officer, from causing or attempting to cause the law enforcement officer to come into contact with a bodily substance and to prohibit any person from engaging in the same action with respect to any person when the person is a knowing carrier of certain viruses or bacteria.

The question being, "Shall the report of the Committee of Conference be agreed to?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R

Mumper
Roberts
Stivers

Niehaus
Schuler
Wachtmann

Padgett
Schuring
Wilson

Prentiss
Spada
Zurz
Harris-33.

So the report of Committee of Conference was agreed to.

Senator Padgett submitted the following report:

The Committee of Conference to which the matters of difference between the two houses were referred on Sub. H.B. 79, Representative Raga - et al., having had the same under consideration, recommends to the respective houses as follows:

The bill as passed by the Senate with the following amendments:

In line 34, after "3302.021," insert "3312.02,"

Between lines 561 and 562, insert:

"Sec. 3312.02. (A) There shall be the following sixteen regions in the educational regional service system:

(1) Region one shall consist of the territory contained in Defiance, Fulton, Hancock, Henry, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, and Wood counties.

(2) Region two shall consist of the territory contained in Erie, Huron, and Lorain counties.

(3) Region three shall consist of the territory contained in Cuyahoga county.

(4) Region four shall consist of the territory contained in Geauga and Lake counties.

(5) Region five shall consist of the territory contained in Ashtabula, Mahoning, and Trumbull counties.

(6) Region six shall consist of the territory contained in Allen, Auglaize, Champaign, Hardin, Logan, Mercer, and Shelby counties.

(7) Region seven shall consist of the territory contained in Ashland, Crawford, Knox, Marion, Morrow, Richland, and Wyandot counties.

(8) Region eight shall consist of the territory contained in Medina, Portage, and Summit counties.

(9) Region nine shall consist of the territory contained in Columbiana, Stark, and Wayne counties.

(10) Region ten shall consist of the territory contained in Clark, Darke, Greene, Miami, Montgomery, and Preble counties.

(11) Region eleven shall consist of the territory contained in Delaware, Fairfield, Franklin, Licking, Madison, Pickaway, and Union counties.

(12) Region twelve shall consist of the territory contained in Belmont, Carroll, Coshocton, Guernsey, Harrison, Holmes, Jefferson, Muskingum, Noble, and Tuscarawas counties.

(13) Region thirteen shall consist of the territory contained in Butler, Clermont, Hamilton, and Warren counties.

(14) Region fourteen shall consist of the territory contained in Adams, Brown, Clinton, Fayette, and Highland counties.

(15) Region fifteen shall consist of the territory contained in Lawrence, Pike, Ross, and Scioto counties.

(16) Region sixteen shall consist of the territory contained in Athens, Gallia, Hocking, Jackson, Meigs, Monroe, Morgan, Perry, Vinton, and Washington counties.

~~(B) If an educational service center has territory in more than one region as designated under this section, the service center and each local school district located in the service center's territory shall be considered to be part of the region in which the majority of the service center's territory is located and shall not be considered to be part of any other region. If a city or exempted village school district has territory in more than one region as designated under this section, the district shall be considered to be part of the region in which the majority of the district's territory is located and shall not be considered to be part of any other region.~~

~~(C) Not later than July 1, 2007, the state board of education shall adopt rules establishing a process whereby a school district may elect to transfer to a region other than the region to which the district is assigned by this section. The state board shall consult with school districts and regional service providers in developing the process. No school district shall be permitted to transfer to a different region under this division after June 30, 2009."~~

In line 2412, after "3302.021," insert "3312.02,"

In line 1 of the title, after "3302.021," insert "3312.02,"

In line 32 of the title, after the comma insert "to revise regional designations for educational service centers or school districts located in multiple regions,"

In line 34, after "3302.021," insert "3312.03,"

Between lines 561 and 562, insert:

"**Sec. 3312.03.** (A) Each region of the educational regional service

system shall have an advisory council. Except as provided in division (F) of this section, each advisory council shall consist of the following members and the members appointed under division (B) of this section:

- (1) The superintendent of each educational service center that has territory in the region;
- (2) The director of the special education regional resource center in the region;
- (3) The superintendent of the school district in the region with the smallest student population;
- (4) The superintendent of the school district in the region with the largest student population;
- (5) The director, or the director's designee, of each data acquisition site ~~located~~ providing services in the region;
- (6) One representative of a four-year institution of higher education located in the region, or in an adjacent region if there is no such institution, appointed by the Ohio board of regents;
- (7) One representative of a two-year institution of higher education located in the region, or in an adjacent region if there is no such institution, appointed by the Ohio association of community colleges;
- (8) The treasurer of the fiscal agent for the region.

(B) The members of the advisory council listed in division (A) of this section, upon a majority vote, shall appoint the following members to serve on the council:

- (1) One member of the board of education of a city school district in the region;
- (2) One member of the board of education of an exempted village school district in the region;
- (3) One member of the board of education of a local school district in the region;
- (4) One member of the governing board of an educational service center in the region;
- (5) One superintendent of a city, exempted village, or local school district in the region;
- (6) One superintendent of a joint vocational school district in the region;
- (7) One representative of business;
- (8) One employee of each education technology center that provides services in the region;
- (9) One classroom teacher.

(C) Each advisory council annually shall elect a chairperson and vice-chairperson from among its members.

(D) For two years after its initial meeting, each advisory council shall hold regular meetings at least four times each year to conduct council business and may hold other meetings at the call of the chairperson. Subsequently, all meetings shall be called by the chairperson.

(E) Advisory council members shall receive no compensation for their services.

(F) Any advisory council may increase its membership beyond the members required by divisions (A) and (B) of this section by adopting a resolution specifying the number of additional members, their manner of appointment, and any eligibility criteria for appointment."

In line 2412, after "3302.021," insert "3312.03,"

In line 1 of the title, after "3302.021," insert "3312.03,"

In line 32 of the title, after the comma insert "to revise the Educational Regional Service System advisory councils membership,"

In line 34, after "sections" insert "3301.075, "; after "3302.021," insert "3312.01, 3312.03, 3312.04, 3312.05, 3312.08, 3312.10,"

Between lines 38 and 39, insert:

"Sec. 3301.075. The state board of education shall adopt rules governing the purchasing and leasing of data processing services and equipment for all local, exempted village, city, and joint vocational school districts and all educational service centers. Such rules shall include provisions for the establishment of an Ohio education computer network under procedures, guidelines, and specifications of the department of education.

The department shall administer funds appropriated for the Ohio education computer network to ensure its efficient and economical operation and shall approve no more than twenty-sevendata acquisition sitesinformation technology centers to operate concurrently. Such sitescenters shall be approved for funding in accordance with rules of the state board adopted under this section that shall provide for the superintendent of public instruction to require the membership of each ~~data acquisition site~~information technology center to be composed of combinations of school districts and educational service centers having sufficient students to support an efficient, economical comprehensive program of computer services to member districts and educational service centers. However, no such rule shall prohibit a school district or educational service center from receiving computer services from any ~~data acquisition site~~information technology center established under this section or from any other public or private vendor. Each ~~data acquisition site~~information technology center shall be organized in accordance with section 3313.92 or Chapter 167. of the Revised Code.

The department of education may contract with an independent for profit or nonprofit entity to provide current and historical information on Ohio government through the Ohio education computer network to school district libraries operating in accordance with section 3375.14 of the Revised Code in order to assist school teachers in social studies course instruction and support student research projects. Any such contract shall be awarded in accordance with Chapter 125. of the Revised Code."

In line 260, strike through "data acquisition site" and insert "information technology center"

In line 262, strike through "acquisition site" and insert "technology center"

In line 278, strike through "data acquisition sites" and insert "information technology centers"

In line 388, strike through "data acquisition site" and insert "information technology center"

Between lines 561 and 562, insert:

"**Sec. 3312.01.** (A) The educational regional service system is hereby established. The system shall support state and regional education initiatives and efforts to improve school effectiveness and student achievement. Services, including special education and related services, shall be provided under the system to school districts, community schools established under Chapter 3314. of the Revised Code, and chartered nonpublic schools.

It is the intent of the general assembly that the educational regional service system reduce the unnecessary duplication of programs and services and provide for a more streamlined and efficient delivery of educational services without reducing the availability of the services needed by school districts and schools.

(B) The educational regional service system shall consist of the following:

(1) The state regional alliance advisory board established under section 3312.11 of the Revised Code;

(2) The advisory councils and subcommittees established under sections 3312.03 and 3312.05 of the Revised Code;

(3) A fiscal agent for each of the regions as configured under section 3312.02 of the Revised Code;

(4) Educational service centers, ~~data acquisition sites~~information technology centers established under section 3301.075 of the Revised Code, and other regional education service providers.

(C) Educational service centers shall provide the services that they are specifically required to provide by the Revised Code and may enter into

agreements pursuant to section 3313.843, 3313.844, or 3313.845 of the Revised Code for the provision of other services, which may include any of the following:

- (1) Assistance in improving student performance;
- (2) Services to enable a school district or school to operate more efficiently or economically;
- (3) Professional development for teachers or administrators;
- (4) Assistance in the recruitment and retention of teachers and administrators;
- (5) Any other educational, administrative, or operational services.

In addition to implementing state and regional education initiatives and school improvement efforts under the educational regional service system, educational service centers shall implement state or federally funded initiatives assigned to the service centers by the general assembly or the department of education.

Any educational service center selected to be a fiscal agent for its region pursuant to section 3312.07 of the Revised Code shall continue to operate as an educational service center for the part of the region that comprises its territory.

(D) ~~Data acquisition sites~~ Information technology centers may enter into agreements for the provision of services pursuant to section 3312.10 of the Revised Code.

(E) No school district, community school, or chartered nonpublic school shall be required to purchase services from an educational service center or ~~data acquisition site~~ information technology center in the region in which the district or school is located, except that a local school district shall receive any services required by the Revised Code to be provided by an educational service center to the local school districts in its territory from the educational service center in whose territory the district is located.

Sec. 3312.03. (A) Each region of the educational regional service system shall have an advisory council. Except as provided in division (F) of this section, each advisory council shall consist of the following members and the members appointed under division (B) of this section:

- (1) The superintendent of each educational service center that has territory in the region;
- (2) The director of the special education regional resource center in the region;
- (3) The superintendent of the school district in the region with the smallest student population;
- (4) The superintendent of the school district in the region with the largest

student population;

(5) The director of each ~~data-acquisition-site~~information technology center located in the region;

(6) One representative of a four-year institution of higher education located in the region, or in an adjacent region if there is no such institution, appointed by the Ohio board of regents;

(7) One representative of a two-year institution of higher education located in the region, or in an adjacent region if there is no such institution, appointed by the Ohio association of community colleges;

(8) The treasurer of the fiscal agent for the region.

(B) The members of the advisory council listed in division (A) of this section, upon a majority vote, shall appoint the following members to serve on the council:

(1) One member of the board of education of a city school district in the region;

(2) One member of the board of education of an exempted village school district in the region;

(3) One member of the board of education of a local school district in the region;

(4) One member of the governing board of an educational service center in the region;

(5) One superintendent of a city, exempted village, or local school district in the region;

(6) One superintendent of a joint vocational school district in the region;

(7) One representative of business;

(8) One employee of each education technology center that provides services in the region;

(9) One classroom teacher.

(C) Each advisory council annually shall elect a chairperson and vice-chairperson from among its members.

(D) For two years after its initial meeting, each advisory council shall hold regular meetings at least four times each year to conduct council business and may hold other meetings at the call of the chairperson. Subsequently, all meetings shall be called by the chairperson.

(E) Advisory council members shall receive no compensation for their services.

(F) Any advisory council may increase its membership beyond the

members required by divisions (A) and (B) of this section by adopting a resolution specifying the number of additional members, their manner of appointment, and any eligibility criteria for appointment.

Sec. 3312.04. The advisory council of each region of the educational regional service system shall do all of the following:

(A) Identify regional needs and priorities for educational services;

(B) Develop policies to coordinate the delivery of services to school districts, community schools, and chartered nonpublic schools in a manner that responds to regional needs and priorities. Such policies shall not supersede any requirement of a performance contract entered into by the fiscal agent of the region under section 3312.08 of the Revised Code.

(C) Make recommendations to the fiscal agent for the region regarding the expenditure of funds available to the region for implementation of state and regional education initiatives and school improvement efforts;

(D) Monitor implementation of state and regional education initiatives and school improvement efforts by educational service centers, ~~data acquisition sites~~information technology centers, and other regional service providers to ensure that the terms of the performance contracts entered into by the fiscal agent for the region under section 3312.08 of the Revised Code are being met;

(E) Establish an accountability system to evaluate the advisory council on its performance of the duties described in divisions (A) to (D) of this section.

Sec. 3312.05. (A) The advisory council of each region of the educational regional service system shall establish the following specialized subcommittees of the council:

(1) A school improvement subcommittee, which shall include one classroom teacher appointed jointly by the Ohio education association and the Ohio federation of teachers and representatives of community schools and education personnel with expertise in the area of school improvement;

(2) An education technology subcommittee, which shall include classroom teachers or curriculum coordinators, parents, elementary and secondary school principals, representatives of chartered nonpublic schools, representatives of ~~data acquisition sites~~information technology centers, representatives of business, and representatives of two-year and four-year institutions of higher education;

(3) A professional development subcommittee, which shall include classroom teachers, principals, school district superintendents, curriculum coordinators, representatives of chartered nonpublic schools, and representatives of two-year and four-year institutions of higher education;

(4) A special education subcommittee, which shall consist of one classroom teacher appointed jointly by the Ohio education association and the Ohio federation of teachers and the members of the governing board of the

special education regional resource center in the region;

(5) ~~A data acquisition site~~ An information technology center subcommittee, which shall consist of one classroom teacher appointed jointly by the Ohio education association and the Ohio federation of teachers and the members of the governing authority of each ~~data acquisition site~~ information technology center located in the region.

(B) The advisory council shall appoint persons who reside or practice their occupations in the region to serve on the subcommittees established under divisions (A)(1) to (3) of this section. If the advisory council is unable to appoint such a person to a subcommittee, the council shall appoint a similarly situated person from an adjacent region.

(C) An advisory council may establish additional subcommittees as needed to address topics of interest to the council. Members of any additional subcommittee shall be appointed by the advisory council and shall include a diverse range of classroom teachers and other education personnel with expertise in the topic addressed by the subcommittee and representatives of individuals or groups with an interest in the topic.

(D) Any member of an advisory council may participate in the deliberations of any subcommittee established by the council.

Sec. 3312.08. Each fiscal agent selected by the department of education pursuant to section 3312.07 of the Revised Code shall do all of the following:

(A) Enter into performance contracts with the department in accordance with section 3312.09 of the Revised Code for the implementation of state and regional education initiatives and school improvement efforts;

(B) Receive federal and state funds, including federal funds for the provision of special education and related services, as specified in the performance contracts, and disburse those funds as specified in the performance contracts to educational service centers, ~~data acquisition sites~~ information technology centers, and other regional service providers. However, any funds owed to an educational service center under section 3317.11 of the Revised Code shall be paid directly to the service center by the department in accordance with that section and any operating funds appropriated for a ~~data acquisition site~~ an information technology center shall be paid directly to the ~~data acquisition site~~ information technology center by the department pursuant to section 3301.075 of the Revised Code.

(C) Implement any expenditure of funds recommended by the advisory council for the region pursuant to section 3312.04 of the Revised Code or required by the terms of any performance contract, unless there are insufficient funds available to the region to pay for the expenditure or the expenditure violates a provision of the Revised Code, a rule of the state board of education regarding such expenditure, or the terms of a performance contract;

(D) Exercise fiscal oversight of the implementation of state and regional

education initiatives and school improvement efforts.

Sec. 3312.10. The board of education of a city, exempted village, or local school district or the governing authority of a community school may enter into an agreement, through the adoption of identical resolutions, with the governing authority of a ~~data acquisition site~~ information technology center, under which the ~~data acquisition site~~ information technology center will provide services to the school district or community school. Services provided under the agreement and the amount to be paid for such services shall be mutually agreed to by the parties to the agreement, and shall be specified in the agreement. Payment for services specified in the agreement shall be the sole responsibility of the board of education or community school governing authority and shall be made directly to the ~~data acquisition site~~ information technology center providing the services."

In line 2412, after "sections" insert "3301.075,"; after "3302.021," insert "3312.01, 3312.03, 3312.04, 3312.05, 3312.08, 3312.10,"

In line 1 of the title, after "sections" insert "3301.075,"; after "3302.021," insert "3312.01, 3312.03, 3312.04, 3312.05, 3312.08, 3312.10,"

In line 32 of the title, after the comma insert "to rename data acquisition sites as information technology centers,"

In line 34, after "3302.021," insert "3312.05,"

Between lines 561 and 562, insert:

"Sec. 3312.05. (A) The advisory council of each region of the educational regional service system shall establish the following specialized subcommittees of the council:

(1) A school improvement subcommittee, which shall include one classroom teacher appointed jointly by the Ohio education association and the Ohio federation of teachers and representatives of community schools and education personnel with expertise in the area of school improvement;

(2) An education technology subcommittee, which shall include classroom teachers or curriculum coordinators, parents, elementary and secondary school principals, representatives of chartered nonpublic schools, representatives of data acquisition sites, representatives of business, and representatives of two-year and four-year institutions of higher education;

(3) A professional development subcommittee, which shall include classroom teachers, principals, school district superintendents, curriculum coordinators, representatives of chartered nonpublic schools, and representatives of two-year and four-year institutions of higher education;

(4) A special education subcommittee, which shall consist of one classroom teacher appointed jointly by the Ohio education association and the Ohio federation of teachers and the members of the governing board of the special education regional resource center in the region;

(5) A data acquisition site subcommittee, which shall consist of one classroom teacher appointed jointly by the Ohio education association and the Ohio federation of teachers ~~and the members of the governing authority of each data acquisition site located in the region; the site administrator, or the administrator's designee, of each data acquisition site providing services in the region; and two school district administrators appointed by each data acquisition site providing services in the region.~~

(B) The advisory council shall appoint persons who reside or practice their occupations in the region to serve on the subcommittees established under divisions (A)(1) to (3) of this section. If the advisory council is unable to appoint such a person to a subcommittee, the council shall appoint a similarly situated person from an adjacent region.

(C) An advisory council may establish additional subcommittees as needed to address topics of interest to the council. Members of any additional subcommittee shall be appointed by the advisory council and shall include a diverse range of classroom teachers and other education personnel with expertise in the topic addressed by the subcommittee and representatives of individuals or groups with an interest in the topic.

(D) Any member of an advisory council may participate in the deliberations of any subcommittee established by the council."

In line 2412, after "3302.021," insert "3312.05,"

In line 1 of the title, after "3302.021," insert "3312.05,"

In line 32 of the title, after the comma insert "to revise the Educational Regional Service System Data Acquisition Site Subcommittee membership,"

In line 34, after "3302.021," insert "3312.09,"

Between lines 561 and 562, insert:

"**Sec. 3312.09.** (A) Each performance contract entered into by the department of education and the fiscal agent of a region for implementation of a state or regional education initiative or school improvement effort shall include the following:

(1) An explanation of how the regional needs and priorities for educational services have been identified by the advisory council of the region, the advisory council's subcommittees, and the department;

(2) A definition of the services to be provided to school districts, community schools, and chartered nonpublic schools in the region, including any services provided pursuant to division (A) of section 3302.04 of the Revised Code;

~~(2)~~(3) Expected outcomes from the provision of the services defined in the contract;

~~(3)~~(4) The method the department will use to evaluate whether the

expected outcomes have been achieved;

~~(4)~~(5) A requirement that the fiscal agent develop and implement a corrective action plan if the results of the evaluation are unsatisfactory;

~~(5)~~(6) Data reporting requirements;

~~(6)~~(7) The aggregate fees to be charged by the fiscal agent and any entity with which it subcontracts to cover personnel and program costs associated with administering the contract, which fees shall be subject to controlling board approval if in excess of four per cent of the value of the contract;

~~(7)~~(8) A requirement that a member of the advisory council in the region be a member of the state regional alliance advisory board established under section 3312.11 of the Revised Code.

(B) Upon completion of each evaluation described in a performance contract, the department shall post the results of that evaluation on its web site."

In line 2412, after "3302.021," insert "3312.09,"

In line 1 of the title, after "3302.021," insert "3312.09,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to require additional content in fiscal agent performance contracts under the Educational Regional Service System"

In line 34, after "3302.021," insert "3312.04,"

Between lines 561 and 562, insert:

"**Sec. 3312.04.** The advisory council of each region of the educational regional service system shall do all of the following:

(A) Identify regional needs and priorities for educational services to inform the department of education in the development of the performance contracts entered into by the fiscal agent of the region under section 3312.08 of the Revised Code;

(B) Develop policies to coordinate the delivery of services to school districts, community schools, and chartered nonpublic schools in a manner that responds to regional needs and priorities. Such policies shall not supersede any requirement of a performance contract entered into by the fiscal agent of the region under section 3312.08 of the Revised Code.

(C) Make recommendations to the fiscal agent for the region regarding the expenditure of funds available to the region for implementation of state and regional education initiatives and school improvement efforts;

(D) Monitor implementation of state and regional education initiatives and school improvement efforts by educational service centers, data acquisition sites, and other regional service providers to ensure that the terms of the performance contracts entered into by the fiscal agent for the region under

section 3312.08 of the Revised Code are being met;

(E) Establish an accountability system to evaluate the advisory council on its performance of the duties described in divisions (A) to (D) of this section."

In line 2412, after "3302.021," insert "3312.04,"

In line 1 of the title, after "3302.021," insert "3312.04,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to clarify the duties of regional advisory councils under the Educational Regional Service System"

In line 34, after "3302.021," insert "3312.13,"

Between lines 561 and 562, insert:

"Sec. 3312.13. The department of education shall consider the ~~unique needs and circumstances~~ following when entering into performance contracts with the fiscal agent of each region of the educational regional service system and when allocating funds for the implementation of statewide education initiatives by regional service providers;

(A) The unique needs and circumstances of the region;

(B) The regional needs and priorities for educational services identified by the advisory council for the region;

(C) Any services that will be provided to school districts and schools within the region pursuant to division (A) of section 3302.04 of the Revised Code."

In line 2412, after "3302.021," insert "3312.13,"

In line 1 of the title, after "3302.021," insert "3312.13,"

In line 35, after "3323.20," insert "3701.93,"

Between lines 2153 and 2154, insert:

"Sec. 3701.93. As used in sections 3701.931 to 3701.936 of the Revised Code:

(A) "Board of health" has the same meaning as in section 3717.01 of the Revised Code.

(B) "Nonpublic school" means a chartered nonpublic school that meets the minimum education standards prescribed by the state board of education under section 3301.07 of the Revised Code. "Nonpublic school" includes facilities used for child care programs for preschool children operated by the school.

(C) "Public school" means either of the following:

(1) A school operated by a school district, educational service center, or

board of mental retardation and developmental disabilities, including facilities used for child care programs for preschool children operated by the district, center, or board;

(2) A community school established under Chapter 3314. of the Revised Code, including a facility operated by an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, that is used as a classroom or laboratory for one or more students. "Public school" does not mean the residence of a student enrolled in an internet- or computer-based community school.

(D) "School" does not mean any of the following:

(1) A child care program for preschool children that is licensed by the department of job and family services pursuant to Chapter 5104. of the Revised Code;

(2) A child care program for preschool children that is not operated by a public or nonpublic school;

(3) A chartered kindergarten that is associated with a freestanding preschool and that is not operated by a school district, educational service center, or county board of mental retardation and developmental disabilities."

In line 2414, after "3323.20," insert "3701.93,"

In line 3 of the title, after "3323.20," insert "3701.93,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to clarify which schools are subject to inspection under the School Health and Safety Network"

In line 34, after "3302.021," insert "3313.472,"

Between lines 561 and 562, insert:

"Sec. 3313.472. (A) The board of education of each city, exempted village, local, and joint vocational school district shall adopt a policy on parental involvement in the schools of the district. The policy shall be designed to build consistent and effective communication between the parents and foster caregivers of students enrolled in the district and the teachers and administrators assigned to the schools their children or foster children attend. The policy shall provide the opportunity for parents and foster caregivers to be actively involved in their children's or foster children's education and to be informed of the following:

~~(A)~~(1) The importance of the involvement of parents and foster caregivers in directly affecting the success of their children's or foster children's educational efforts;

~~(B)~~(2) How and when to assist their children or foster children in and support their children's or foster children's classroom learning activities;

~~(C)~~(3) Techniques, strategies, and skills to use at home to improve their children's or foster children's academic success and to support their children's or foster children's academic efforts at school and their children's or foster children's development as future responsible adult members of society.

(B) The state board of education shall adopt recommendations for the development of parental involvement policies under this section. Prior to adopting the recommendations, the state board shall consult with the national center for parents at the university of Toledo."

In line 624, after "3301.0715," insert "3313.472,"

In line 2412, after "3302.021," insert "3313.472,"

In line 1 of the title, after "3302.021," insert "3313.472,"

In line 32 of the title, delete "and"

In line 33, after "codes" insert ", and to require the State Board of Education to adopt recommendations for the development of school parental involvement polices"

In line 34, after "3302.021," insert "3310.03,"

Between lines 522 and 523, insert:

"Sec. 3310.03. (A) A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student satisfies both of the following conditions:

(1) The student either:

(a) Is enrolled in a school building that is operated by the student's resident district and that the department of education declared, in the most recent rating of school buildings published prior to the first day of July of the school year for which a scholarship is sought and in the two preceding school years, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code;

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

(c) Is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1)(a) of this section;

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

(i) Has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level,

respectively, is automatically assigned to a particular school building;

(ii) In the most recent rating of school districts published prior to the first day of July of the school year for which a scholarship is sought and in the preceding two school years, was declared to be in a state of academic emergency under section 3302.03 of the Revised Code.

(2) The student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code.

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

(1) The student's resident district remains the same;

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

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including excused absences ~~due to illness or injury confirmed in writing by a physician.~~

(C) The superintendent shall cease awarding first-time scholarships with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to be in a state of academic emergency or academic watch. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section.

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

In line 2412, after "3302.021," insert "3310.03,"

In line 1 of the title, after "3302.021," insert "3310.03,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to revise terms for renewing Educational Choice Scholarships"

In line 34, after "3302.021," insert "3314.02,"

Between lines 561 and 562, insert:

"Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community

schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

- (a) A school district that is part of the pilot project area;
- (b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;
- (c) A big eight school district.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

- (a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;
- (b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of the city, local, or exempted village school district in which the public school is proposed to be converted. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school, indicating the intention of the board of education to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the

school, establish a governing authority for the school, and negotiate a contract with the board of education. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board of education shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center;

(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars and a demonstrated record of financial responsibility.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code and the entity has a demonstrated record of successful implementation of educational programs.

(iv) The entity is not a community school.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school to a community school or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall notify the department of education when the contract has been signed. Subject to sections 3314.013 and 3314.014 of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E)(1) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals who are not owners or employees, or immediate relatives of owners or employees, of any for-profit firm that operates or manages a school for the governing authority.

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(2) No person shall serve on the governing authorities of more than two start-up community schools at the same time.

(F) Nothing in this chapter shall be construed to permit the establishment of a community school in more than one school district under the same contract.

(G)(1) A new start-up school that is established prior to August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after that date and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after that date, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district."

In line 2412, after "3302.021," insert "3314.02,"

In line 1 of the title, after "3302.021," insert "3314.02,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to prohibit persons from serving on more than two start-up community school governing authorities"

In line 36, after "3310.12," insert "3314.025,"

Between lines 561 and 562, insert:

"Sec. 3314.025. The governing authority of a start-up community school may provide by resolution for the compensation of each of its members in an amount up to one hundred twenty-five dollars for each meeting of the governing authority that the member attends. However, no individual shall be compensated more than one hundred twenty-five dollars in any month by each governing authority of which the individual is a member.

Except in the case of a community school that has contracted with an operator, as defined in section 3314.014 of the Revised Code, the compensation for governing authority members shall be paid by the school's fiscal officer from the operating funds held in the treasury of the school. In the case of a community school that has contracted with an operator, the compensation for governing authority members shall be paid by the operator from funds paid to the operator by the school.

If an individual is a member of the governing authority of more than one start-up community school and those governing authorities convene their meetings at the same place on the same day, that individual shall receive as compensation for all of those meetings combined not more than the highest amount per-member per-meeting specified by the governing authorities of those schools. The amount paid to that individual for that day shall be divided evenly among the start-up community schools for which that individual is a governing

authority member, and for which the governing authorities have specified compensation for their members in accordance with this section."

In line 4 of the title, after "3301.12," insert "3314.025,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to specify that members of the governing authority of a start-up community school may be compensated for attending meetings of the governing authority"

In line 34, after "3302.021," insert "3313.41,"

In line 36, after "3310.12," insert "3314.051,"

Between lines 561 and 562, insert:

"Sec. 3313.41. (A) Except as provided in divisions (C), (D), (F), and (G) of this section, when a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it shall sell the property at public auction, after giving at least thirty days' notice of the auction by publication in a newspaper of general circulation or by posting notices in five of the most public places in the school district in which the property, if it is real property, is situated, or, if it is personal property, in the school district of the board of education that owns the property. The board may offer real property for sale as an entire tract or in parcels.

(B) When the board of education has offered real or personal property for sale at public auction at least once pursuant to division (A) of this section, and the property has not been sold, the board may sell it at a private sale. Regardless of how it was offered at public auction, at a private sale, the board shall, as it considers best, sell real property as an entire tract or in parcels, and personal property in a single lot or in several lots.

(C) If a board of education decides to dispose of real or personal property that it owns in its corporate capacity and that exceeds in value ten thousand dollars, it may sell the property to the adjutant general; to any subdivision or taxing authority as respectively defined in divisions (A) and (C) of section 5705.01 of the Revised Code, township park district, board of park commissioners established under Chapter 755. of the Revised Code, or park district established under Chapter 1545. of the Revised Code; to a wholly or partially tax-supported university, university branch, or college; or to the board of trustees of a school district library, upon such terms as are agreed upon. The sale of real or personal property to the board of trustees of a school district library is limited, in the case of real property, to a school district library within whose boundaries the real property is situated, or, in the case of personal property, to a school district library whose boundaries lie in whole or in part within the school district of the selling board of education.

(D) When a board of education decides to trade as a part or an entire consideration, an item of personal property on the purchase price of an item of

similar personal property, it may trade the same upon such terms as are agreed upon by the parties to the trade.

(E) The president and the treasurer of the board of education shall execute and deliver deeds or other necessary instruments of conveyance to complete any sale or trade under this section.

(F) When a board of education has identified a parcel of real property that it determines is needed for school purposes, the board may, upon a majority vote of the members of the board, acquire that property by exchanging real property that the board owns in its corporate capacity for the identified real property or by using real property that the board owns in its corporate capacity as part or an entire consideration for the purchase price of the identified real property. Any exchange or acquisition made pursuant to this division shall be made by a conveyance executed by the president and the treasurer of the board.

(G)(1) When a school district board of education decides to dispose of real property suitable for use as classroom space, prior to disposing of that property under divisions (A) to (F) of this section, it shall first offer that property for sale to the governing authorities of the start-up community schools established under Chapter 3314. of the Revised Code located within the territory of the school district, at a price that is not higher than the appraised fair market value of that property. If more than one community school governing authority accepts the offer made by the school district board, the board shall sell the property to the governing authority that accepted the offer first in time. If no community school governing authority accepts the offer within sixty days after the offer is made by the school district board, the board may dispose of the property in the applicable manner prescribed under divisions (A) to (F) of this section.

(2) When a school district board of education has not used real property suitable for classroom space for academic instruction, administration, storage, or any other educational purpose for one full school year and has not adopted a resolution outlining a plan for using that property for any of those purposes within the next three school years, it shall offer that property for sale to the governing authorities of the start-up community schools established under Chapter 3314. of the Revised Code located within the territory of the school district, at a price that is not higher than the appraised fair market value of that property. If more than one community school governing authority accepts the offer made by the school district board, the board shall sell the property to the governing authority that accepted the offer first in time.

(H) When a school district board of education has property that the board, by resolution, finds is not needed for school district use, is obsolete, or is unfit for the use for which it was acquired, the board may donate that property in accordance with this division if the fair market value of the property is, in the opinion of the board, two thousand five hundred dollars or less.

The property may be donated to an eligible nonprofit organization that is

located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3). Before donating any property under this division, the board shall adopt a resolution expressing its intent to make unneeded, obsolete, or unfit-for-use school district property available to these organizations. The resolution shall include guidelines and procedures the board considers to be necessary to implement the donation program and shall indicate whether the school district will conduct the donation program or the board will contract with a representative to conduct it. If a representative is known when the resolution is adopted, the resolution shall provide contact information such as the representative's name, address, and telephone number.

The resolution shall include within its procedures a requirement that any nonprofit organization desiring to obtain donated property under this division shall submit a written notice to the board or its representative. The written notice shall include evidence that the organization is a nonprofit organization that is located in this state and is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and (c)(3); a description of the organization's primary purpose; a description of the type or types of property the organization needs; and the name, address, and telephone number of a person designated by the organization's governing board to receive donated property and to serve as its agent.

After adoption of the resolution, the board shall publish, in a newspaper of general circulation in the school district, notice of its intent to donate unneeded, obsolete, or unfit-for-use school district property to eligible nonprofit organizations. The notice shall include a summary of the information provided in the resolution and shall be published at least twice. The second and any subsequent notice shall be published not less than ten nor more than twenty days after the previous notice. A similar notice also shall be posted continually in the board's office, and, if the school district maintains a web site on the internet, the notice shall be posted continually at that web site.

The board or its representatives shall maintain a list of all nonprofit organizations that notify the board or its representative of their desire to obtain donated property under this division and that the board or its representative determines to be eligible, in accordance with the requirements set forth in this section and in the donation program's guidelines and procedures, to receive donated property.

The board or its representative also shall maintain a list of all school district property the board finds to be unneeded, obsolete, or unfit for use and to be available for donation under this division. The list shall be posted continually in a conspicuous location in the board's office, and, if the school district maintains a web site on the internet, the list shall be posted continually at that web site. An item of property on the list shall be donated to the eligible nonprofit organization that first declares to the board or its representative its desire to obtain the item unless the board previously has established, by resolution, a list of eligible nonprofit organizations that shall be given priority with respect to the item's donation. Priority may be given on the basis that the purposes of a

nonprofit organization have a direct relationship to specific school district purposes of programs provided or administered by the board. A resolution giving priority to certain nonprofit organizations with respect to the donation of an item of property shall specify the reasons why the organizations are given that priority.

Members of the board shall consult with the Ohio ethics commission, and comply with Chapters 102. and 2921. of the Revised Code, with respect to any donation under this division to a nonprofit organization of which a board member, any member of a board member's family, or any business associate of a board member is a trustee, officer, board member, or employee."

Between lines 819 and 820, insert:

"Sec. 3314.051. (A) When the governing authority of a community school that acquired real property from a school district pursuant to division (G)(2) of section 3313.41 of the Revised Code decides to dispose of that property, it first shall offer that property for sale to the school district board of education from which it acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the community school may dispose of the property in another lawful manner.

(B) When a community school that acquired real property from a school district pursuant to division (G)(2) of section 3313.41 of the Revised Code permanently closes, in distributing the school's assets under section 3314.074 of the Revised Code, that property first shall be offered for sale to the school district board of education from which the community school acquired the property, at a price that is not higher than the appraised fair market value of that property. If the district board does not accept the offer within sixty days after the offer is made, the property may be disposed in another lawful manner."

In line 2412, after "3302.021," insert "3313.41,"

In line 1 of the title, after "3302.021," insert "3313.41,"

In line 4 of the title, after "3310.12," insert "3314.051,"

In line 24 of the title, after the comma insert "to require school districts to sell certain property that is suitable for classroom space and has not been used for educational purposes,"

In line 34, after "3302.021," insert "3314.014,"

In line 36, after "3310.12," insert "3314.025,"

Between lines 561 and 562, insert:

"Sec. 3314.014. As used in this ~~section~~chapter, "operator" means an organization that manages the daily operations of a community school pursuant to a contract between the operator and the school's governing authority.

(A)(1) Notwithstanding the limit prescribed by division (A)(4) of section

3314.013 of the Revised Code, a start-up school sponsored by an entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code may be established after the date that limit is reached, provided the school's governing authority enters into a contract with an operator permitted to manage the school under division (B) of this section.

(2) Notwithstanding the limit prescribed by division (A)(5) of section 3314.013 of the Revised Code, a conversion school that is an internet- or computer-based community school or a start-up school sponsored by the school district in which the school is or is proposed to be located may be established after the date that limit is reached, provided the school's governing authority enters into a contract with an operator permitted to manage the school under division (B) of this section. However, a conversion school that is an internet- or computer-based community school may be established after that date only if the prohibition prescribed by division (A)(6) of section 3314.013 of the Revised Code is no longer in effect.

(B) An operator may enter into contracts with the governing authorities of community schools established after the date the limit prescribed by division (A)(4) or (5) of section 3314.013 of the Revised Code, as applicable, is reached, provided the total number of schools for which the operator enters into such contracts, excluding conversion schools that are not internet- or computer-based community schools, does not exceed the number of community schools managed by the operator on the applicable date that are rated excellent, effective, or in need of continuous improvement pursuant to section 3302.03 of the Revised Code.

(C) Notwithstanding the limit prescribed by division (A)(4) of section 3314.013 of the Revised Code, after the date the limit prescribed in that division is reached, the governing authority of a start-up school sponsored by an entity described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code may establish one additional school serving the same grade levels and providing the same educational program as the current start-up school and may open that additional school in the 2006-2007 school year, if both of the following conditions are met:

(1) The governing authority entered into another contract with the same sponsor or a different sponsor described in divisions (C)(1)(b) to (f) of section 3314.02 of the Revised Code and filed a copy of that contract with the superintendent of public instruction prior to March 15, 2006.

(2) The governing authority's current school satisfies all of the following conditions:

(a) The school currently is rated as excellent or effective pursuant to section 3302.03 of the Revised Code.

(b) The school made adequate yearly progress, as defined in section 3302.01 of the Revised Code, for the previous school year.

(c) The school has been in operation for at least four school years.

(d) The school is not managed by an operator.

Sec. 3314.025. If the governing authority of a community school intends to terminate its contract with the school's operator prior to expiration or intends not to renew that contract upon expiration, the governing authority shall notify the operator of that intent. The operator may appeal the contract termination or nonrenewal to the school's sponsor, if the sponsor has sponsored the school for at least twelve months, or to the state board of education, if the sponsor has sponsored the school for less than twelve months. Upon appeal, the sponsor or state board shall determine whether the operator should continue to manage the school. In making its determination, the sponsor or state board shall consider whether the operator has managed the school in compliance with all applicable laws and terms of the contract between the sponsor and the governing authority entered into under section 3314.03 of the Revised Code and whether the school's progress in meeting the academic goals prescribed in that contract has been satisfactory. The sponsor or state board shall notify the governing authority and operator of its determination. If the sponsor or state board determines that the operator should continue to manage the school, the sponsor shall remove the existing governing authority and the operator shall appoint a new governing authority for the school. The new governing authority shall assume responsibility for the school immediately and shall exercise all functions assigned to it by the Revised Code or rule in the same manner as any other community school governing authority."

In line 2412, after "3302.021," insert "3314.014,"

In line 1 of the title, after "3302.021," insert "3314.014,"

In line 4 of the title, after "3310.12," insert "3314.025,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to provide an appeal process for community school operators whose management contracts are terminated or not renewed"

In line 34, after "3302.021," insert "3310.02, 3310.03,"

In line 36, after "amended" insert "; section 3310.16 (3310.17) be amended for the purpose of adopting a new section number as indicated in parentheses;"

Between lines 522 and 523, insert:

"Sec. 3310.02. The educational choice scholarship pilot program is hereby established. Under the program, the department of education annually shall pay scholarships to attend chartered nonpublic schools in accordance with section 3310.08 of the Revised Code for up to ~~the number of~~ fourteen thousand eligible students ~~prescribed by the general assembly~~. If the number of students who apply for a scholarship exceeds ~~the number prescribed by the general~~

~~assembly~~ fourteen thousand, the department ~~first~~ shall award scholarships in the following order of priority:

(A) ~~First~~, to eligible students who received scholarships in the prior school year, ~~and then shall give priority;~~

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

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

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

(1) The student ~~either:~~

~~(a) Is~~ is enrolled in a school building that is operated by the student's resident district and ~~that the department of education to which both of the following apply:~~

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

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

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

~~(e) Is.~~

(3) The student is enrolled in a community school established under

Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1)(a) of this section;

~~(d) Is.~~

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

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

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

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

~~(2) The student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code.~~

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

(1) The student's resident district remains the same;

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

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including absences due to illness or injury confirmed in writing by a physician.

(C) ~~The superintendent~~department shall cease awarding first-time scholarships pursuant to divisions (A)(1) to (3) of this section with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ~~ceases to be in a state of academic emergency or academic~~ meet the criteria in division (A)(1)(a) of this section. The department shall cease awarding first-time scholarships pursuant to division (A)(4) of this section

with respect to a school district that, in the most recent ratings of school districts published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to meet the criteria in division (A)(4)(b) of this section. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section."

Between lines 561 and 562, insert:

"**Sec. ~~3310.16~~3310.17.** (A) The state board of education shall adopt rules in accordance with Chapter 119. of the Revised Code prescribing procedures for the administration of the educational choice scholarship pilot program.

(B) The state board and the department of education shall not require chartered nonpublic schools to comply with any education laws or rules or other requirements that are not specified in sections 3310.01 to 3310.17 of the Revised Code or in rules necessary for the administration of the program, adopted under division (A) of this section, and that otherwise would not apply to a chartered nonpublic school."

In line 2412, after "3302.021," insert "3310.02, 3310.03, 3310.16,"

In line 2414, after "5153.175" insert "and section 3310.17"

In line 1 of the title, after "3302.021," insert "3310.02, 3310.03,"

In line 3 of the title, after the semicolon insert "to amend, for the purpose of adopting a new section number as indicated in parentheses, section 3310.16 (3310.17);"

In line 5 of the title, after "5153.176" insert "; and to repeal section 3310.17"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", to expand the qualifications for Educational Choice Scholarships, and to establish the maximum number of Educational Choice Scholarships that may be awarded in each year"

After line 2451, insert:

"**Section 7.** The Partnership for Continued Learning shall study the operation and oversight of community schools and the Educational Choice Scholarship Pilot Program established under Chapter 3310. of the Revised Code. The study shall include, but not be limited to, an evaluation of the impact of community schools and the Educational Choice Scholarship Pilot Program on students, communities, traditional public schools, and chartered nonpublic schools. Not later than one year after the effective date of this section, the partnership shall submit recommendations to the General Assembly."

In line 35, after "3323.20," insert "3324.10,"

Between lines 2153 and 2154, insert:

"**Sec. 3324.10.** (A) Prior to June 30, 2006, the state board of education

shall adopt a model student acceleration policy addressing recommendations in the department of education's 2005 study conducted under the gifted research and demonstration grant program. The policy shall address, but not be limited to, whole grade acceleration, subject area acceleration, and early high school graduation.

(B) The board of education of each city, local, and exempted village school district shall implement a student acceleration policy to take effect beginning in the 2006-2007 school year. The policy shall either be the model adopted by the state board under division (A) of this section or a policy covering similar issues that is adopted by the district board. If the district board does not adopt the state board's model, it shall submit its policy to the department for review and approval. The department, upon request, shall provide technical assistance to the district board in developing the policy."

In line 2414, after "3323.20," insert "3324.10,"

In line 3 of the title, after "3323.20," insert "3324.10,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to require school districts to submit student acceleration policies to the Department of Education for approval"

In line 34, after "3302.021," insert "3314.02,"

Between lines 561 and 562, insert:

"Sec. 3314.02. (A) As used in this chapter:

(1) "Sponsor" means an entity listed in division (C)(1) of this section, which has been approved by the department of education to sponsor community schools and with which the governing authority of the proposed community school enters into a contract pursuant to this section.

(2) "Pilot project area" means the school districts included in the territory of the former community school pilot project established by former Section 50.52 of Am. Sub. H.B. No. 215 of the 122nd general assembly.

(3) "Challenged school district" means any of the following:

(a) A school district that is part of the pilot project area;

(b) A school district that is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code;

(c) A big eight school district.

(4) "Big eight school district" means a school district that for fiscal year 1997 had both of the following:

(a) A percentage of children residing in the district and participating in the predecessor of Ohio works first greater than thirty per cent, as reported pursuant to section 3317.10 of the Revised Code;

(b) An average daily membership greater than twelve thousand, as reported pursuant to former division (A) of section 3317.03 of the Revised Code.

(5) "New start-up school" means a community school other than one created by converting all or part of an existing public school, as designated in the school's contract pursuant to division (A)(17) of section 3314.03 of the Revised Code.

(6) "Urban school district" means one of the state's twenty-one urban school districts as defined in division (O) of section 3317.02 of the Revised Code as that section existed prior to July 1, 1998.

(7) "Internet- or computer-based community school" means a community school established under this chapter in which the enrolled students work primarily from their residences on assignments in nonclassroom-based learning opportunities provided via an internet- or other computer-based instructional method that does not rely on regular classroom instruction or via comprehensive instructional methods that include internet-based, other computer-based, and noncomputer-based learning opportunities.

(B) Any person or group of individuals may initially propose under this division the conversion of all or a portion of a public school to a community school. The proposal shall be made to the board of education of the city, local, or exempted village school district in which the public school is proposed to be converted. Upon receipt of a proposal, a board may enter into a preliminary agreement with the person or group proposing the conversion of the public school, indicating the intention of the board of education to support the conversion to a community school. A proposing person or group that has a preliminary agreement under this division may proceed to finalize plans for the school, establish a governing authority for the school, and negotiate a contract with the board of education. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the board of education shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code and division (C) of this section.

(C)(1) Any person or group of individuals may propose under this division the establishment of a new start-up school to be located in a challenged school district. The proposal may be made to any of the following entities:

(a) The board of education of the district in which the school is proposed to be located;

(b) The board of education of any joint vocational school district with territory in the county in which is located the majority of the territory of the district in which the school is proposed to be located;

(c) The board of education of any other city, local, or exempted village school district having territory in the same county where the district in which the school is proposed to be located has the major portion of its territory;

(d) The governing board of any educational service center;

(e) A sponsoring authority designated by the board of trustees of any of the thirteen state universities listed in section 3345.011 of the Revised Code or the board of trustees itself as long as a mission of the proposed school to be specified in the contract under division (A)(2) of section 3314.03 of the Revised Code and as approved by the department of education under division (B)(2) of section 3314.015 of the Revised Code will be the practical demonstration of teaching methods, educational technology, or other teaching practices that are included in the curriculum of the university's teacher preparation program approved by the state board of education;

(f) Any qualified tax-exempt entity under section 501(c)(3) of the Internal Revenue Code as long as all of the following conditions are satisfied:

(i) The entity has been in operation for at least five years prior to applying to be a community school sponsor.

(ii) The entity has assets of at least five hundred thousand dollars and a demonstrated record of financial responsibility.

(iii) The department of education has determined that the entity is an education-oriented entity under division (B)(3) of section 3314.015 of the Revised Code and the entity has a demonstrated record of successful implementation of educational programs.

(iv) The entity is not a community school.

Any entity described in division (C)(1) of this section may enter into a preliminary agreement pursuant to division (C)(2) of this section with the proposing person or group.

(2) A preliminary agreement indicates the intention of an entity described in division (C)(1) of this section to sponsor the community school. A proposing person or group that has such a preliminary agreement may proceed to finalize plans for the school, establish a governing authority as described in division (E) of this section for the school, and negotiate a contract with the entity. Provided the proposing person or group adheres to the preliminary agreement and all provisions of this chapter, the entity shall negotiate in good faith to enter into a contract in accordance with section 3314.03 of the Revised Code.

(3) A new start-up school that is established in a school district while that district is either in a state of academic emergency or in a state of academic watch under section 3302.03 of the Revised Code may continue in existence once the school district is no longer in a state of academic emergency or academic watch, provided there is a valid contract between the school and a sponsor.

(4) A copy of every preliminary agreement entered into under this division shall be filed with the superintendent of public instruction.

(D) A majority vote of the board of a sponsoring entity and a majority vote of the members of the governing authority of a community school shall be required to adopt a contract and convert the public school to a community school

or establish the new start-up school. Beginning September 29, 2005, adoption of the contract shall occur not later than the fifteenth day of March, and signing of the contract shall occur not later than the fifteenth day of May, prior to the school year in which the school will open. The governing authority shall notify the department of education when the contract has been signed. Subject to sections 3314.013 and 3314.014 of the Revised Code, an unlimited number of community schools may be established in any school district provided that a contract is entered into for each community school pursuant to this chapter.

(E) As used in this division, "immediate relatives" are limited to spouses, children, parents, grandparents, siblings, and in-laws.

(1) Each new start-up community school established under this chapter shall be under the direction of a governing authority which shall consist of a board of not less than five individuals ~~who are not owners or employees, or immediate relatives of owners or employees, of any for-profit firm that operates or manages a school for the governing authority.~~

No person shall serve on the governing authority or operate the community school under contract with the governing authority so long as the person owes the state any money or is in a dispute over whether the person owes the state any money concerning the operation of a community school that has closed.

(2) No present or former member, or immediate relative of a present or former member, of the governing authority of any community school established under this chapter shall be an owner, employee, or consultant of any nonprofit or for-profit operator of a community school, as defined in section 3314.014 of the Revised Code, unless at least one year has elapsed since the conclusion of the person's membership.

(F) Nothing in this chapter shall be construed to permit the establishment of a community school in more than one school district under the same contract.

(G)(1) A new start-up school that is established prior to August 15, 2003, in an urban school district that is not also a big-eight school district may continue to operate after that date and the contract between the school's governing authority and the school's sponsor may be renewed, as provided under this chapter, after that date, but no additional new start-up schools may be established in such a district unless the district is a challenged school district as defined in this section as it exists on and after that date.

(2) A community school that was established prior to June 29, 1999, and is located in a county contiguous to the pilot project area and in a school district that is not a challenged school district may continue to operate after that date, provided the school complies with all provisions of this chapter. The contract between the school's governing authority and the school's sponsor may be renewed, but no additional start-up community school may be established in that district unless the district is a challenged school district."

In line 2412, after "3303.021," insert "3314.02,"

In line 1 of the title, after "3302.021," insert "3314.02,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to prohibit certain conflicts of interest between community school governing authorities and operators"

In line 34, after "3301.0714," insert "3301.41,"

Between lines 411 and 412, insert:

"Sec. 3301.41. (A) The partnership for continued learning is hereby established. The partnership shall consist of the following members:

- (1) The governor;
- (2) The superintendent of public instruction;
- (3) The chancellor of the Ohio board of regents;
- (4) The director of development;
- (5) Three representatives of the private sector, appointed by the governor;
- (6) Two representatives of organizations that have formed regional partnerships to foster collaboration among providers of preschool through postsecondary education, appointed by the governor;
- (7) One member of the student access and success coordinating council of Ohio, appointed by the governor;
- (8) Two representatives of elementary and secondary schools, one of whom shall be a member of the state board of education and one of whom shall represent chartered nonpublic schools, appointed by the governor;
- (9) Two representatives of institutions of higher education, one of whom shall be a member of the Ohio board of regents and one of whom shall represent nonprofit institutions of higher education that hold certificates of authorization issued by the board of regents under section 1713.02 of the Revised Code, appointed by the governor;
- (10) One member of the state workforce policy board prescribed by section 6301.04 of the Revised Code, appointed by the governor;
- (11) One member who is a representative of a sponsor of a community school established under Chapter 3314. of the Revised Code, appointed by the governor;
- (12) One member who is either a teacher or an administrator employed by a community school, appointed by the governor;
- (13) The chairpersons and ranking minority members of the education committees of the senate and house of representatives.

(B) Appointed members of the partnership shall serve at the pleasure of the governor.

(C) The governor shall serve as chairperson of the partnership. The partnership shall meet at least quarterly and at other times upon the call of the chairperson to conduct its business."

In line 2412, after "3301.0714," insert "3301.41,"

In line 1 of the title, after "3301.0714," insert "3301.41,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to add representatives of community school sponsors and staffs to the membership of the Partnership for Continued Learning"

In line 34, after "3302.021," insert "3314.015,"

In line 36, after the second "and" insert "new sections 3314.35 and 3314.36 and"

Delete lines 562 through 819 and insert:

"Sec. 3314.015. (A) The department of education shall be responsible for the oversight of sponsors of the community schools established under this chapter and shall provide technical assistance to schools and sponsors in their compliance with applicable laws and the terms of the contracts entered into under section 3314.03 of the Revised Code and in the development and start-up activities of those schools. In carrying out its duties under this section, the department shall do all of the following:

(1) In providing technical assistance to proposing parties, governing authorities, and sponsors, conduct training sessions and distribute informational materials;

(2) Approve entities to be sponsors of community schools and monitor the effectiveness of those sponsors in their oversight of the schools with which they have contracted;

(3) By December thirty-first of each year, issue a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the house and senate committees principally responsible for education matters regarding the effectiveness of academic programs, operations, and legal compliance and of the financial condition of all community schools established under this chapter;

(4) From time to time, make legislative recommendations to the general assembly designed to enhance the operation and performance of community schools.

(B)(1) No entity listed in division (C)(1) of section 3314.02 of the Revised Code shall enter into a preliminary agreement under division (C)(2) of

section 3314.02 of the Revised Code until it has received approval from the department of education to sponsor community schools under this chapter and has entered into a written agreement with the department regarding the manner in which the entity will conduct such sponsorship. The department shall adopt in accordance with Chapter 119. of the Revised Code rules containing criteria, procedures, and deadlines for processing applications for such approval, for oversight of sponsors, for revocation of the approval of sponsors, and for entering into written agreements with sponsors. The rules shall require an entity to submit evidence of the entity's ability and willingness to comply with the provisions of division (D) of section 3314.03 of the Revised Code. The rules also shall require entities approved as sponsors on and after ~~the effective date of this amendment~~June 30, 2005 to demonstrate a record of financial responsibility and successful implementation of educational programs. If an entity seeking approval on or after ~~the effective date of this amendment~~June 30, 2005, to sponsor community schools in this state sponsors or operates schools in another state, at least one of the schools sponsored or operated by the entity must be comparable to or better than the performance of Ohio schools in a state of academic watch under section 3302.03 of the Revised Code, as determined by the department.

An entity that sponsors community schools may enter into preliminary agreements and sponsor schools as follows, provided each school and the contract for sponsorship meets the requirements of this chapter:

(a) An entity that sponsored fifty or fewer schools that were open for operation as of May 1, 2005, may sponsor not more than fifty schools.

(b) An entity that sponsored more than fifty but not more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005.

(c) Until June 30, 2006, an entity that sponsored more than seventy-five schools that were open for operation as of May 1, 2005, may sponsor not more than the number of schools the entity sponsored that were open for operation as of May 1, 2005. After June 30, 2006, such an entity may sponsor not more than seventy-five schools.

Upon approval of an entity to be a sponsor under this division, the department shall notify the entity of the number of schools the entity may sponsor.

The limit imposed on an entity to which division (B)(1)~~(b) or (c)~~ of this section applies shall be decreased by one for each school sponsored by the entity that permanently closes ~~until the number of schools sponsored by the entity is fifty~~.

If at any time an entity exceeds the number of schools it may sponsor under this division, the department shall assist the schools in excess of the entity's limit in securing new sponsors. If a school is unable to secure a new

sponsor, the department shall assume sponsorship of the school in accordance with division (C) of this section. Those schools for which another sponsor or the department assumes sponsorship shall be the schools that most recently entered into contracts with the entity under section 3314.03 of the Revised Code.

(2) The department of education shall determine, pursuant to criteria adopted by rule of the department, whether the mission proposed to be specified in the contract of a community school to be sponsored by a state university board of trustees or the board's designee under division (C)(1)(e) of section 3314.02 of the Revised Code complies with the requirements of that division. Such determination of the department is final.

(3) The department of education shall determine, pursuant to criteria adopted by rule of the department, if any tax-exempt entity under section 501(c)(3) of the Internal Revenue Code that is proposed to be a sponsor of a community school is an education-oriented entity for purpose of satisfying the condition prescribed in division (C)(1)(f)(iii) of section 3314.02 of the Revised Code. Such determination of the department is final.

(C) If at any time the state board of education finds that a sponsor is not in compliance or is no longer willing to comply with its contract with any community school or with the department's rules for sponsorship, the state board or designee shall conduct a hearing in accordance with Chapter 119. of the Revised Code on that matter. If after the hearing, the state board or designee has confirmed the original finding, the department of education may revoke the sponsor's approval to sponsor community schools and may assume the sponsorship of any schools with which the sponsor has contracted until the earlier of the expiration of two school years or until a new sponsor as described in division (C)(1) of section 3314.02 of the Revised Code is secured by the school's governing authority. The department may extend the term of the contract in the case of a school for which it has assumed sponsorship under this division as necessary to accommodate the term of the department's authorization to sponsor the school specified in this division.

(D) The decision of the department to disapprove an entity for sponsorship of a community school or to revoke approval for such sponsorship, as provided in division (C) of this section, may be appealed by the entity in accordance with section 119.12 of the Revised Code.

(E) The department shall adopt procedures for use by a community school governing authority and sponsor when the school permanently closes and ceases operation, which shall include at least procedures for data reporting to the department, handling of student records, distribution of assets in accordance with section 3314.074 of the Revised Code, and other matters related to ceasing operation of the school.

(F) In carrying out its duties under this chapter, the department shall not impose requirements on community schools or their sponsors that are not permitted by law or duly adopted rules.

Sec. 3314.03. A copy of every contract entered into under this section shall be filed with the superintendent of public instruction.

(A) Each contract entered into between a sponsor and the governing authority of a community school shall specify the following:

(1) That the school shall be established as either of the following:

(a) A nonprofit corporation established under Chapter 1702. of the Revised Code, if established prior to April 8, 2003;

(b) A public benefit corporation established under Chapter 1702. of the Revised Code, if established after April 8, 2003;

(2) The education program of the school, including the school's mission, the characteristics of the students the school is expected to attract, the ages and grades of students, and the focus of the curriculum;

(3) The academic goals to be achieved and the method of measurement that will be used to determine progress toward those goals, which shall include the statewide achievement tests;

(4) Performance standards by which the success of the school will be evaluated by the sponsor. ~~If the sponsor will evaluate the school in accordance with division (D) of section 3314.36 of the Revised Code, the contract shall specify the number of school years that the school will be evaluated under that division.;~~

(5) The admission standards of section 3314.06 of the Revised Code and, if applicable, section 3314.061 of the Revised Code;

(6)(a) Dismissal procedures;

(b) A requirement that the governing authority adopt an attendance policy that includes a procedure for automatically withdrawing a student from the school if the student without a legitimate excuse fails to participate in one hundred five consecutive hours of the learning opportunities offered to the student.

(7) The ways by which the school will achieve racial and ethnic balance reflective of the community it serves;

(8) Requirements for financial audits by the auditor of state. The contract shall require financial records of the school to be maintained in the same manner as are financial records of school districts, pursuant to rules of the auditor of state, and the audits shall be conducted in accordance with section 117.10 of the Revised Code.

(9) The facilities to be used and their locations;

(10) Qualifications of teachers, including a requirement that the school's classroom teachers be licensed in accordance with sections 3319.22 to 3319.31 of the Revised Code, except that a community school may engage

noncertificated persons to teach up to twelve hours per week pursuant to section 3319.301 of the Revised Code;

(11) That the school will comply with the following requirements:

(a) The school will provide learning opportunities to a minimum of twenty-five students for a minimum of nine hundred twenty hours per school year;

(b) The governing authority will purchase liability insurance, or otherwise provide for the potential liability of the school;

(c) The school will be nonsectarian in its programs, admission policies, employment practices, and all other operations, and will not be operated by a sectarian school or religious institution;

(d) The school will comply with sections 9.90, 9.91, 109.65, 121.22, 149.43, 2151.357, 2151.421, 2313.18, 3301.0710, 3301.0711, 3301.0712, 3301.0715, 3313.50, 3313.536, 3313.608, 3313.6012, 3313.643, 3313.648, 3313.66, 3313.661, 3313.662, 3313.67, 3313.671, 3313.672, 3313.673, 3313.69, 3313.71, 3313.716, 3313.80, 3313.96, 3319.073, 3319.313, 3319.314, 3319.315, 3319.321, 3319.39, 3321.01, 3321.13, 3321.14, 3321.17, 3321.18, 3321.19, 3321.191, 3327.10, 4111.17, 4113.52, and 5705.391 and Chapters 117., 1347., 2744., 3365., 3742., 4112., 4123., 4141., and 4167. of the Revised Code as if it were a school district and will comply with section 3301.0714 of the Revised Code in the manner specified in section 3314.17 of the Revised Code;

(e) The school shall comply with Chapter 102. and section 2921.42 of the Revised Code;

(f) The school will comply with sections 3313.61, 3313.611, and 3313.614 of the Revised Code, except that the requirement in sections 3313.61 and 3313.611 of the Revised Code that a person must successfully complete the curriculum in any high school prior to receiving a high school diploma may be met by completing the curriculum adopted by the governing authority of the community school rather than the curriculum specified in Title XXXIII of the Revised Code or any rules of the state board of education;

(g) The school governing authority will submit within four months after the end of each school year a report of its activities and progress in meeting the goals and standards of divisions (A)(3) and (4) of this section and its financial status to the sponsor and the parents of all students enrolled in the school.

(h) The school, unless it is an internet- or computer-based community school, will comply with section 3313.801 of the Revised Code as if it were a school district.

(12) Arrangements for providing health and other benefits to employees;

(13) The length of the contract, which shall begin at the beginning of an academic year. No contract shall exceed five years unless such contract has been renewed pursuant to division (E) of this section.

(14) The governing authority of the school, which shall be responsible for carrying out the provisions of the contract;

(15) A financial plan detailing an estimated school budget for each year of the period of the contract and specifying the total estimated per pupil expenditure amount for each such year. The plan shall specify for each year the base formula amount that will be used for purposes of funding calculations under section 3314.08 of the Revised Code. This base formula amount for any year shall not exceed the formula amount defined under section 3317.02 of the Revised Code. The plan may also specify for any year a percentage figure to be used for reducing the per pupil amount of the subsidy calculated pursuant to section 3317.029 of the Revised Code the school is to receive that year under section 3314.08 of the Revised Code.

(16) Requirements and procedures regarding the disposition of employees of the school in the event the contract is terminated or not renewed pursuant to section 3314.07 of the Revised Code;

(17) Whether the school is to be created by converting all or part of an existing public school or is to be a new start-up school, and if it is a converted public school, specification of any duties or responsibilities of an employer that the board of education that operated the school before conversion is delegating to the governing board of the community school with respect to all or any specified group of employees provided the delegation is not prohibited by a collective bargaining agreement applicable to such employees;

(18) Provisions establishing procedures for resolving disputes or differences of opinion between the sponsor and the governing authority of the community school;

(19) A provision requiring the governing authority to adopt a policy regarding the admission of students who reside outside the district in which the school is located. That policy shall comply with the admissions procedures specified in sections 3314.06 and 3314.061 of the Revised Code and, at the sole discretion of the authority, shall do one of the following:

(a) Prohibit the enrollment of students who reside outside the district in which the school is located;

(b) Permit the enrollment of students who reside in districts adjacent to the district in which the school is located;

(c) Permit the enrollment of students who reside in any other district in the state.

(20) A provision recognizing the authority of the department of education to take over the sponsorship of the school in accordance with the provisions of division (C) of section 3314.015 of the Revised Code;

(21) A provision recognizing the sponsor's authority to assume the operation of a school under the conditions specified in division (B) of section

3314.073 of the Revised Code;

(22) A provision recognizing both of the following:

(a) The authority of public health and safety officials to inspect the facilities of the school and to order the facilities closed if those officials find that the facilities are not in compliance with health and safety laws and regulations;

(b) The authority of the department of education as the community school oversight body to suspend the operation of the school under section 3314.072 of the Revised Code if the department has evidence of conditions or violations of law at the school that pose an imminent danger to the health and safety of the school's students and employees and the sponsor refuses to take such action;

(23) A description of the learning opportunities that will be offered to students including both classroom-based and non-classroom-based learning opportunities that is in compliance with criteria for student participation established by the department under division (L)(2) of section 3314.08 of the Revised Code;

(24) The school will comply with section 3302.04 of the Revised Code, including division (E) of that section to the extent possible, except that any action required to be taken by a school district pursuant to that section shall be taken by the sponsor of the school. However, the sponsor shall not be required to take any action described in division (F) of that section.

(25) Beginning in the 2006-2007 school year, the school will open for operation not later than the thirtieth day of September each school year, unless the mission of the school as specified under division (A)(2) of this section is solely to serve dropouts. In its initial year of operation, if the school fails to open by the thirtieth day of September, or within one year after the adoption of the contract pursuant to division (D) of section 3314.02 of the Revised Code if the mission of the school is solely to serve dropouts, the contract shall be void.

(B) The community school shall also submit to the sponsor a comprehensive plan for the school. The plan shall specify the following:

(1) The process by which the governing authority of the school will be selected in the future;

(2) The management and administration of the school;

(3) If the community school is a currently existing public school, alternative arrangements for current public school students who choose not to attend the school and teachers who choose not to teach in the school after conversion;

(4) The instructional program and educational philosophy of the school;

(5) Internal financial controls.

(C) A contract entered into under section 3314.02 of the Revised Code

between a sponsor and the governing authority of a community school may provide for the community school governing authority to make payments to the sponsor, which is hereby authorized to receive such payments as set forth in the contract between the governing authority and the sponsor. The total amount of such payments for oversight and monitoring of the school shall not exceed three per cent of the total amount of payments for operating expenses that the school receives from the state.

(D) The contract shall specify the duties of the sponsor which shall be in accordance with the written agreement entered into with the department of education under division (B) of section 3314.015 of the Revised Code and shall include the following:

(1) Monitor the community school's compliance with all laws applicable to the school and with the terms of the contract;

(2) Monitor and evaluate the academic and fiscal performance and the organization and operation of the community school on at least an annual basis;

(3) Report on an annual basis the results of the evaluation conducted under division (D)(2) of this section to the department of education and to the parents of students enrolled in the community school;

(4) Provide technical assistance to the community school in complying with laws applicable to the school and terms of the contract;

(5) Take steps to intervene in the school's operation to correct problems in the school's overall performance, declare the school to be on probationary status pursuant to section 3314.073 of the Revised Code, suspend the operation of the school pursuant to section 3314.072 of the Revised Code, or terminate the contract of the school pursuant to section 3314.07 of the Revised Code as determined necessary by the sponsor;

(6) Have in place a plan of action to be undertaken in the event the community school experiences financial difficulties or closes prior to the end of a school year.

(E) Upon the expiration of a contract entered into under this section, the sponsor of a community school may, with the approval of the governing authority of the school, renew that contract for a period of time determined by the sponsor, but not ending earlier than the end of any school year, if the sponsor finds that the school's compliance with applicable laws and terms of the contract and the school's progress in meeting the academic goals prescribed in the contract have been satisfactory. Any contract that is renewed under this division remains subject to the provisions of sections 3314.07, 3314.072, and 3314.073 of the Revised Code.

(F) If a community school fails to open for operation within one year after the contract entered into under this section is adopted pursuant to division (D) of section 3314.02 of the Revised Code or permanently closes prior to the expiration of the contract, the contract shall be void and the school shall not

enter into a contract with any other sponsor. A school shall not be considered permanently closed because the operations of the school have been suspended pursuant to section 3314.072 of the Revised Code. Any contract that becomes void under this division shall not count toward any statewide limit on the number of such contracts prescribed by section 3314.013 of the Revised Code.

Sec. 3314.35. (A)(1) Except as provided in division (A)(2) of this section, this section applies to any community school that meets one of the following criteria after July 1, 2008:

(a) The school does not offer a grade level higher than three and has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.

(b) The school satisfies all of the following conditions:

(i) The school offers any of grade levels four to eight but does not offer a grade level higher than nine.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.

(iii) For two of those school years, the school showed less than one standard year of academic growth in either reading or mathematics, as determined by the department of education in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(c) The school satisfies all of the following conditions:

(i) The school offers any of grade levels ten to twelve.

(ii) The school has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for three consecutive school years.

(iii) For two of those school years, the school showed less than two standard years of academic growth in either reading or mathematics, as determined by the department in accordance with rules adopted under division (A) of section 3302.021 of the Revised Code.

(2) This section does not apply to any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver under section 3314.36 of the Revised Code.

(B) Any community school to which this section applies shall permanently close at the conclusion of the school year in which the school first becomes subject to this section. The sponsor and governing authority of the school shall comply with all procedures for closing a community school adopted by the department under division (E) of section 3314.015 of the Revised Code. The governing authority of the school shall not enter into a contract with any other sponsor under section 3314.03 of the Revised Code after the school closes.

(C) Not later than July 1, 2008, the department shall determine the

feasibility of using the value-added progress dimension, as defined in section 3302.01 of the Revised Code, as a factor in evaluating the academic performance of community schools described in division (A)(1)(c)(i) of this section. Notwithstanding divisions (A)(1)(c)(ii) and (iii) of this section, if the department determines that using the value-added progress dimension to evaluate community schools described in division (A)(1)(c)(i) of this section is not feasible, a community school described in that division shall be required to permanently close under this section only if it has been declared to be in a state of academic emergency under section 3302.03 of the Revised Code for four consecutive school years.

Sec. 3314.36. (A) Section 3314.35 of the Revised Code does not apply to any community school in which a majority of the students are enrolled in a dropout prevention and recovery program that is operated by the school and that has been granted a waiver by the department of education. The department shall grant a waiver to a dropout prevention and recovery program, within sixty days after the program applies for the waiver, if the program meets all of the following conditions:

(1) The program serves only students not younger than sixteen years of age and not older than twenty-one years of age.

(2) The program enrolls students who, at the time of their initial enrollment, either, or both, are at least one grade level behind their cohort age groups or experience crises that significantly interfere with their academic progress such that they are prevented from continuing their traditional programs.

(3) The program requires students to attain at least the applicable score designated for each of the tests prescribed under division (B) of section 3301.0710 of the Revised Code.

(4) The program develops an individual career plan for the student that specifies the student's matriculating to a two-year degree program, acquiring a business and industry credential, or entering an apprenticeship.

(5) The program provides counseling and support for the student related to the plan developed under division (A)(4) of this section during the remainder of the student's high school experience.

(6) Prior to receiving the waiver, the program has submitted to the department an instructional plan that demonstrates how the academic content standards adopted by the state board of education under section 3301.079 of the Revised Code will be taught and assessed.

If the department does not act either to grant the waiver or to reject the program application for the waiver within sixty days as required under this section, the waiver shall be considered to be granted.

(B) Notwithstanding division (A) of this section, the department shall not grant a waiver to any community school that did not qualify for a waiver under this section when it initially began operations, unless the state board of education

approves the waiver."

In line 2412, after "3302.021," insert "3314.015,"

In line 2414, after "5153.175" insert "and sections 3314.35 and 3314.36"

After line 2451, insert:

"Section 7. Not later than one year after the effective date of this section, the State Board of Education shall make recommendations to the General Assembly for performance standards for community schools that operate dropout prevention and recovery programs that qualify for waivers under section 3314.36 of the Revised Code, as enacted by this act. The recommended standards shall include criteria for closing such community schools for consistently poor academic performance.

Section 8. Section 3314.03 of the Revised Code is presented in this act as a composite of the section as amended by Am. Sub. H.B. 137, Sub. H.B. 184, and Sub. H.B. 422 of the 126th General Assembly. The General Assembly, applying the principle stated in division (B) of section 1.52 of the Revised Code that amendments are to be harmonized if reasonably capable of simultaneous operation, finds that the composite is the resulting version of the section in effect prior to the effective date of the section as presented in this act."

In line 1 of the title, after "3302.021," insert "3314.015,"

In line 3 of the title, after "enact" insert "new sections 3314.35 and 3314.36 and"

In line 5 of the title, after "5153.176" insert "; and to repeal sections 3314.35 and 3314.36"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to revise the criteria for closing poorly performing community schools"

In line 34, after "3302.021," insert "3310.03,"

Between lines 522 and 523, insert:

"Sec. 3310.03. (A) A student is an "eligible student" for purposes of the educational choice scholarship pilot program if the student satisfies both of the following conditions:

(1) The student either:

(a) Is enrolled in a school building that is operated by the student's resident district and that the department of education declared, in the most recent rating of school buildings published prior to the first day of July of the school year for which a scholarship is sought and in the two preceding school years, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code;

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

(c) Is enrolled in a community school established under Chapter 3314. of the Revised Code but otherwise would be assigned under section 3319.01 of the Revised Code to a building described in division (A)(1)(a) of this section;

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

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

(ii) In the most recent rating of school districts published prior to the first day of July of the school year for which a scholarship is sought and in the preceding two school years, was declared to be in a state of academic emergency under section 3302.03 of the Revised Code.

(2) The student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code.

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

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

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

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including absences due to illness or injury confirmed in writing by a physician.

(C) The superintendent shall cease awarding first-time scholarships with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to be in a state of academic emergency or academic watch. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section."

In line 2412, after "3302.021," insert "3310.03,"

In line 1 of the title, after "3302.021," insert "3310.03,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to revise terms for renewing Educational Choice Scholarships"

In line 34, after "3302.021," insert "3310.03,"

Between lines 522 and 523, insert:

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

(1) The student ~~either~~:

~~(a)~~ Is enrolled in a school building that is operated by the student's resident district and that the department of education declared, in the most recent rating of school buildings published prior to the first day of July of the school year for which a scholarship is sought and in the two preceding school years, to be in a state of academic emergency or academic watch under section 3302.03 of the Revised Code;

~~(b)~~ Is.

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

~~(c)~~ Is.

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

~~(d)~~ Is.

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

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

~~(a)~~(a) Has in force an intradistrict open enrollment policy under which no student in kindergarten or the community school student's grade level,

respectively, is automatically assigned to a particular school building;

~~(ii)(b)~~ In the most recent rating of school districts published prior to the first day of July of the school year for which a scholarship is sought and in the preceding two school years, was declared to be in a state of academic emergency under section 3302.03 of the Revised Code.

~~(2) The student's resident district is not a school district in which the pilot project scholarship program is operating under sections 3313.974 to 3313.979 of the Revised Code.~~

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

(1) The student's resident district remains the same;

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

(3) In each school year that the student is enrolled in a chartered nonpublic school, the student is absent from school for not more than twenty days that the school is open for instruction, not including absences due to illness or injury confirmed in writing by a physician.

(C) The superintendent shall cease awarding first-time scholarships with respect to a school building that, in the most recent ratings of school buildings published under section 3302.03 of the Revised Code prior to the first day of July of the school year, ceases to be in a state of academic emergency or academic watch. However, students who have received scholarships in the prior school year remain eligible students pursuant to division (B) of this section."

In line 2412, after "3302.021," insert "3310.03,"

In line 1 of the title, after "3302.021," insert "3310.03,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to revise eligibility for the Educational Choice Scholarship Pilot Program"

In line 34, after "3302.021," insert "3312.11,"

Between lines 561 and 562, insert:

"Sec. 3312.11. (A) The state regional alliance advisory board is hereby created. The board shall consist of the following members:

(1) One member of the advisory council of each region of the educational regional service system, appointed by the council;

(2) One member of the state board of education, appointed by the state board;

(3) One representative of four-year institutions of higher education, appointed by the Ohio board of regents;

(4) One representative of two-year institutions of higher education, appointed by the Ohio association of community colleges;

(5) One representative of the department of education, appointed by the superintendent of public instruction;

(6) One representative of the governor, appointed by the governor;

(7) One classroom teacher, appointed jointly by the Ohio education association and the Ohio federation of teachers;

(8) One parent, appointed by the Ohio parent teacher association;

(9) One representative of business, appointed by the Ohio chamber of commerce;

(10) One representative of the buckeye association of school administrators, appointed by the association;

(11) One representative of the Ohio educational service center association, appointed by the association;

(12) One representative of the Ohio school boards association, appointed by the association;

(13) One school administrator, appointed jointly by the Ohio association of elementary school administrators and the Ohio association of secondary school administrators;

(14) One representative of the Ohio association of school business officials, appointed by the association.

The superintendent of public instruction and the chairpersons and ranking minority members of the education committees of the senate and house of representatives, or their designees, shall be ex officio, nonvoting members of the board.

(B) All appointed members of the board shall serve at the pleasure of their appointing authorities.

(C) Members shall receive no compensation for their services.

(D) The superintendent of public instruction, or the superintendent's designee, shall be the chairperson of the board. For two years after its initial meeting, the board shall ~~hold regular meetings at least monthly~~ meet at least four times each year to conduct board business and may hold other meetings at the call of the chairperson. Subsequently, meetings shall be held at the call of the chairperson or at the request of at least one-third of the board's members."

In line 2412, after "3302.021," insert "3312.11,"

In line 1 of the title, after "3302.021," insert "3312.11,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to revise meeting requirements for the State Regional Alliance Advisory Board"

In line 34, after "3302.021," insert "3313.536,"

Between lines 561 and 562, insert:

"Sec. 3313.536. (A) The board of education of each city, exempted village, and local school district and the governing authority of each chartered nonpublic school shall adopt a comprehensive school safety plan for each school building under the board's or governing authority's control. The board or governing authority shall examine the environmental conditions and operations of each building to determine potential hazards to student and staff safety and shall propose operating changes to promote the prevention of potentially dangerous problems and circumstances. In developing the plan for each building, the board or governing authority shall involve community law enforcement and safety officials, parents of students who are assigned to the building, and teachers and nonteaching employees who are assigned to the building. The board or governing authority shall consider incorporating remediation strategies into the plan for any building where documented safety problems have occurred.

The board or governing authority shall incorporate into the plan both of the following:

(1) A protocol for addressing serious threats to the safety of school property, students, employees, or administrators;

(2) A protocol for responding to any emergency events that do occur and that compromise the safety of school property, students, employees, or administrators.

Each protocol shall include procedures deemed appropriate by the board or governing authority for responding to threats and emergency events, respectively, including such things as notification of appropriate law enforcement personnel, calling upon specified emergency response personnel for assistance, and informing parents of affected students.

(B) The board or governing authority shall update the safety plan at least once every three years and whenever a major modification to the building requires changes in the procedures outlined in the plan.

(C) The board or governing authority shall file a copy of the current safety plan and building blueprint with each ~~of the following~~:

~~(1) Each law enforcement agency that has jurisdiction over the school building;~~

~~(2) Upon and, upon request, the fire department that serves the political subdivision in which the school building is located;~~

~~(3) The board or governing authority also shall file a copy of the current~~

safety plan and a floor plan of the building, but not a building blueprint, with the attorney general, who shall post that information on the Ohio law enforcement gateway or its successor.

Copies of safety plans, building blueprints, and floor plans shall be filed as described in this division not later than the ninety-first day after the effective date of this amendment. If a board or governing authority revises a safety plan, building blueprint, or floor plan after the initial filing, the board or governing authority shall file copies of the revised safety plan, building blueprint, or floor plan in the manner described in this division not later than the ninety-first day after the revision is adopted.

Copies of the safety plan and building blueprint are not a public record pursuant to section 149.433 of the Revised Code.

Notwithstanding section 149.433 of the Revised Code, a building floor plan filed with the attorney general pursuant to this division is not a public record to the extent it is a record kept by the attorney general. This paragraph does not affect the status of a floor plan kept as a record by another public office.

The board or governing authority, each law enforcement agency and fire department to which copies of the safety plan and building blueprint are provided, and the attorney general shall keep the copies in a secure place.

(D) The board or governing authority shall grant access to each school building under its control to law enforcement personnel to enable the personnel to hold training sessions for responding to threats and emergency events affecting the building, provided that the access occurs outside of student instructional hours and an employee of the board or governing authority is present in the building during the training sessions."

In line 2412, after "3302.021," insert "3313.536,"

In line 1 of the title, after "3302.021," insert "3313.536,"

In line 32 of the title, delete "and"

In line 33 of the title, after "codes" insert ", and to change the law regarding the filing of school building blueprints with the Attorney General"

In line 34, delete "3301.0714, 3302.021,"

In line 35, delete "3317.01, 3317.02, "; delete "3323.091, 3323.20,"

In line 36, delete "3310.11, 3310.12,"

Delete lines 39 through 561

Delete lines 820 through 1844 and insert:

"Sec. 3317.03. Notwithstanding divisions (A)(1), (B)(1), and (C) of this section, any student enrolled in kindergarten more than half time shall be reported as one-half student under this section.

(A) The superintendent of each city and exempted village school district

and of each educational service center shall, for the schools under the superintendent's supervision, certify to the state board of education on or before the fifteenth day of October in each year for the first full school week in October the formula ADM. Beginning in fiscal year 2007, each superintendent also shall certify to the state board, for the schools under the superintendent's supervision, the formula ADM for the first full week in February. If a school under the superintendent's supervision is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM shall consist of the average daily membership during such week of the sum of the following:

(1) On an FTE basis, the number of students in grades kindergarten through twelve receiving any educational services from the district, except that the following categories of students shall not be included in the determination:

(a) Students enrolled in adult education classes;

(b) Adjacent or other district students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;

(c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in another district pursuant to section 3313.64 or 3313.65 of the Revised Code;

(d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) On an FTE basis, the number of students entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code, but receiving educational services in grades kindergarten through twelve from one or more of the following entities:

(a) A community school pursuant to Chapter 3314. of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(b) An alternative school pursuant to sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(c) A college pursuant to Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;

(d) An adjacent or other school district under an open enrollment policy

adopted pursuant to section 3313.98 of the Revised Code;

(e) An educational service center or cooperative education district;

(f) Another school district under a cooperative education agreement, compact, or contract;

(g) A chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code.

(3) Twenty per cent of the number of students enrolled in a joint vocational school district or under a vocational education compact, excluding any students entitled to attend school in the district under section 3313.64 or 3313.65 of the Revised Code who are enrolled in another school district through an open enrollment policy as reported under division (A)(2)(d) of this section and then enroll in a joint vocational school district or under a vocational education compact;

(4) The number of handicapped children, other than handicapped preschool children, entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are placed with a county MR/DD board, minus the number of such children placed with a county MR/DD board in fiscal year 1998. If this calculation produces a negative number, the number reported under division (A)(4) of this section shall be zero.

(5) Beginning in fiscal year 2007, in the case of the report submitted for the first full week in February, or the alternative week if specified by the superintendent of public instruction, the number of students reported under division (A)(1) or (2) of this section for the first full week of the preceding October but who since that week have received high school diplomas.

(B) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the following student counts for the same week for which formula ADM is certified:

(1) The total average daily membership in regular day classes included in the report under division (A)(1) or (2) of this section for kindergarten, and each of grades one through twelve in schools under the superintendent's supervision;

(2) The number of all handicapped preschool children enrolled as of the first day of December in classes in the district that are eligible for approval under division (B) of section 3317.05 of the Revised Code and the number of those classes, which shall be reported not later than the fifteenth day of December, in accordance with rules adopted under that section;

(3) The number of children entitled to attend school in the district pursuant to section 3313.64 or 3313.65 of the Revised Code who are:

(a) Participating in a pilot project scholarship program established under sections 3313.974 to 3313.979 of the Revised Code as described in division (I)(2)(a) or (b) of this section;

(b) Enrolled in a college under Chapter 3365. of the Revised Code, except when the student is enrolled in the college while also enrolled in a community school pursuant to Chapter 3314. of the Revised Code;

(c) Enrolled in an adjacent or other school district under section 3313.98 of the Revised Code;

(d) Enrolled in a community school established under Chapter 3314. of the Revised Code that is not an internet- or computer-based community school as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in such community school;

(e) Enrolled in an internet- or computer-based community school, as defined in section 3314.02 of the Revised Code, including any participation in a college pursuant to Chapter 3365. of the Revised Code while enrolled in the school;

(f) Enrolled in a chartered nonpublic school with a scholarship paid under section 3310.08 of the Revised Code;

(g) Participating in a program operated by a county MR/DD board or a state institution.

(4) The number of pupils enrolled in joint vocational schools;

(5) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(6) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(7) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(8) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(9) The average daily membership of handicapped children reported under division (A)(1) or (2) of this section receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(10) The average daily membership of handicapped children reported

under division (A)(1) or (2) of this section receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;

(11) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category one vocational education programs or classes, described in division (A) of section 3317.014 of the Revised Code, operated by the school district or by another district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(12) The average daily membership of pupils reported under division (A)(1) or (2) of this section enrolled in category two vocational education programs or services, described in division (B) of section 3317.014 of the Revised Code, operated by the school district or another school district, other than a joint vocational school district, or by an educational service center, excluding any student reported under division (B)(3)(e) of this section as enrolled in an internet- or computer-based community school, notwithstanding division (C) of section 3317.02 of the Revised Code and division (C)(3) of this section;

(13) The average number of children transported by the school district on board-owned or contractor-owned and -operated buses, reported in accordance with rules adopted by the department of education;

(14)(a) The number of children, other than handicapped preschool children, the district placed with a county MR/DD board in fiscal year 1998;

(b) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;

(c) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category two handicaps described in division (B) of section 3317.013 of the Revised Code;

(d) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;

(e) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;

(f) The number of handicapped children, other than handicapped

preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;

(g) The number of handicapped children, other than handicapped preschool children, placed with a county MR/DD board in the current fiscal year to receive special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code.

(C)(1) Except as otherwise provided in this section for kindergarten students, the average daily membership in divisions (B)(1) to (12) of this section shall be based upon the number of full-time equivalent students. The state board of education shall adopt rules defining full-time equivalent students and for determining the average daily membership therefrom for the purposes of divisions (A), (B), and (D) of this section.

(2) A student enrolled in a community school established under Chapter 3314. of the Revised Code shall be counted in the formula ADM and, if applicable, the category one, two, three, four, five, or six special education ADM of the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code for the same proportion of the school year that the student is counted in the enrollment of the community school for purposes of section 3314.08 of the Revised Code.

(3) No child shall be counted as more than a total of one child in the sum of the average daily memberships of a school district under division (A), divisions (B)(1) to (12), or division (D) of this section, except as follows:

(a) A child with a handicap described in section 3317.013 of the Revised Code may be counted both in formula ADM and in category one, two, three, four, five, or six special education ADM and, if applicable, in category one or two vocational education ADM. As provided in division (C) of section 3317.02 of the Revised Code, such a child shall be counted in category one, two, three, four, five, or six special education ADM in the same proportion that the child is counted in formula ADM.

(b) A child enrolled in vocational education programs or classes described in section 3317.014 of the Revised Code may be counted both in formula ADM and category one or two vocational education ADM and, if applicable, in category one, two, three, four, five, or six special education ADM. Such a child shall be counted in category one or two vocational education ADM in the same proportion as the percentage of time that the child spends in the vocational education programs or classes.

(4) Based on the information reported under this section, the department of education shall determine the total student count, as defined in section 3301.011 of the Revised Code, for each school district.

(D)(1) The superintendent of each joint vocational school district shall certify to the superintendent of public instruction on or before the fifteenth day

of October in each year for the first full school week in October the formula ADM. Beginning in fiscal year 2007, each superintendent also shall certify to the state superintendent the formula ADM for the first full week in February. If a school operated by the joint vocational school district is closed for one or more days during that week due to hazardous weather conditions or other circumstances described in the first paragraph of division (B) of section 3317.01 of the Revised Code, the superintendent may apply to the superintendent of public instruction for a waiver, under which the superintendent of public instruction may exempt the district superintendent from certifying the formula ADM for that school for that week and specify an alternate week for certifying the formula ADM of that school.

The formula ADM, except as otherwise provided in this division, shall consist of the average daily membership during such week, on an FTE basis, of the number of students receiving any educational services from the district, including students enrolled in a community school established under Chapter 3314. of the Revised Code who are attending the joint vocational district under an agreement between the district board of education and the governing authority of the community school and are entitled to attend school in a city, local, or exempted village school district whose territory is part of the territory of the joint vocational district. Beginning in fiscal year 2007, in the case of the report submitted for the first week in February, or the alternative week if specified by the superintendent of public instruction, the superintendent of the joint vocational school district may include the number of students reported under division (D)(1) of this section for the first full week of the preceding October but who since that week have received high school diplomas.

The following categories of students shall not be included in the determination made under division (D)(1) of this section:

- (a) Students enrolled in adult education classes;
- (b) Adjacent or other district joint vocational students enrolled in the district under an open enrollment policy pursuant to section 3313.98 of the Revised Code;
- (c) Students receiving services in the district pursuant to a compact, cooperative education agreement, or a contract, but who are entitled to attend school in a city, local, or exempted village school district whose territory is not part of the territory of the joint vocational district;
- (d) Students for whom tuition is payable pursuant to sections 3317.081 and 3323.141 of the Revised Code.

(2) To enable the department of education to obtain the data needed to complete the calculation of payments pursuant to this chapter, in addition to the formula ADM, each superintendent shall report separately the average daily membership included in the report under division (D)(1) of this section for each of the following categories of students for the same week for which formula ADM is certified:

- (a) Students enrolled in each grade included in the joint vocational district schools;
- (b) Handicapped children receiving special education services for the category one handicap described in division (A) of section 3317.013 of the Revised Code;
- (c) Handicapped children receiving special education services for the category two handicaps described in division (B) of section 3317.013 of the Revised Code;
- (d) Handicapped children receiving special education services for category three handicaps described in division (C) of section 3317.013 of the Revised Code;
- (e) Handicapped children receiving special education services for category four handicaps described in division (D) of section 3317.013 of the Revised Code;
- (f) Handicapped children receiving special education services for the category five handicap described in division (E) of section 3317.013 of the Revised Code;
- (g) Handicapped children receiving special education services for category six handicaps described in division (F) of section 3317.013 of the Revised Code;
- (h) Students receiving category one vocational education services, described in division (A) of section 3317.014 of the Revised Code;
- (i) Students receiving category two vocational education services, described in division (B) of section 3317.014 of the Revised Code.

The superintendent of each joint vocational school district shall also indicate the city, local, or exempted village school district in which each joint vocational district pupil is entitled to attend school pursuant to section 3313.64 or 3313.65 of the Revised Code.

(E) In each school of each city, local, exempted village, joint vocational, and cooperative education school district there shall be maintained a record of school membership, which record shall accurately show, for each day the school is in session, the actual membership enrolled in regular day classes. For the purpose of determining average daily membership, the membership figure of any school shall not include any pupils except those pupils described by division (A) of this section. The record of membership for each school shall be maintained in such manner that no pupil shall be counted as in membership prior to the actual date of entry in the school and also in such manner that where for any cause a pupil permanently withdraws from the school that pupil shall not be counted as in membership from and after the date of such withdrawal. There shall not be included in the membership of any school any of the following:

- (1) Any pupil who has graduated from the twelfth grade of a public or

nonpublic high school;

(2) Any pupil who is not a resident of the state;

(3) Any pupil who was enrolled in the schools of the district during the previous school year when tests were administered under section 3301.0711 of the Revised Code but did not take one or more of the tests required by that section and was not excused pursuant to division (C)(1) or (3) of that section;

(4) Any pupil who has attained the age of twenty-two years, except for veterans of the armed services whose attendance was interrupted before completing the recognized twelve-year course of the public schools by reason of induction or enlistment in the armed forces and who apply for reenrollment in the public school system of their residence not later than four years after termination of war or their honorable discharge.

If, however, any veteran described by division (E)(4) of this section elects to enroll in special courses organized for veterans for whom tuition is paid under the provisions of federal laws, or otherwise, that veteran shall not be included in average daily membership.

Notwithstanding division (E)(3) of this section, the membership of any school may include a pupil who did not take a test required by section 3301.0711 of the Revised Code if the superintendent of public instruction grants a waiver from the requirement to take the test to the specific pupil and a parent is not paying tuition for the pupil pursuant to section 3313.6410 of the Revised Code. The superintendent may grant such a waiver only for good cause in accordance with rules adopted by the state board of education.

Except as provided in divisions (B)(2) and (F) of this section, the average daily membership figure of any local, city, exempted village, or joint vocational school district shall be determined by dividing the figure representing the sum of the number of pupils enrolled during each day the school of attendance is actually open for instruction during the week for which the formula ADM is being certified by the total number of days the school was actually open for instruction during that week. For purposes of state funding, "enrolled" persons are only those pupils who are attending school, those who have attended school during the current school year and are absent for authorized reasons, and those handicapped children currently receiving home instruction.

The average daily membership figure of any cooperative education school district shall be determined in accordance with rules adopted by the state board of education.

(F)(1) If the formula ADM for the first full school week in February is at least three per cent greater than that certified for the first full school week in the preceding October, the superintendent of schools of any city, exempted village, or joint vocational school district or educational service center shall certify such increase to the superintendent of public instruction. Such certification shall be submitted no later than the fifteenth day of February. For the balance of the

fiscal year, beginning with the February payments, the superintendent of public instruction shall use the increased formula ADM in calculating or recalculating the amounts to be allocated in accordance with section 3317.022 or 3317.16 of the Revised Code. In no event shall the superintendent use an increased membership certified to the superintendent after the fifteenth day of February. Division (F)(1) of this section does not apply after fiscal year 2006.

(2) If on the first school day of April the total number of classes or units for handicapped preschool children that are eligible for approval under division (B) of section 3317.05 of the Revised Code exceeds the number of units that have been approved for the year under that division, the superintendent of schools of any city, exempted village, or cooperative education school district or educational service center shall make the certifications required by this section for that day. If the department determines additional units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of such units, the department shall approve additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in section 3317.052 or 3317.19 and section 3317.053 of the Revised Code.

(3) If a student attending a community school under Chapter 3314. of the Revised Code is not included in the formula ADM certified for the school district in which the student is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code, the department of education shall adjust the formula ADM of that school district to include the community school student in accordance with division (C)(2) of this section, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the community school during the ~~first full school week in October~~ for which the formula ADM is being certified.

(4) If a student awarded an educational choice scholarship is not included in the formula ADM of the school district from which the department deducts funds for the scholarship under section 3310.08 of the Revised Code, the department shall adjust the formula ADM of that school district to include the student to the extent necessary to account for the deduction, and shall recalculate the school district's payments under this chapter for the entire fiscal year on the basis of that adjusted formula ADM. This requirement applies regardless of whether the student was enrolled, as defined in division (E) of this section, in the chartered nonpublic school, the school district, or a community school during the week for which the formula ADM is being certified.

(G)(1)(a) The superintendent of an institution operating a special education program pursuant to section 3323.091 of the Revised Code shall, for the programs under such superintendent's supervision, certify to the state board of education, in the manner prescribed by the superintendent of public

instruction, both of the following:

(i) The average daily membership of all handicapped children other than handicapped preschool children receiving services at the institution for each category of handicap described in divisions (A) to (F) of section 3317.013 of the Revised Code;

(ii) The average daily membership of all handicapped preschool children in classes or programs approved annually by the department of education for unit funding under section 3317.05 of the Revised Code.

(b) The superintendent of an institution with vocational education units approved under division (A) of section 3317.05 of the Revised Code shall, for the units under the superintendent's supervision, certify to the state board of education the average daily membership in those units, in the manner prescribed by the superintendent of public instruction.

(2) The superintendent of each county MR/DD board that maintains special education classes under section 3317.20 of the Revised Code or units approved pursuant to section 3317.05 of the Revised Code shall do both of the following:

(a) Certify to the state board, in the manner prescribed by the board, the average daily membership in classes under section 3317.20 of the Revised Code for each school district that has placed children in the classes;

(b) Certify to the state board, in the manner prescribed by the board, the number of all handicapped preschool children enrolled as of the first day of December in classes eligible for approval under division (B) of section 3317.05 of the Revised Code, and the number of those classes.

(3)(a) If on the first school day of April the number of classes or units maintained for handicapped preschool children by the county MR/DD board that are eligible for approval under division (B) of section 3317.05 of the Revised Code is greater than the number of units approved for the year under that division, the superintendent shall make the certification required by this section for that day.

(b) If the department determines that additional classes or units can be approved for the fiscal year within any limitations set forth in the acts appropriating moneys for the funding of the classes and units described in division (G)(3)(a) of this section, the department shall approve and fund additional units for the fiscal year on the basis of such average daily membership. For each unit so approved, the department shall pay an amount computed in the manner prescribed in sections 3317.052 and 3317.053 of the Revised Code.

(H) Except as provided in division (I) of this section, when any city, local, or exempted village school district provides instruction for a nonresident pupil whose attendance is unauthorized attendance as defined in section 3327.06 of the Revised Code, that pupil's membership shall not be included in that

district's membership figure used in the calculation of that district's formula ADM or included in the determination of any unit approved for the district under section 3317.05 of the Revised Code. The reporting official shall report separately the average daily membership of all pupils whose attendance in the district is unauthorized attendance, and the membership of each such pupil shall be credited to the school district in which the pupil is entitled to attend school under division (B) of section 3313.64 or section 3313.65 of the Revised Code as determined by the department of education.

(I)(1) A city, local, exempted village, or joint vocational school district admitting a scholarship student of a pilot project district pursuant to division (C) of section 3313.976 of the Revised Code may count such student in its average daily membership.

(2) In any year for which funds are appropriated for pilot project scholarship programs, a school district implementing a state-sponsored pilot project scholarship program that year pursuant to sections 3313.974 to 3313.979 of the Revised Code may count in average daily membership:

(a) All children residing in the district and utilizing a scholarship to attend kindergarten in any alternative school, as defined in section 3313.974 of the Revised Code;

(b) All children who were enrolled in the district in the preceding year who are utilizing a scholarship to attend any such alternative school.

(J) The superintendent of each cooperative education school district shall certify to the superintendent of public instruction, in a manner prescribed by the state board of education, the applicable average daily memberships for all students in the cooperative education district, also indicating the city, local, or exempted village district where each pupil is entitled to attend school under section 3313.64 or 3313.65 of the Revised Code."

In line 1872, delete "license" and insert "certificate"

Delete lines 2078 through 2153

In line 2412, delete "3301.0714, 3302.021,"

In line 2413, delete "3317.01, 3317.02,"; delete "3323.091,"

In line 2414, delete "3323.20,"

Delete lines 2415 through 2451

In line 1 of the title, delete "3301.0714, 3302.021,"

In line 2 of the title, delete "3317.01, 3317.02,"

In line 3 of the title, delete "3323.091, 3323.20,"; delete the semicolon and insert "and"

In line 4 of the title, delete "3310.11, 3310.12,"

In line 6 of the title, delete "; and to amend Section 612.36.03 of"

In line 7 of the title, delete "Am. Sub. H.B. 66 of the 126th General Assembly"

In line 22 of the title, delete ", to delay until fiscal year 2007 the"

Delete lines 23 through 32 of the title

In line 33 of the title, delete "the use of student data verification codes" and insert ", to provide for the inclusion of certain Educational Choice Scholarship students in the formula ADM of their resident school districts"

Managers on the Part of the House of Representatives

Managers on the Part of the Senate

/s/ THOMAS A. RAGA
THOMAS A. RAGA

/s/ JOY PADGETT
JOY PADGETT

/s/ JOHN M. SCHLICHTER
JOHN M. SCHLICHTER

/s/ RANDY GARDNER
RANDY GARDNER

KENNETH A. CARANO

TERESA FEDOR

Senator Jacobson moved that the report of the Committee of Conference be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the report of the Committee of Conference be agreed to?"

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Schuring	Wilson	Zurz-12.

So the report of Committee of Conference was agreed to.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Harris submitted the following report:

The standing committee on Rules, to which was referred **Sub. H. B. No. 694**-Representative DeWine, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 7: J. KIRK SCHURING, JAY HOTTINGER, STEPHEN C. AUSTRIA, ROBERT F. SPADA, RANDY GARDNER, JEFF JACOBSON, BILL HARRIS.

NO - 4: KIMBERLY A. ZURZ, C. J. PRENTISS, TERESA FEDOR, TOM ROBERTS.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 699-Representatives Calvert, Peterson, Flowers, McGregor, J., Hartnett, Chandler, Stewart, D., Skindell, Patton, S., Ujvagi, Carmichael, Collier, Combs, Core, Evans, C., Evans, D., Faber, Fende, Hagan, Koziura, Law, Mitchell, Reinhard, Schaffer, Seaver, Seitz, Setzer, White, J., Woodard Senators Carey, Stivers, Niehaus, Clancy, Kearney.

To amend sections 3.21, 3.23, 5.10, 9.37, 101.34, 101.72, 101.83, 101.92, 107.40, 121.62, 122.17, 122.171, 126.11, 131.02, 133.021, 133.07, 133.08, 133.20, 151.01, 151.09, 151.10, 151.40, 152.09, 152.18, 152.19, 152.21, 152.24, 152.26, 154.02, 154.20, 169.13, 176.05, 307.695, 333.02, 333.04, 340.03, 340.09, 340.12, 715.70, 715.81, 1520.02, 1702.01, 1702.08, 1702.11, 1702.17, 1702.19, 1702.20, 1702.22, 1702.27, 1702.38, 1702.39, 1702.42, 1702.58, 2301.02, 2305.26, 2329.07, 2701.06, 3317.013, 3317.022, 3317.029, 3317.0217, 3317.03, 3353.07, 3353.11, 3383.01, 3383.07, 3706.01, 3770.05, 3770.073, 3905.36, 3931.07, 4115.04, 4121.121, 4503.068, 4710.02, 4728.03, 4733.14, 4763.03, 4763.05, 4763.06, 4919.76, 5107.12, 5111.88, 5115.06, 5119.071, 5119.611, 5120.03, 5123.08, 5126.01, 5126.02, 5126.024, 5126.029, 5126.0210, 5126.0211, 5126.0212, 5126.0213, 5126.0214, 5126.0220, 5126.0221, 5126.0222, 5126.0223, 5126.0224, 5126.0225, 5126.031, 5126.034, 5126.037, 5139.02, 5502.62, 5537.01, 5537.02, 5537.03, 5537.10, 5537.17, 5537.24, 5537.26, 5537.27, 5537.28, 5701.11, 5709.87,

5725.31, 5727.84, 5729.07, 5733.42, 5739.01, 5739.09, 5741.101, 5747.39, 5748.01, 5751.01, 5751.011, 5751.033, 5910.03, and 5919.31; to enact sections 121.482, 184.191, 3333.34, 5533.75, 5709.083, 5713.051, 5748.021, and 5748.081 of the Revised Code; to amend Section 206.09.84 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended, and to amend Section 206.09.84 of Am. Sub. H.B. 66 of the 126th General Assembly, for the purpose of codifying it as section 3310.41 of the Revised Code; to amend Section 22.07 of Am. Sub. H.B. 16 of the 126th General Assembly; to amend Sections 203.12.06, 203.24, 203.57, 203.81, 206.33, 206.66.06, 209.54, 209.63.03, 209.63.30, and 209.93 of Am. Sub. H.B. 66 of the 126th General Assembly; to amend Sections 203.27, 203.99, 209.63, and 212.30 of Am. Sub. H.B. 66 of the 126th General Assembly, as subsequently amended; to amend Sections 243.10 and 287.20 of Am. Sub. H.B. 530 of the 126th General Assembly; to amend Section 10 of Am. Sub. S.B. 250 of the 123rd General Assembly; to repeal Section 4 of Sub. H.B. 139 of the 126th General Assembly; and to amend the version of section 5502.62 of the Revised Code that is scheduled to take effect April 1, 2007, to make capital and other appropriations and to provide authorization and conditions for the operation of state programs, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Carey moved to amend as follows:

Between lines 16484 and 16485, insert:

"Owens Community College \$4,993,940"

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Carey moved to amend as follows:

In line 16304, delete "Freestone" and insert "Freestore"

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Carey moved to amend as follows:

In line 15650, delete "\$67,000,000" and insert "\$68,000,000"

In line 15820, delete "\$55,000,000" and insert "\$50,000,000"

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Carey moved to amend as follows:

In line 15603, after "Acquisition" insert "and Construction"

The question being, "Shall the amendment be agreed to?"

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Roberts moved to amend as follows:

In line 20565, delete "and"; after "5739.09" insert ", 5748.01, 5748.021, and 5748.081"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Miller, D. moved to amend as follows:

In line 10139, reinsert "may"; delete "shall"

In line 10141, delete "not less than two"

The question being, "Shall the amendment be agreed to?"

Senator Coughlin moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 20, nays 13, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Mumper	Niehaus	Schuler	Schuring
Spada	Stivers	Wachtmann	Harris-20.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Jordan	Kearney	Miller D	Miller R
Padgett	Prentiss	Roberts	Wilson
			Zurz-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Jordan moved to amend as follows:

In line 77, after "184.191," insert "3318.101,"

Between lines 7866 and 7867, insert:

"Sec. 3318.101. (A) As used in this section, "prevailing rate" means the prevailing rate of wages determined under sections 4115.03 to 4115.16 of the Revised Code.

(B) The Ohio school facilities commission shall not enter into any agreement with a city, exempted village, local, or joint vocational school district in relation to a project or segment of a project undertaken by the district under this chapter or approve any contract for labor under such project or segment that requires that mechanics and laborers engaged for that project be paid the prevailing rate.

(C) Nothing in this section affects the exemption of school districts and educational service centers from the requirement to pay the prevailing rate prescribed in division (B)(3) of section 4115.04 of the Revised Code."

In line 20534, after "121.482," insert "3318.101,"

In line 27 of the title, after "184.191," insert "3318.101,"

The question being, "Shall the amendment be agreed to?"

Senator Carey moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 23, nays 10, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Kearney
Miller D	Miller R	Padgett	Prentiss
Roberts	Schuring	Spada	Stivers
Wilson	Zurz		Harris-23.

Those who voted in the negative were: Senators

Cates	Clancy	Coughlin	Hottinger
Jacobson	Jordan	Mumper	Niehaus
Schuler			Wachtmann-10.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

Senator Wachtmann moved to amend as follows:

In line 61, after "3931.07," insert "4115.03, 4115.032, "; after "4115.04," insert "4115.071,"

In line 71, after the semicolon insert "that section 4115.21 (4115.16) be amended for the purpose of adopting a new section number as indicated in parentheses;"

Between lines 8833 and 8834, insert:

"**Sec. 4115.03.** As used in sections 4115.03 to 4115.16 of the Revised Code:

(A) "Public authority" means any officer, board, or commission of the state, or any political subdivision of the state, authorized to enter into a contract for the construction of a public improvement or to construct the same by the direct employment of labor, or any institution supported in whole or in part by public funds and said sections apply to expenditures of such institutions made in whole or in part from public funds.

(B) "Construction" means either of the following:

(1) Any new construction of any public improvement, the total overall

project cost of which is fairly estimated to be more than fifty thousand dollars adjusted biennially by the director of commerce pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary periods in the classified service of a public authority;

(2) Any reconstruction, enlargement, alteration, repair, remodeling, renovation, or painting of any public improvement, the total overall project cost of which is fairly estimated to be more than fifteen thousand dollars adjusted biennially by the administrator pursuant to section 4115.034 of the Revised Code and performed by other than full-time employees who have completed their probationary period in the classified civil service of a public authority.

(C) "Public improvement" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, water works, and all other structures or works constructed by a public authority of the state or any political subdivision thereof or by any person who, pursuant to a contract with a public authority, constructs any structure for a public authority of the state or a political subdivision thereof. When a public authority rents or leases a newly constructed structure within six months after completion of such construction, all work performed on such structure to suit it for occupancy by a public authority is a "public improvement." "Public improvement" does not include an improvement authorized by section 1515.08 of the Revised Code that is constructed pursuant to a contract with a soil and water conservation district, as defined in section 1515.01 of the Revised Code, or performed as a result of a petition filed pursuant to Chapter 6131., 6133., or 6135. of the Revised Code, wherein no less than seventy-five per cent of the project is located on private land and no less than seventy-five per cent of the cost of the improvement is paid for by private property owners pursuant to Chapter 1515., 6131., 6133., or 6135. of the Revised Code.

(D) "Locality" means the county wherein the physical work upon any public improvement is being performed.

(E) "Prevailing wages" means the sum of the following:

(1) The basic hourly rate of pay;

(2) The rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a fund, plan, or program;

(3) The rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing the following fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected:

(a) Medical or hospital care or insurance to provide such;

(b) Pensions on retirement or death or insurance to provide such;

(c) Compensation for injuries or illnesses resulting from occupational activities if it is in addition to that coverage required by Chapters 4121. and 4123. of the Revised Code;

(d) Supplemental unemployment benefits that are in addition to those required by Chapter 4141. of the Revised Code;

(e) Life insurance;

(f) Disability and sickness insurance;

(g) Accident insurance;

(h) Vacation and holiday pay;

(i) Defraying of costs for apprenticeship or other similar training programs which are beneficial only to the laborers and mechanics affected;

(j) Other bona fide fringe benefits.

None of the benefits enumerated in division (E)(3) of this section may be considered in the determination of prevailing wages if federal, state, or local law requires contractors or subcontractors to provide any of such benefits.

(F) ~~"Interested party," with respect to a particular public improvement, means:~~

~~(1) Any person who submits a bid for the purpose of securing the award of a contract for construction of the public improvement;~~

~~(2) Any person acting as a subcontractor of a person mentioned in division (F)(1) of this section;~~

~~(3) Any bona fide organization of labor which has as members or is authorized to represent employees of a person mentioned in division (F)(1) or (2) of this section and which exists, in whole or in part, for the purpose of negotiating with employers concerning the wages, hours, or terms and conditions of employment of employees;~~

~~(4) Any association having as members any of the persons mentioned in division (F)(1) or (2) of this section.~~

~~(G)~~ Except as used in division (A) of this section, "officer" means an individual who has an ownership interest or holds an office of trust, command, or authority in a corporation, business trust, partnership, or association.

Sec. 4115.032. Construction on any project, facility, or project facility to which section 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, or 3706.042 of the Revised Code applies is hereby deemed to be construction of a public improvement within section 4115.03 of the Revised Code. All contractors and subcontractors working on such projects, facilities, or project facilities shall be subject to and comply with sections 4115.03 to 4115.16 of the Revised Code, and the director of commerce shall, ~~and any interested party may,~~ bring proceedings under such sections to enforce compliance.

The director shall make the determination of wages as required under sections 122.452, 122.80, 165.031, 166.02, 1551.13, 1728.07, and 3706.042 of the Revised Code and shall designate one of the director's employees to act as the prevailing wage coordinator under section 4115.071 for any project, facility, or project facility for which a coordinator has not been designated by any public authority."

Between lines 8883 and 8884, insert:

"**Sec. 4115.071.** (A) Each contracting public authority that enters into a contract other than a contract for printing, binding, and related services, whose contractor and subcontractors are subject to sections 4115.03 to 4115.16 of the Revised Code shall, no later than ten days before the first payment of wages is payable to any employee of any contractor or subcontractor, designate and appoint one of its own employees to serve as the prevailing wage coordinator during the life of the contract. The duties of the coordinator shall include:

(1) Setting up and maintaining, available for public inspection including inspection by ~~interested parties~~ or affected employees, files of payroll reports and affidavits submitted by contractors and subcontractors pursuant to sections 4115.03 to 4115.16 of the Revised Code;

(2) Ascertaining from each contractor or subcontractor, at the beginning of performance under the contract, the dates during its life when payments of wages to employees are to be made;

(3) Receiving from each contractor or subcontractor, a copy of the contractor's or subcontractor's complete payroll for each date exhibiting for each employee paid any wages, the employee's name, current address, social security number, number of hours worked each day during the pay period and the total for each week, the employee's hourly rate of pay, the employee's job classification, fringe payments, and deductions from the employee's wages;

(4) Establishing and following procedures to monitor the compliance by each contractor and subcontractor with the requirement imposed by this section for timely filing of copies of payroll records;

(5) Receiving from each contractor or subcontractor upon completion of the public improvement and prior to final payment therefor the affidavit required by section 4115.07 of the Revised Code;

(6) Reporting any delinquency in the filing of the certified copy of the payroll and the affidavit to the chief officer of the contracting public authority and the director of commerce.

(B) Any contracting public authority having a permanent employee with the title, powers, and functions described in division (A) of this section for the prevailing wage coordinator need not separately designate and appoint an employee for each public work contract entered into by the contracting public authority.

(C) Every contractor and subcontractor who is subject to sections 4115.03 to 4115.16 of the Revised Code shall, upon beginning performance under the contractor's or subcontractor's contract with any contracting public authority, supply to the prevailing wage coordinator of the contracting public authority a schedule of the dates during the life of the contract with the authority on which the contractor or subcontractor is required to pay wages to employees. The contractor or subcontractor shall also deliver to the prevailing wage coordinator a certified copy of the contractor's or subcontractor's payroll, within two weeks after the initial pay date, and supplemental reports for each month thereafter which shall exhibit for each employee paid any wages, the employee's name, current address, social security number, number of hours worked during each day of the pay periods covered and the total for each week, the employee's hourly rate of pay, the employee's job classification, fringe payments, and deductions from the employee's wages. If the life of the contract is expected to be no more than four months from the beginning of performance by the contractor or subcontractor, such supplemental reports shall be filed each week after the initial report. The certification of each payroll shall be executed by the contractor, subcontractor, or duly appointed agent thereof and shall recite that the payroll is correct and complete and that the wage rates shown are not less than those required by the contract.

(D) If it is found that a public authority or prevailing wage coordinator has not complied with this section, the director shall give notice thereof in writing to the public authority or prevailing wage coordinator. Sufficient time shall be allowed for compliance as the director deems necessary. At the expiration of the time prescribed in the notice, the director shall, in writing, inform the attorney general of the fact that notice has been given and that the public authority or prevailing wage coordinator to whom it was directed has not complied with it. On receipt thereof, the attorney general shall bring suit in the name of the state in the court of common pleas of the county in which the public authority is located, to require the public authority or prevailing wage coordinator to comply with this section.

Sec. ~~4115.21~~4115.16. A person who files a complaint with the director of commerce alleging a violation of sections 4115.03 to 4115.16 of the Revised Code shall file the complaint within two years after the completion of the public improvement upon which the violation is alleged to have occurred or be barred from further administrative action under this chapter."

In line 15197, after "3931.07," insert "4115.03, 4115.032, "; after "4115.04," insert "4115.071, 4115.21,"

Between lines 15206 and 15207, insert:

"**Section ____.** That section 4115.16 of the Revised Code is hereby repealed."

In line 13 of the title, after "3931.07," insert "4115.03, 4115.032,"

In line 14 of the title, after "4115.04," insert "4115.071,"

In line 26 of the title, after the semicolon insert "to amend, for the purpose of adopting a new section number as indicated in parentheses, section 4115.21 (4115.16) of the Revised Code;"

In line 29 of the title, after "5748.081" insert "; and to repeal section 4115.16 of the Revised Code"

The question being, "Shall the amendment be agreed to?"

Senator Spada moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 24, nays 9, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Kearney	Miller D
Miller R	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wilson	Zurz	Harris-24.

Those who voted in the negative were: Senators

Amstutz	Cates	Clancy	Coughlin
Hottinger	Jacobson	Jordan	Mumper
			Wachtmann-9.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 699**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wilson	Zurz	Harris-32.

Senator Wachtmann voted in the negative-1.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Carey moved to amend the title as follows:

Add the names: "Armbruster, Coughlin, Fingerhut, Gardner, Goodman, Hagan, Hottinger, Mumper, Spada, Padgett, Fedor, Wilson, Zurz, Jacobson, Miller, R., Roberts."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 690-Representatives Seitz, Brinkman, Combs, Evans, D., Flowers, Gibbs, Hood, Martin, Reidelbach, Schneider, Setzer, Webster Senator Cates.

To amend sections 4111.01, 4111.02, 4111.03, 4111.04, 4111.08, 4111.09, and 4111.10 and to enact section 4111.14 of the Revised Code to implement Section 34a, Article II, of the Constitution of the State of Ohio and to further amend section 4111.08 of the Revised Code on January 1, 2010, to apply certain record-keeping provisions only to employers subject to Ohio's overtime law, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 690**, pass?"

Senator Stivers moved to amend as follows:

Delete lines 432 through 434

In line 435, delete everything before the underlined period and insert "individuals for whom an employer is not required to keep that information under the Fair Labor Standards Act and its regulations or individuals who are not subject to the overtime pay requirements specified in section 4111.03 of the Revised Code"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 690**, pass?"

The yeas and nays were taken and resulted - yeas 19, nays 14, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jordan	Mumper
Niehaus	Schuler	Schuring	Spada
Stivers	Wachtmann		Harris-19.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Grendell
Hagan	Jacobson	Kearney	Miller D
Miller R	Padgett	Prentiss	Roberts
Wilson			Zurz-14.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Stivers, Harris, Wachtmann, Armbruster, Schuler."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 694-Representatives DeWine, Calvert, Trakas, Peterson, McGregor, R., Dolan, Webster, Raga, Flowers, Martin, Evans, C., Aslanides, Coley, Evans, D., Hagan, Hughes, Law, Oelslager, Patton, T., Reidelbach, Schaffer, Seaver, Setzer, Wagoner, White, J., Widener, Widowfield.

To amend sections 3517.13 and 3517.992 and to enact sections 109.96 and 3517.093 of the Revised Code to limit solicitations of and political contributions by owners and certain family members of owners of businesses that are seeking or that have been awarded public contracts, to require the Attorney General to develop and provide to each executive agency model contracts that the agency is required to use in any contract the agency enters into, and to make other changes to the Campaign Finance Law, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 694**, pass?"

Senator Miller, R. moved to amend as follows:

In line 586, delete "contracts"

Delete lines 587 and 588

In line 589, delete "contract to" and insert "in addition to the holder of any other public office who may be considered to have ultimate responsibility for the award of a contract, each member of the controlling board shall be considered to be the holder of the public office with ultimate responsibility for the award of a contract, for each contract approved by"

The question being, "Shall the amendment be agreed to?"

Senator Jacobson moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Cates
Clancy	Coughlin	Gardner	Goodman
Grendell	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Amstutz	Dann	Fedor	Fingerhut
Hagan	Kearney	Miller D	Miller R
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 694**, pass?"

Senator Fedor moved to amend as follows:

In line 535, after "(1)" delete the balance of the line

Delete lines 536 through 547

In line 548, delete "(2)(a)"

In line 559, delete "(b)" and insert "(2)"

Delete lines 568 through 571

The question being, "Shall the amendment be agreed to?"

Senator Goodman moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 694**, pass?"

The yeas and nays were taken and resulted - yeas 23, nays 10, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Cates
Clancy	Coughlin	Dann	Fingerhut
Gardner	Goodman	Grendell	Hottinger
Jacobson	Jordan	Mumper	Niehaus
Padgett	Schuler	Schuring	Spada
Stivers	Wachtmann		Harris-23.

Those who voted in the negative were: Senators

Amstutz	Fedor	Hagan	Kearney
Miller D	Miller R	Prentiss	Roberts
Wilson			Zurz-10.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Jacobson moved to amend the title as follows:

Add the names: "Jacobson."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 239-Representatives Schneider, Reidelbach, Brinkman, Faber, Seitz, Kearns, Flowers, Hood, Aslanides, Blessing, Bubb, Buehrer, Coley, Collier, Combs, Daniels, DeGeeter, Distel, Dolan, Domenick, Driehaus, Fessler, Garrison, Gibbs, Gilb, Hagan, Hoops, Kilbane, Latta, Law,

Martin, McGregor, J., Oelslager, Patton, T., Raga, Raussen, Reinhard, Schaffer, Seaver, Setzer, Smith, G., Taylor, Trakas, Uecker, Wagner, Wagoner, Walcher, White, J., Widener, Widowfield, Willamowski, Wolpert, Calvert, Cassell, Core, White, D., Schlichter Senators Jacobson, Jordan, Clancy, Gardner.

To amend section 5101.55 and to enact sections 9.041, 3701.511, 3702.33, and 5101.56 of the Revised Code to declare that it is the public policy of the state to prefer childbirth over abortion, to permit any person to petition a court of common pleas for an order enjoining the operation of a health care facility without a license, to modify the laws governing public funding of abortions, and to prohibit the use of funds appropriated for genetic services to be used for abortion-related purposes, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 239**, pass?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Carey	Cates
Clancy	Coughlin	Gardner	Goodman
Grendell	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson			Harris-22.

Those who voted in the negative were: Senators

Armbruster	Dann	Fedor	Fingerhut
Hagan	Kearney	Miller D	Miller R
Prentiss	Roberts		Zurz-11.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Jordan moved to amend the title as follows:

Add the names: "Amstutz, Austria, Carey, Cates, Grendell, Hottinger, Mumper, Niehaus, Padgett, Schuring, Schuler, Harris, Spada, Wachtmann."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 187-Representatives Buehrer, Uecker, Hagan, Gilb, Martin, Evans, D., Aslanides, Seaver, Schaffer, Daniels, Combs, Wagner, Blasdel, Blessing, Bubp, Calvert, Collier, Core, Dolan, Faber, Flowers, Gibbs, Hood, Law, Peterson, Raga, Raussen, Reidelbach, Reinhard, Schneider, Seitz, Setzer, Wagoner, Webster, White, D., White, J., Wolpert Senators Wachtmann, Cates.

To amend sections 9.84, 119.12, 124.01, 124.03, 124.04, 124.07, 124.09, 124.11, 124.133, 124.134, 124.14, 124.15, 124.20, 124.22, 124.23, 124.26, 124.27, 124.271, 124.30, 124.31, 124.32, 124.321, 124.322, 124.323, 124.324, 124.325, 124.326, 124.327, 124.33, 124.34, 124.341, 124.38, 124.383, 124.384, 124.385, 124.386, 124.388, 124.40, 124.44, 124.45, 124.46, 124.48, 302.202, 325.19, 329.02, 329.021, 1513.03, 1513.34, 4111.03, 4112.01, 5107.52, 5119.09, 5155.03, and 5703.17, to enact sections 124.12 and 124.141, and to repeal section 124.311 of the Revised Code to implement recommendations of the Civil Service Review Commission and to make other changes to the civil service laws, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 187**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the names: "Stivers, Niehaus."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 443-Representatives Uecker, Aslanides, McGregor, J., Setzer, Book, Carmichael, Combs, Flowers, Seitz Senator Niehaus.

To amend sections 123.04, 303.14, 307.37, 519.14, 1501.011, 1501.02, 1501.07, 1501.23, 1501.32, 1502.01, 1502.03, 1502.12, 1504.02, 1506.04, 1507.01, 1510.04, 1511.021, 1513.01, 1513.02, 1513.07, 1513.071, 1513.08, 1513.13, 1513.16, 1513.17, 1513.18, 1513.181, 1513.29, 1513.30, 1513.37, 1514.01, 1514.03, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, 1515.10, 1515.211, 1517.02, 1517.10, 1517.11, 1520.02, 1520.03, 1520.05, 1520.07, 1521.01, 1521.04, 1521.05, 1521.06, 1521.061, 1521.062, 1521.064, 1521.13, 1521.14, 1521.18, 1521.19, 1521.99, 1531.01, 1531.02, 1531.04,

1531.06, 1531.10, 1531.20, 1531.27, 1531.99, 1533.07, 1533.08, 1533.09, 1533.10, 1533.11, 1533.12, 1533.131, 1533.171, 1533.42, 1533.632, 1533.68, 1533.86, 1533.882, 1533.99, 1541.03, 1541.05, 1541.40, 1547.05, 1547.08, 1547.51, 1547.54, 1547.541, 1547.99, 1548.02, 1567.35, 3734.13, 3745.01, 3745.08, 4115.04, 4501.01, and 5749.02; to enact sections 303.141, 519.141, 1501.45, 1513.075, 1513.081, 1513.171, 1513.182, 1513.371, 1514.011, 1514.051, 1514.40 to 1514.47, 1514.50, 1515.093, 1548.031, 1548.032, 1561.011, 1563.01, 1565.01, 1567.01, 1571.011, 2305.041, 3734.61 to 3734.65, 5577.081, and 5749.11; and to repeal sections 1502.11, 1513.10, 1521.08, and 1533.78 of the Revised Code to revise the statutes governing the Department of Natural Resources; to make changes to the law governing coal mining, including increasing the severance tax on coal and revising the distribution of revenue from that tax; to make changes to the law governing the mining of industrial minerals, including revising zoning provisions related to such mining; to establish requirements governing mercury; and to make other changes, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 443**, pass?"

Senator Miller, D. moved to amend as follows:

Between lines 4030 and 4031, insert:

"The certified public accountant, the registered professional engineer with experience in reclamation of mined land, the appointees representing agriculture, agronomy, or forestry, and the appointee representing the public shall not have a financial interest in any coal mining operation, including the receipt of a salary or wage, participation in a retirement program or pension plan, receipt of income from a contract related to the mining of coal, or receipt of royalties from the mining of coal."

The question being, "Shall the amendment be agreed to?"

Senator Niehaus moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Grendell
Hagan	Kearney	Miller D	Miller R
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 443**, pass?"

Senator Miller, D. moved to amend as follows:

In line 53, delete "1513.075,"

In line 2076, delete "as"

Delete lines 2077 and 2078

In line 2079, delete "calculation method"

In line 2476, delete everything after the underlined period

Delete lines 2477 and 2478

Delete lines 2589 through 2643

In line 21 of the title, delete "1513.075,"

The question being, "Shall the amendment be agreed to?"

Senator Niehaus moved that the amendment be laid on the table.

The question being, "Shall the motion be agreed to?"

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Grendell
Hagan	Kearney	Miller D	Miller R
Prentiss	Roberts	Wilson	Zurz-12.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 443**, pass?"

The yeas and nays were taken and resulted - yeas 27, nays 6, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fingerhut	Gardner	Goodman	Hottinger
Jacobson	Kearney	Mumper	Niehaus
Padgett	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-27.

Senators Fedor, Grendell, Hagan, Jordan, Miller D, and Miller R voted in the negative-6.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Niehaus moved to amend the title as follows:

Add the names: "Kearney, Mumper, Padgett, Spada, Wilson, Zurz, Harris, Dann."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Hagan moved that the Senate Adjourn.

The question being, "Shall the motion be agreed to?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The motion was not agreed to.

Sub. H. B. No. 71-Representatives J. Stewart, Martin, Hartnett, Seitz, Faber, Seaver, Reidelbach, White, Taylor, D. Evans, Bubb, Barrett, C. Evans, Latta, Perry, Ujvagi, Carano, Coley, G. Smith, Wagoner, T. Patton, Hagan, Gibbs, Widener, Blessing, Brown, Calvert, Cassell, Chandler, Collier, Combs,

Core, DeBose, Distel, Domenick, Fende, Flowers, Garrison, Hughes, Key, Luckie, Mason, McGregor, J., Oelslager, Otterman, Sayre, Schaffer, Schlichter, Schneider, Stewart, D., Webster, Widowfield, Williams, Yuko, Driehaus.

To amend sections 145.301, 3307.751, 3309.021, 3313.16, and 5505.25 of the Revised Code to permit a member of the Public Employees Retirement System, State Teachers Retirement System, School Employees Retirement System, or State Highway Patrol Retirement System to purchase military service credit for duty in the Ohio National Guard or reserves and to authorize school boards to grant high school diplomas to women who left high school to support their families or the war effort during World War II, the Korean Conflict, or the Vietnam Conflict, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 71**, pass?"

Senator Fedor moved that she be excused from voting under Senate Rule No. 58.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 71**, pass?"

Senator Stivers moved that he be excused from voting under Senate Rule No. 58.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 71**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

- | | | | |
|-----------|------------|----------|------------|
| Amstutz | Armbruster | Austria | Carey |
| Cates | Clancy | Coughlin | Dann |
| Fingerhut | Gardner | Goodman | Grendell |
| Hagan | Hottinger | Jacobson | Jordan |
| Kearney | Miller D | Miller R | Mumper |
| Niehaus | Padgett | Prentiss | Roberts |
| Schuler | Schuring | Spada | Wachtmann |
| Wilson | Zurz | | Harris-31. |

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Coughlin moved to amend the title as follows:

Add the names: "Coughlin, Amstutz, Armbruster, Austria, Carey, Clancy, Gardner, Grendell, Hagan, Harris, Hottinger, Kearney, Miller, D., Mumper,

Niehaus, Schuler, Schuring, Spada, Zurz, Padgett, Roberts, Dann, Wilson, Goodman, Jordan, Cates."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Am. Sub. H. B. No. 272-Representatives Schneider, Evans, D., Reidelbach, Aslanides, Barrett, Blessing, Bubp, Calvert, Chandler, Coley, Collier, Combs, Daniels, DeBose, Domenick, Evans, C., Flowers, Hartnett, Key, Martin, Otterman, Patton, T., Raussen, Seitz, Setzer, Smith, G., Smith, S., Williams, Yuko.

To amend sections 145.057, 145.06, 145.201, 145.23, 145.294, 145.351, 145.43, 145.45, 145.471, 145.472, 145.483, 145.51, 145.82, 145.92, 742.046, 742.05, 742.381, 742.56, 3307.06, 3307.061, 3307.513, 3307.70, 3309.06, 3309.061, 3309.27, 3309.391, 5505.043, 5505.048, 5505.181, and 5505.203 and to enact sections 145.52, 145.53, 145.583, 145.62, 145.63, 145.64, 145.65, 742.451, 3307.393, 3309.692, and 5505.281 of the Revised Code regarding the state retirement systems, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 272**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Coughlin moved to amend the title as follows:

Add the names: "Armbruster, Clancy, Gardner, Mumper, Niehaus, Padgett, Schuring, Zurz, Harris, Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. H. B. No. 241-Representatives Latta, McGregor, C. Evans, D. Evans,

Hughes, Perry, Blessing, Combs, Domenick, Faber, Schneider, Seitz, Taylor, Wagoner, Willamowski, Yuko.

To amend sections 9.92, 109.85, 309.08, 311.07, 1506.35, 2152.20, 2901.01, 2909.08, 2913.34, 2913.421, 2923.01, 2923.31, 2923.32, 2923.34, 2923.36, 2923.41, 2923.42, 2923.44, 2925.03, 2925.14, 2925.42, 2927.02, 2929.18, 2930.11, 2933.75, 2935.03, 2945.44, 3719.11, 3719.141, 3719.21, 3729.13, 3743.68, 3745.13, 4301.29, 4301.45, 4301.53, 4305.13, 4503.233, 4503.234, 4510.41, 4511.195, 4549.62, 4549.63, 4728.04, 4729.65, 5735.121, 5739.15, 5743.082, and 5743.112, to enact sections 2941.1417, 2981.01, 2981.02, 2981.03, 2981.04, 2981.05, 2981.06, 2981.07, 2981.08, 2981.09, 2981.11, 2981.12, 2981.13, and 2981.14, and to repeal sections 2923.33, 2923.35, 2923.45, 2923.46, 2923.47, 2925.41, 2925.43, 2925.44, 2925.45, 2933.41, 2933.42, 2933.43, 2933.44, 2933.71, 2933.72, 2933.73, and 2933.74 of the Revised Code to adopt the Criminal Sentencing Commission's recommendations regarding revision of the Forfeiture Laws, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 241**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 2, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson		Harris-31.

Senators Kearney and Zurz voted in the negative-2.

So the bill passed.

The question being, "Shall the title be agreed to?"

The title was agreed to.

Sub. H. B. No. 487-Representatives Widener, Martin, McGregor, R., Wagoner, Seitz, Hartnett, Allen, Koziura, Hagan, Gibbs, Evans, C., Bubp, Chandler, Coley, Combs, DeBose, Dolan, Domenick, Flowers, Hughes, Luckie, McGregor, J., Otterman, Schaffer, Schneider, Smith, G., Williams.

To amend sections 153.54, 153.57, 1311.01, 1311.011, 1311.02, 1311.021, 1311.03, 1311.04, 1311.05, 1311.12, 1311.13, 1311.14, 1311.15, 1311.25, 1311.26, 1311.261, 1311.28, 1311.29, 1311.32, 4113.61, 4740.01, 4740.04, 4740.05, 4740.06, 4740.07, 4740.08, 4740.101, 4740.12, 5309.57, and 5525.16 and to enact section 4740.15 of the Revised Code to specify that an

owner, part owner, or lessee of real property, with respect to a home construction contract, must record a notice of commencement only if required by a lending institution, to stipulate that a notice of commencement for a home construction contract expires six years after it is recorded, to permit court costs and reasonable attorney fees to be included in damages an owner may recover from a lienholder who refuses to release the lien after the owner makes full payment and to stipulate for all types of liens that a mortgage is considered filed first if a mortgage and notice of commencement are filed on the same day, to modify procedures and requirements for contractor licensure by the Ohio Construction Industry Licensing Board, to require that any political subdivision, district, or agency of the state that requires contractor registration and fee payment must require licensure in the contractor's trade by the Construction Industry Licensing Board, and to establish a procedure and penalty when checks in payment of fees are returned unpaid to the Construction Industry Licensing Board, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 487**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the name: "Kearney."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Am. H. B. No. 671-Representatives Webster, Oelslager, Gilb, Peterson, Hughes, Seitz, McGregor, R., Hartnett, McGregor, J., Setzer, Reidelbach, Barrett, Book, Brown, Carano, Chandler, Coley, Combs, Domenick, Evans, C., Evans, D., Flowers, Luckie, Otterman, Patton, T., Perry, Schaffer, Schneider, Seaver, Williams, Wolpert Senator Cates.

To amend sections 3313.22, 3313.24, 3313.31, 3319.01, and 3319.04 of the Revised Code to revise the laws on the employment of school district and educational service center treasurers, was considered the third time.

The question being, "Shall the bill, **Am. H. B. No. 671**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

The yeas and nays were taken and resulted - yeas , nays , as follows:

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Armbruster, Gardner, Niehaus, Padgett, Roberts, Spada, Harris."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Gardner moved that **Am. Sub. H. B. No. 403** , having been reported by the Committee on Insurance, Commerce, and Labor, be brought up for consideration.

Am. Sub. H. B. No. 403-Representatives Fessler, Reidelbach, Seitz, McGregor, J., Peterson, Brown, Allen, Strahorn, Barrett, Distel, Cassell, Kilbane, Yuko, Hood, Combs, Book, Carano, Chandler, DeBose, Domenick, Evans, C., Hagan, Key, Luckie, Mitchell, Otterman, Perry, Raussen, Widener, Williams.

To amend sections 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 3701.881, 3902.22, 4723.16, 4729.161, 4731.226, 4731.65, 4732.28, 4734.17, 4755.01 to 4755.13, 4755.40 to 4755.43, 4755.45 to 4755.48, 4755.50 to 4755.52, 4755.56, 4755.61 to 4755.66, and 4755.99; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 4755.01 (4755.04), 4755.02 (4755.05), 4755.03 (4755.01), 4755.04 (4755.02), 4755.05

(4755.06), 4755.06 (4755.07), 4755.07 (4755.08), 4755.08 (4755.09), 4755.09 (4755.10), 4755.10 (4755.11), 4755.11 (4755.12), 4755.12 (4755.13), and 4755.13 (4755.03); to enact new section 4755.44 and sections 4755.031, 4755.411, 4755.412, 4755.421, 4755.431, 4755.441, 4755.451, 4755.482, and 4755.511; and to repeal sections 4755.44 and 4755.49 of the Revised Code to make changes to the occupational therapy, physical therapy, and athletic trainers licensing laws, was considered the third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 403**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 2, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Cates
Clancy	Coughlin	Dann	Fedor
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuring	Spada	Stivers	Wachtmann
Wilson	Zurz		Harris-31.

Senators Amstutz and Schuler voted in the negative-2.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Stivers moved to amend the title as follows:

Add the name: "Cates."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Gardner moved that **Am. Sub. H. B. No. 524**, having been reported by the Committee on Health, Human Services and Aging, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

Am. Sub. H. B. No. 524-Representatives Martin, McGregor, J., Seitz, Boccieri, Chandler, Wagoner, Cassell, Fende, Reidelbach, Allen, Aslanides, Barrett, Brown, Coley, Collier, Combs, DeBose, Dolan, Domenick, Evans, C., Flowers, Garrison, Gibbs, Hagan, Harwood, Hughes, Otterman, Patton, T., Perry, Schneider, Setzer, Smith, G., Williams, Wolpert, Yuko.

To amend sections 4729.01, 4729.17, and 4729.41 of the Revised Code to modify the authority of pharmacists to administer immunizations and to make changes to law governing the State Board of Pharmacy, was considered the

third time.

The question being, "Shall the bill, **Am. Sub. H. B. No. 524**, pass?"

Senator Clancy moved to amend as follows:

In line 6, delete "and"; after "4729.41" insert ", and 5122.10"

Between lines 305 and 306, insert:

"Sec. 5122.10. Any psychiatrist, licensed clinical psychologist, licensed professional clinical counselor, licensed physician, health officer, parole officer, police officer, or sheriff who has reason to believe that a person is a mentally ill person subject to hospitalization by court order under division (B) of section 5122.01 of the Revised Code and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination may take ~~at the person into custody, or the chief of the adult parole authority or a parole or probation officer with the approval of the chief of the authority may take a parolee, an offender under a community control sanction or a post-release control sanction, or an offender under transitional control into custody~~ and may immediately transport the ~~parolee, offender on community control or post-release control, or offender under transitional control~~person to a hospital or, notwithstanding section 5119.20 of the Revised Code, to a general hospital not licensed by the department of mental health where the ~~parolee, offender on community control or post-release control, or offender under transitional control~~person may be held for the period prescribed in this section, ~~if the psychiatrist, licensed clinical psychologist, licensed physician, health officer, parole officer, police officer, or sheriff has reason to believe that the person is a mentally ill person subject to hospitalization by court order under division (B) of section 5122.01 of the Revised Code, and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination.~~

If the chief of the adult parole authority or a parole or probation officer with the approval of the chief of the authority has reason to believe that a parolee, an offender under a community control sanction or post-release control sanction, or an offender under transitional control is a mentally ill person subject to hospitalization by court order under division (B) of section 5122.01 of the Revised Code and represents a substantial risk of physical harm to self or others if allowed to remain at liberty pending examination, the chief or officer may take the parolee or offender into custody and may immediately transport the parolee or offender to a hospital or, notwithstanding section 5119.20 of the Revised Code, to a general hospital not licensed by the department of mental health where the parolee or offender may be held for the period prescribed in this section.

A written statement shall be given to such hospital by the transporting

psychiatrist, licensed clinical psychologist, licensed professional clinical counselor, licensed physician, health officer, parole officer, police officer, chief of the adult parole authority, parole or probation officer, or sheriff stating the circumstances under which such person was taken into custody and the reasons for the psychiatrist's, licensed clinical psychologist's, licensed professional clinical counselor's, licensed physician's, health officer's, parole officer's, police officer's, chief of the adult parole authority's, parole or probation officer's, or sheriff's belief. This statement shall be made available to the respondent or the respondent's attorney upon request of either.

Every reasonable and appropriate effort shall be made to take persons into custody in the least conspicuous manner possible. A person taking the respondent into custody pursuant to this section shall explain to the respondent: the name, professional designation, and agency affiliation of the person taking the respondent into custody; that the custody-taking is not a criminal arrest; and that the person is being taken for examination by mental health professionals at a specified mental health facility identified by name.

If a person taken into custody under this section is transported to a general hospital, the general hospital may admit the person, or provide care and treatment for the person, or both, notwithstanding section 5119.20 of the Revised Code, but by the end of twenty-four hours after arrival at the general hospital, the person shall be transferred to a hospital as defined in section 5122.01 of the Revised Code.

A person transported or transferred to a hospital or community mental health agency under this section shall be examined by the staff of the hospital or agency within twenty-four hours after arrival at the hospital or agency. If to conduct the examination requires that the person remain overnight, the hospital or agency shall admit the person in an unclassified status until making a disposition under this section. After the examination, if the chief clinical officer of the hospital or agency believes that the person is not a mentally ill person subject to hospitalization by court order, the chief clinical officer shall release or discharge the person immediately unless a court has issued a temporary order of detention applicable to the person under section 5122.11 of the Revised Code. After the examination, if the chief clinical officer believes that the person is a mentally ill person subject to hospitalization by court order, the chief clinical officer may detain the person for not more than three court days following the day of the examination and during such period admit the person as a voluntary patient under section 5122.02 of the Revised Code or file an affidavit under section 5122.11 of the Revised Code. If neither action is taken and a court has not otherwise issued a temporary order of detention applicable to the person under section 5122.11 of the Revised Code, the chief clinical officer shall discharge the person at the end of the three-day period unless the person has been sentenced to the department of rehabilitation and correction and has not been released from the person's sentence, in which case the person shall be returned to that department."

In line 306, delete "and"

In line 307, after "4729.41" insert ", and 5122.10"

In line 1 of the title, delete "and"; after "4729.41" insert ", and 5122.10"

In line 3 of the title, delete "and" and insert a comma

In line 5 of the title, after "Pharmacy" insert "and to permit a licensed professional clinical counselor to take certain persons into custody and transport those persons to a hospital"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

Senator Jordan voted in the negative-1.

The amendment was agreed to.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 524**, pass?"

Senator Schuring moved to amend as follows:

In line 6, after "sections" insert "1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33,"; after "4729.01," insert "4729.161,"; delete "and"; after "4729.41" insert ", 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 be amended and sections 4734.141, 4734.142, 4734.211, 4734.28, 4734.281, 4734.282, 4734.283, 4734.284, 4734.285, and 4734.286"

In line 7, delete "amended" and insert "enacted"

Between lines 7 and 8, insert:

"Sec. 1701.03. (A) A corporation may be formed under this chapter for any purpose or combination of purposes for which individuals lawfully may associate themselves, except that, if the Revised Code contains special provisions pertaining to the formation of any designated type of corporation

other than a professional association, as defined in section 1785.01 of the Revised Code, a corporation of that type shall be formed in accordance with the special provisions.

(B) On and after July 1, 1994, a corporation may be formed under this chapter for the purpose of carrying on the practice of any profession, including, but not limited to, a corporation for the purpose of providing public accounting or certified public accounting services, a corporation for the erection, owning, and conducting of a sanitarium for receiving and caring for patients, medical and hygienic treatment of patients, and instruction of nurses in the treatment of disease and in hygiene, a corporation for the purpose of providing architectural, landscape architectural, professional engineering, or surveying services or any combination of those types of services, and a corporation for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.534~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code. This chapter does not restrict, limit, or otherwise affect the authority or responsibilities of any agency, board, commission, department, office, or other entity to license, register, and otherwise regulate the professional conduct of individuals or organizations of any kind rendering professional services, as defined in section 1785.01 of the Revised Code, in this state or to regulate the practice of any profession that is within the jurisdiction of the agency, board, commission, department, office, or other entity, notwithstanding that an individual is a director, officer, employee, or other agent of a corporation formed under this chapter and is rendering professional services or engaging in the practice of a profession through a corporation formed under this chapter or that the organization is a corporation formed under this chapter.

(C) Nothing in division (A) or (B) of this section precludes the organization of a professional association in accordance with this chapter and Chapter 1785. of the Revised Code or the formation of a limited liability company under Chapter 1705. of the Revised Code with respect to a business, as defined in section 1705.01 of the Revised Code.

(D) No corporation formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the

Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a corporation described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1705.03. (A) A limited liability company may sue and be sued.

(B) Unless otherwise provided in its articles of organization, a limited liability company may take property of any description or any interest in property of any description by gift, devise, or bequest and may make donations for the public welfare or for charitable, scientific, or educational purposes.

(C) In carrying out the purposes stated in its articles of organization or operating agreement and subject to limitations prescribed by law or in its articles of organization or its operating agreement, a limited liability company may do all of the following:

(1) Purchase or otherwise acquire, lease as lessee or lessor, invest in, hold, use, encumber, sell, exchange, transfer, and dispose of property of any description or any interest in property of any description;

(2) Make contracts;

(3) Form or acquire the control of other domestic or foreign limited liability companies;

(4) Be a shareholder, partner, member, associate, or participant in other profit or nonprofit enterprises or ventures;

(5) Conduct its affairs in this state and elsewhere;

(6) Render in this state and elsewhere a professional service, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under

Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code;

(7) Borrow money;

(8) Issue, sell, and pledge its notes, bonds, and other evidences of indebtedness;

(9) Secure any of its obligations by mortgage, pledge, or deed of trust of all or any of its property;

(10) Guarantee or secure obligations of any person;

(11) Do all things permitted by law and exercise all authority within or incidental to the purposes stated in its articles of organization.

(D) In addition to the authority conferred by division (C) of this section and irrespective of the purposes stated in its articles of organization or operating agreement but subject to any limitations stated in those articles or its operating agreement, a limited liability company may invest funds not currently needed in its business in any securities if the investment does not cause the company to acquire control of another enterprise whose activities and operations are not incidental to the purposes stated in the articles of organization of the company.

(E)(1) No lack of authority or limitation upon the authority of a limited liability company shall be asserted in any action except as follows:

(a) By the state in an action by it against the company;

(b) By or on behalf of the company in an action against a manager, an officer, or any member as a member;

(c) By a member as a member in an action against the company, a manager, an officer, or any member as a member;

(d) In an action involving an alleged improper issue of a membership interest in the company.

(2) Division (E)(1) of this section applies to any action commenced in this state upon any contract made in this state by a foreign limited liability company.

Sec. 1705.04. (A) One or more persons, without regard to residence, domicile, or state of organization, may form a limited liability company. The articles of organization shall be signed and filed with the secretary of state and shall set forth all of the following:

- (1) The name of the company;
- (2) Except as provided in division (B) of this section, the period of its duration, which may be perpetual;
- (3) Any other provisions that are from the operating agreement or that are not inconsistent with applicable law and that the members elect to set out in the articles for the regulation of the affairs of the company.

The legal existence of the company begins upon the filing of the articles of organization or on a later date specified in the articles of organization that is not more than ninety days after the filing.

(B) If the articles of organization or operating agreement do not set forth the period of the duration of the limited liability company, its duration shall be perpetual.

(C) If a limited liability company is formed under this chapter for the purpose of rendering a professional service, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code, the following apply:

(1) Each member, employee, or other agent of the company who renders a professional service in this state and, if the management of the company is not reserved to its members, each manager of the company who renders a professional service in this state shall be licensed, certificated, or otherwise legally authorized to render in this state the same kind of professional service; if applicable, the kinds of professional services authorized under Chapters 4703. and 4733. of the Revised Code; or, if applicable, any of the kinds of professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, or doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code.

(2) Each member, employee, or other agent of the company who renders a professional service in another state and, if the management of the company is not reserved to its members, each manager of the company who renders a professional service in another state shall be licensed, certificated, or otherwise legally authorized to render that professional service in the other state.

(D) Except for the provisions of this chapter pertaining to the personal liability of members, employees, or other agents of a limited liability company and, if the management of the company is not reserved to its members, the personal liability of managers of the company, this chapter does not restrict, limit, or otherwise affect the authority or responsibilities of any agency, board, commission, department, office, or other entity to license, certificate, register, and otherwise regulate the professional conduct of individuals or organizations of any kind rendering professional services in this state or to regulate the practice of any profession that is within the jurisdiction of the agency, board, commission, department, office, or other entity, notwithstanding that the individual is a member or manager of a limited liability company and is rendering the professional services or engaging in the practice of the profession through the limited liability company or that the organization is a limited liability company.

(E) No limited liability company formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a limited liability company described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual

practitioner listed in this division.

Sec. 1705.53. Subject to any contrary provisions of the Ohio Constitution, the laws of the state under which a foreign limited liability company is organized govern its organization and internal affairs and the liability of its members. A foreign limited liability company may not be denied a certificate of registration as a foreign limited liability company in this state because of any difference between the laws of the state under which it is organized and the laws of this state. However, a foreign limited liability company that applies for registration under this chapter to render a professional service in this state, as a condition to obtaining and maintaining a certificate of registration, shall comply with the requirements of division (C) of section 1705.04 of the Revised Code and shall comply with the requirements of Chapters 4703. and 4733. of the Revised Code if the kinds of professional services authorized under those chapters are to be rendered or with the requirements of Chapters 4723., 4725., 4729., 4731., 4732., 4734., and 4755. of the Revised Code if a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code are to be rendered.

Sec. 1785.01. As used in this chapter:

(A) "Professional service" means any type of professional service that may be performed only pursuant to a license, certificate, or other legal authorization issued pursuant to Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 4734., or 4741., sections 4755.01 to 4755.12, or 4755.40 to 4755.56 of the Revised Code to certified public accountants, licensed public accountants, architects, attorneys, dentists, nurses, optometrists, pharmacists, physician assistants, doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, practitioners of the limited branches of medicine specified in section 4731.15 of the Revised Code, mechanotherapists, psychologists, professional engineers, chiropractors, chiropractors practicing acupuncture through the state chiropractic board, veterinarians, occupational therapists, and physical therapists.

(B) "Professional association" means an association organized under this chapter for the sole purpose of rendering one of the professional services authorized under Chapter 4701., 4703., 4705., 4715., 4723., 4725., 4729., 4730., 4731., 4732., 4733., 4734., or 4741., sections 4755.01 to 4755.12, or 4755.40 to 4755.56 of the Revised Code, a combination of the professional services

authorized under Chapters 4703. and 4733. of the Revised Code, or a combination of the professional services of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code.

Sec. 1785.02. An individual or group of individuals each of whom is licensed, certificated, or otherwise legally authorized to render within this state the same kind of professional service, a group of individuals each of whom is licensed, certificated, or otherwise legally authorized to render within this state the professional service authorized under Chapter 4703. or 4733. of the Revised Code, or a group of individuals each of whom is licensed, certificated, or otherwise legally authorized to render within this state the professional service of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, or doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code may organize and become a shareholder or shareholders of a professional association. Any group of individuals described in this section who may be rendering one of the professional services as an organization created otherwise than pursuant to this chapter may incorporate under and pursuant to this chapter by amending the agreement establishing the organization in a manner that the agreement as amended constitutes articles of incorporation prepared and filed in the manner prescribed in section 1785.08 of the Revised Code and by otherwise complying with the applicable requirements of this chapter.

Sec. 1785.03. A professional association may render a particular professional service only through officers, employees, and agents who are themselves duly licensed, certificated, or otherwise legally authorized to render the professional service within this state. As used in this section, "employee" does not include clerks, bookkeepers, technicians, or other individuals who are not usually and ordinarily considered by custom and practice to be rendering a particular professional service for which a license, certificate, or other legal authorization is required and does not include any other person who performs all

of that person's employment under the direct supervision and control of an officer, agent, or employee who renders a particular professional service to the public on behalf of the professional association.

No professional association formed for the purpose of providing a combination of the professional services, as defined in section 1785.01 of the Revised Code, of optometrists authorized under Chapter 4725. of the Revised Code, chiropractors authorized under Chapter 4734. of the Revised Code to practice chiropractic or acupuncture, psychologists authorized under Chapter 4732. of the Revised Code, registered or licensed practical nurses authorized under Chapter 4723. of the Revised Code, pharmacists authorized under Chapter 4729. of the Revised Code, physical therapists authorized under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists authorized under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery authorized under Chapter 4731. of the Revised Code shall control the professional clinical judgment exercised within accepted and prevailing standards of practice of a licensed, certificated, or otherwise legally authorized optometrist, chiropractor, chiropractor practicing acupuncture through the state chiropractic board, psychologist, nurse, pharmacist, physical therapist, mechanotherapist, or doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery in rendering care, treatment, or professional advice to an individual patient.

This division does not prevent a hospital, as defined in section 3727.01 of the Revised Code, insurer, as defined in section 3999.36 of the Revised Code, or intermediary organization, as defined in section 1751.01 of the Revised Code, from entering into a contract with a professional association described in this division that includes a provision requiring utilization review, quality assurance, peer review, or other performance or quality standards. Those activities shall not be construed as controlling the professional clinical judgment of an individual practitioner listed in this division.

Sec. 1785.08. Chapter 1701. of the Revised Code applies to professional associations, including their organization and the manner of filing articles of incorporation, except that the requirements of division (A) of section 1701.06 of the Revised Code do not apply to professional associations. If any provision of this chapter conflicts with any provision of Chapter 1701. of the Revised Code, the provisions of this chapter shall take precedence. A professional association for the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery or for the combined practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery may provide in its articles of incorporation or bylaws that its directors may have terms of office not exceeding six years."

Between lines 1937 and 1938, insert:

"Sec. 3715.87. (A) As used in this section and in sections 3715.871, 3715.872, and 3715.873 of the Revised Code:

(1) "Health care facility" has the same meaning as in section 1337.11 of the Revised Code.

(2) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(2)(3) "Nonprofit clinic" means a charitable nonprofit corporation organized and operated pursuant to Chapter 1702. of the Revised Code, or any charitable organization not organized and not operated for profit, that provides health care services to indigent and uninsured persons as defined in section 2305.234 of the Revised Code. "Nonprofit clinic" does not include a hospital as defined in section 3727.01 of the Revised Code, a facility licensed under Chapter 3721. of the Revised Code, or a facility that is operated for profit.

(3)(4) "Prescription drug" means any drug to which the following applies:

(a) Under the "Food, Drug, and Cosmetic Act," 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, the drug is required to bear a label containing the legend, "Caution: Federal law prohibits dispensing without prescription" or "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian" or any similar restrictive statement, or the drug may be dispensed only upon a prescription.

(b) Under Chapter 3715. or 3719. of the Revised Code, the drug may be dispensed only upon a prescription.

(B) The state board of pharmacy shall establish a drug repository program to accept and dispense prescription drugs donated or given for the purpose of being dispensed to individuals who are residents of this state and meet eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code. Only drugs in their original sealed and tamper-evident unit dose packaging may be accepted and dispensed. The packaging must be unopened, except that drugs packaged in single unit doses may be accepted and dispensed when the outside packaging is opened if the single unit dose packaging is undisturbed. Drugs donated by individuals bearing an expiration date that is less than six months from the date the drug is donated shall not be accepted or dispensed. A drug shall not be accepted or dispensed if there is reason to believe that it is adulterated as described in section 3715.63 of the Revised Code. Subject to the ~~limitation~~limitations specified in this division, unused drugs dispensed for purposes of the medicaid program may be accepted and dispensed under the drug repository program.

Sec. 3715.871. (A) Any person, including a pharmacy, drug manufacturer, ~~or any health care facility as defined in section 1337.11 of the Revised Code,~~ or any government entity may donate or give prescription drugs to the drug repository program. The drugs must be donated or given at a

pharmacy, hospital, or nonprofit clinic that elects to participate in the drug repository program and meets criteria for participation in the program established in rules adopted by the state board of pharmacy under section 3715.873 of the Revised Code. Participation in the program by pharmacies, hospitals, and nonprofit clinics is voluntary. Nothing in this or any other section of the Revised Code requires a pharmacy, hospital, or nonprofit clinic to participate in the program.

(B) A pharmacy, hospital, or nonprofit clinic eligible to participate in the program shall dispense drugs donated or given under this section to individuals who are residents of this state and meet the eligibility standards established in rules adopted by the board under section 3715.873 of the Revised Code or to other government entities and nonprofit private entities to be dispensed to individuals who meet the eligibility standards. A drug may be dispensed only pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs, as defined in section 4729.01 of the Revised Code. A pharmacy, hospital, or nonprofit clinic that accepts donated or given drugs shall comply with all applicable federal laws and laws of this state dealing with storage and distribution of dangerous drugs and shall inspect all drugs prior to dispensing them to determine that they are not adulterated. The pharmacy, hospital, or nonprofit clinic may charge individuals receiving donated or given drugs a handling fee established in accordance with rules adopted by the board under section 3715.873 of the Revised Code. Drugs donated or given to the repository may not be resold.

Sec. 3715.872. (A) As used in this section, "health care professional" means any of the following who provide medical, dental, or other health-related diagnosis, care, or treatment:

(1) Individuals authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;

(2) Registered nurses and licensed practical nurses licensed under Chapter 4723. of the Revised Code;

(3) Physician assistants authorized to practice under Chapter 4730. of the Revised Code;

(4) Dentists and dental hygienists licensed under Chapter 4715. of the Revised Code;

(5) Optometrists licensed under Chapter 4725. of the Revised Code;

(6) Pharmacists licensed under Chapter 4729. of the Revised Code.

(B) ~~The state board of pharmacy; the director of health; any~~ For matters related to donating, giving, accepting, or dispensing drugs under the drug repository program, all of the following apply:

(1) Any person, including a pharmacy, drug manufacturer, or health care facility, or any government entity that donates or gives drugs to the drug

~~repository program; any pharmacy, hospital, nonprofit clinic, or health care professional that accepts or dispenses drugs under the program; and any pharmacy, hospital, or nonprofit clinic that employs a health care professional who accepts or dispenses drugs under the program shall not, in the absence of bad faith, be subject to any of the following for matters related to donating, accepting, or dispensing drugs under the program: criminal prosecution; liability in tort or other civil action for injury, death, or loss to person or property; or professional disciplinary action.~~

A(2) A pharmacy, hospital, or nonprofit clinic that accepts or dispenses drugs under the program shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.

(3) A health care professional who accepts or dispenses drugs under the program on behalf of a pharmacy, hospital, or nonprofit clinic, and the pharmacy, hospital, or nonprofit clinic that employs or otherwise uses the services of the health care professional, shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the health care professional, pharmacy, hospital, or nonprofit clinic constitutes willful and wanton misconduct.

(4) The state board of pharmacy and the director of health shall not be subject to liability in tort or other civil action for injury, death, or loss to person or property, unless an action or omission of the board or director constitutes willful and wanton misconduct.

(C) In addition to the immunity granted under division (B)(1) of this section, any person, including a pharmacy, drug manufacturer, or health care facility, and any government entity that donates or gives drugs to the program shall not be subject to criminal prosecution for the donation, giving, acceptance, or dispensing of drugs under the program, unless an action or omission of the person or government entity does not comply with the provisions of this chapter or the rules adopted under it.

(D) In the case of a drug manufacturer shall not, in the absence of bad faith, be subject to criminal prosecution or liability in tort or other civil action for injury, death, or loss to person or property for matters related to the donation, acceptance, or dispensing of a, the immunities granted under divisions (B)(1) and (C) of this section apply with respect to any drug manufactured by the drug manufacturer that is donated or given by any person or government entity under the program, including but not limited to liability for failure to transfer or communicate product or consumer information or the expiration date of the ~~donated~~ drug donated or given.

Sec. 3715.873. In consultation with the director of health, the state board of pharmacy shall adopt rules governing the drug repository program that establish all of the following:

(A) Eligibility criteria for pharmacies, hospitals, and nonprofit clinics to receive and dispense ~~donated~~ drugs donated or given under the program;

(B) Standards and procedures for accepting, safely storing, and dispensing ~~donated~~ drugs donated or given;

(C) Standards and procedures for inspecting ~~donated~~ drugs donated or given to determine that the original unit dose packaging is sealed and tamper-evident and that the drugs are unadulterated, safe, and suitable for dispensing;

(D) Eligibility standards based on economic need for individuals to receive drugs;

(E) A means, such as an identification card, by which an individual who is eligible to receive ~~donated~~ drugs under the program may demonstrate eligibility to the pharmacy, hospital, or nonprofit clinic dispensing the drugs;

(F) A form that an individual receiving a drug ~~from~~under the repository program must sign before receiving the drug to confirm that the individual understands the immunity provisions of the program;

(G) A formula to determine the amount of a handling fee that pharmacies, hospitals, and nonprofit clinics may charge to drug recipients to cover restocking and dispensing costs;

(H) In addition, for drugs donated or given to the repository program by individuals:

(1) A list of drugs, arranged either by category or by individual drug, that the repository program will accept from individuals;

(2) A list of drugs, arranged either by category or by individual drug, that the repository program will not accept from individuals. The list must include a statement as to why the drug is ineligible ~~for donation~~to be donated or given.

(3) A form each donor must sign stating that the donor is the owner of the drugs and intends to voluntarily donate them to the repository program.

(I) In addition, for drugs donated to the repository program by health care facilities:

(1) A list of drugs, arranged either by category or by individual drug, that the repository program will accept from health care facilities;

(2) A list of drugs, arranged either by category or by individual drug, that the repository program will not accept from health care facilities. The list must include a statement as to why the drug is ineligible ~~for donation~~to be donated or given.

(J) Any other standards and procedures the board considers appropriate.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4723.16. (A) An individual whom the board of nursing licenses, certificates, or otherwise legally authorizes to engage in the practice of nursing as a registered nurse or as a licensed practical nurse may render the professional services of a registered or licensed practical nurse within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a registered or licensed practical nurse through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the board of nursing adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under this chapter;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a nurse that prohibits a registered or licensed practical nurse from engaging in the practice of nursing as a registered nurse or as a licensed practical nurse in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the

state chiropractic board, psychology, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of nursing as a registered nurse or as a licensed practical nurse.

Sec. 4725.33. (A) An individual whom the state board of optometry licenses to engage in the practice of optometry may render the professional services of an optometrist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an optometrist from rendering professional services as an optometrist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of optometry adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to 4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to an optometrist that prohibits an optometrist from engaging in the

practice of optometry in combination with a person who is licensed, certificated, or otherwise legally authorized to practice chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of optometry."

Between lines 203 and 204, insert:

"**Sec. 4729.161.** (A) An individual registered with the state board of pharmacy to engage in the practice of pharmacy may render the professional services of a pharmacist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a pharmacist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of pharmacy adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective

practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a pharmacist that prohibits a pharmacist from engaging in the practice of pharmacy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of pharmacy."

Between lines 305 and 306, insert:

"**Sec. 4731.226.** (A)(1) An individual whom the state medical board licenses, certificates, or otherwise legally authorizes to engage in the practice of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery may render the professional services of a doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. Division (A)(1) of this section does not preclude an individual of that nature from rendering professional services as a doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state medical board adopted pursuant to this chapter.

(2) An individual whom the state medical board authorizes to engage in the practice of mechanotherapy may render the professional services of a mechanotherapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. Division (A)(2) of this section does not preclude an individual of that nature from rendering professional services as a mechanotherapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state medical board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter

4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under this chapter.

(C) Division (B) of this section shall apply notwithstanding a provision of a code of ethics described in division (B)(18) of section 4731.22 of the Revised Code that prohibits either of the following:

(1) A doctor of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery from engaging in the doctor's authorized practice in combination with a person who is licensed, certificated, or otherwise legally authorized to engage in the practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, or mechanotherapy, but who is not also licensed, certificated, or otherwise legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery.

(2) A mechanotherapist from engaging in the practice of mechanotherapy in combination with a person who is licensed, certificated, or otherwise legally authorized to engage in the practice of optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, physical therapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of mechanotherapy.

Sec. 4731.23. (A)(1)(a) The state medical board shall designate ~~an attorney~~one or more attorneys at law who ~~has~~have been admitted to the practice of law, and who ~~is~~are classified as either ~~an~~ administrative law attorney ~~examiner~~examiners or as ~~an~~ administrative law attorney examiner ~~administrator~~administrators under the state job classification plan adopted under section 124.14 of the Revised Code, as a hearing ~~examiner~~examiners, subject to

Chapter 119. of the Revised Code, to conduct any hearing which the medical board is empowered to hold or undertake pursuant to Chapter 119. of the Revised Code. ~~Such~~

(b) Notwithstanding the requirement of division (A)(1)(a) of this section that the board designate as a hearing examiner an attorney who is classified as either an administrative law attorney examiner or an administrative law attorney examiner administrator, the board may, subject to controlling board approval, enter into a personal service contract with an attorney admitted to the practice of law in this state to serve on a temporary basis as a hearing examiner.

(2) The hearing examiner shall hear and consider the oral and documented evidence introduced by the parties and issue in writing proposed findings of fact and conclusions of law to the board for their consideration within thirty days following the close of the hearing.

(B) The board shall be given copies of the transcript of the record hearing and all exhibits and documents presented by the parties at the hearing.

(C) The board shall, upon the favorable vote of three members, allow the parties or their counsel the opportunity to present oral arguments on the proposed findings of fact and conclusions of law of the hearing examiner prior to the board's final action.

(D) The board shall render a decision and take action within sixty days following the receipt of the hearing examiner's proposed findings of fact and conclusions of law or within any longer period mutually agreed upon by the board and the certificate holder.

(E) The final decision of the board in any hearing which the board is empowered to undertake shall be in writing and contain findings of fact and conclusions of law. Copies of the decision shall be delivered to the parties personally or by certified mail. The decision shall be final upon delivery or mailing, except that the certificate holder may appeal in the manner provided by Chapter 119. of the Revised Code.

Sec. 4731.65. As used in sections 4731.65 to 4731.71 of the Revised Code:

(A)(1) "Clinical laboratory services" means either of the following:

(a) Any examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment or for the assessment of health;

(b) Procedures to determine, measure, or otherwise describe the presence or absence of various substances or organisms in the body.

(2) "Clinical laboratory services" does not include the mere collection or preparation of specimens.

(B) "Designated health services" means any of the following:

- (1) Clinical laboratory services;
- (2) Home health care services;
- (3) Outpatient prescription drugs.

(C) "Fair market value" means the value in arms-length transactions, consistent with general market value and:

- (1) With respect to rentals or leases, the value of rental property for general commercial purposes, not taking into account its intended use;
- (2) With respect to a lease of space, not adjusted to reflect the additional value the prospective lessee or lessor would attribute to the proximity or convenience to the lessor if the lessor is a potential source of referrals to the lessee.

(D) "Governmental health care program" means any program providing health care benefits that is administered by the federal government, this state, or a political subdivision of this state, including the medicare program established under Title XVIII of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, health care coverage for public employees, health care benefits administered by the bureau of workers' compensation, the medical assistance program established under Chapter 5111. of the Revised Code, and the disability medical assistance program established under Chapter 5115. of the Revised Code.

(E)(1) "Group practice" means a group of two or more holders of certificates under this chapter legally organized as a partnership, professional corporation or association, limited liability company, foundation, nonprofit corporation, faculty practice plan, or similar group practice entity, including an organization comprised of a nonprofit medical clinic that contracts with a professional corporation or association of physicians to provide medical services exclusively to patients of the clinic in order to comply with section 1701.03 of the Revised Code and including a corporation, limited liability company, partnership, or professional association described in division (B) of section 4731.226 of the Revised Code formed for the purpose of providing a combination of the professional services of optometrists who are licensed, certificated, or otherwise legally authorized to practice optometry under Chapter 4725. of the Revised Code, chiropractors who are licensed, certificated, or otherwise legally authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code, psychologists who are licensed, certificated, or otherwise legally authorized to practice psychology under Chapter 4732. of the Revised Code, registered or licensed practical nurses who are licensed, certificated, or otherwise legally authorized to practice nursing under Chapter 4723. of the Revised Code, pharmacists who are licensed, certificated, or otherwise legally authorized to practice pharmacy under Chapter 4729. of the Revised Code, physical therapists who are licensed, certificated, or otherwise legally authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code, mechanotherapists who are licensed,

certificated, or otherwise legally authorized to practice mechanotherapy under section 4731.151 of the Revised Code, and doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are licensed, certificated, or otherwise legally authorized for their respective practices under this chapter, to which all of the following apply:

(a) Each physician who is a member of the group practice provides substantially the full range of services that the physician routinely provides, including medical care, consultation, diagnosis, or treatment, through the joint use of shared office space, facilities, equipment, and personnel.

(b) Substantially all of the services of the members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group.

(c) The overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(d) The group practice meets any other requirements that the state medical board applies in rules adopted under section 4731.70 of the Revised Code.

(2) In the case of a faculty practice plan associated with a hospital with a medical residency training program in which physician members may provide a variety of specialty services and provide professional services both within and outside the group, as well as perform other tasks such as research, the criteria in division (E)(1) of this section apply only with respect to services rendered within the faculty practice plan.

(F) "Home health care services" and "immediate family" have the same meanings as in the rules adopted under section 4731.70 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) A "referral" includes both of the following:

(1) A request by a holder of a certificate under this chapter for an item or service, including a request for a consultation with another physician and any test or procedure ordered by or to be performed by or under the supervision of the other physician;

(2) A request for or establishment of a plan of care by a certificate holder that includes the provision of designated health services.

(I) "Third-party payer" has the same meaning as in section 3901.38 of the Revised Code.

Sec. 4732.28. (A) An individual whom the state board of psychology licenses, certificates, or otherwise legally authorizes to engage in the practice of psychology may render the professional services of a psychologist within this state through a corporation formed under division (B) of section 1701.03 of the

Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a psychologist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state board of psychology adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;

(3) Psychologists who are authorized to practice psychology under this chapter;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a psychologist that prohibits a psychologist from engaging in the practice of psychology in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of psychology.

Sec. 4734.10. In addition to rules that are required by this chapter to be

adopted, the state chiropractic board may adopt any other rules necessary to govern the practice of chiropractic and acupuncture under this chapter and to administer and enforce this chapter. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4734.141. Except for individuals described in section 4762.02 of the Revised Code, no person who holds a license to practice chiropractic issued by the state chiropractic board shall engage in the practice of acupuncture unless the person holds a valid certificate to practice acupuncture issued by the board under section 4734.283 of the Revised Code.

Sec. 4734.142. No person who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code shall do any of the following:

(A) Perform an acupuncture service that is beyond the scope of the person's education, training, and experience;

(B) Advertise or otherwise represent to the public that the person is engaged in the practice of oriental medicine;

(C) Permit an employee or assistant, other than an individual described in section 4762.02 of the Revised Code, to do either of the following:

(1) Insert, stimulate, or remove acupuncture needles;

(2) Apply moxibustion.

Sec. 4734.15. (A) The license provided for in this chapter shall entitle the holder thereof to practice chiropractic in this state. All of the following apply to the practice of chiropractic in this state:

(1) A chiropractor is authorized to examine, diagnose, and assume responsibility for the care of patients, any or all of which is included in the practice of chiropractic.

(2) The practice of chiropractic does not permit ~~the~~ a chiropractor to treat infectious, contagious, or venereal disease, to perform surgery ~~or acupuncture~~, or to prescribe or administer drugs for treatment.

(3) Except as provided in division (B) of this section, the practice of chiropractic does not permit a chiropractor to perform acupuncture.

(4) A chiropractor may use roentgen rays only for diagnostic purposes.

~~(4)~~(5) The practice of chiropractic does not include the performance of abortions.

(B) A chiropractor who holds a valid certificate to practice acupuncture issued under section 4734.283 of the Revised Code is authorized to perform acupuncture.

(C) An individual holding a valid, current license to practice chiropractic is entitled to use the title "doctor," "doctor of chiropractic," "chiropractic

physician," or "chiropractic" and is a "physician" for the purposes of Chapter 4123. of the Revised Code.

Sec. 4734.16. The state chiropractic board may establish a code of ethics that applies to chiropractors and their practice of chiropractic ~~in this state~~ and acupuncture under this chapter. The board may establish the code of ethics by creating its own code of ethics or by adopting a code of ethics created by a state or federal organization that represents the interests of chiropractors. If a code of ethics is established, the board shall maintain current copies of the code of ethics for distribution on request.

Sec. 4734.17. (A) An individual whom the state chiropractic board licenses to engage in the practice of chiropractic or certifies to practice acupuncture may render the professional services of a chiropractor or chiropractor certified to practice acupuncture within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude a chiropractor from rendering professional services as a chiropractor or chiropractor certified to practice acupuncture through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with this chapter, another chapter of the Revised Code, or rules of the state chiropractic board adopted pursuant to this chapter.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry, under Chapter 4725. of the Revised Code;

(2) Chiropractors who are authorized to practice chiropractic or acupuncture under this chapter;

(3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;

(4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;

(5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;

(6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~ 4755.56 of the Revised Code;

(7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;

(8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of any code of ethics established or adopted under section 4734.16 of the Revised Code that prohibits an individual from engaging in the practice of chiropractic or acupuncture in combination with an individual who is licensed, certificated, or otherwise authorized for the practice of optometry, psychology, nursing, pharmacy, physical therapy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed under this chapter to engage in the practice of chiropractic.

Sec. 4734.19. A chiropractor shall retain at the chiropractor's primary practice location a current copy of the statutes and rules governing the practice of chiropractic ~~in this state~~ and acupuncture under this chapter.

Sec. 4734.211. (A) In consultation with the state medical board, the state chiropractic board shall approve courses of study in acupuncture that prepare a chiropractor licensed under this chapter to receive a certificate to practice acupuncture issued under section 4732.283 of the Revised Code.

(B) To be approved, a course of study must require the successful completion of at least three hundred hours of instruction. Of the three hundred hours of instruction, at least two hundred hours must consist of direct clinical instruction that covers all of the following:

- (1) Application of acupuncture techniques;
- (2) An introduction to traditional Chinese acupuncture;
- (3) Acupuncture points;
- (4) Applications of acupuncture in modern western medicine;
- (5) Guidelines on safety in acupuncture;
- (6) Treatment techniques.

(C) In determining whether to approve a course of study, the state chiropractic board shall take into consideration the qualifications of the entity that administers the course of study. The board may approve a course of study that is administered by any of the following:

- (1) A school or college of chiropractic that has been approved by a national entity acceptable to the board;
- (2) An institution with an acupuncture program that is accredited by the accreditation commission for acupuncture and oriental medicine;
- (3) A school or college of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;
- (4) A hospital;

(5) An institution that holds a certificate of authorization from the board of regents;

(6) An institution that holds program authorization from the state board of career colleges and schools under section 3332.05 of the Revised Code.

Sec. 4734.28. As used in sections 4734.28 to 4734.286 of the Revised Code:

(A) "Acupuncture" means a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the human body.

(B) "Moxibustion" means the use of an herbal heat source on one or more acupuncture points.

Sec. 4734.281. Except in cases where a chiropractor holds a certificate issued under section 4762.04 of the Revised Code or is an individual described in division (B) of section 4762.02 of the Revised Code, a chiropractor licensed under this chapter shall not engage in the practice of acupuncture unless the chiropractor holds a valid certificate to practice acupuncture issued by the state chiropractic board under this chapter.

Sec. 4734.282. (A) A chiropractor licensed under this chapter seeking a certificate to practice acupuncture shall file with the state chiropractic board a written application on a form prescribed and supplied by the board. The application shall include all of the following:

(1) Evidence satisfactory to the board that the applicant's license is current and valid and that the applicant is in good standing with the board;

(2) Evidence satisfactory to the board that the applicant has completed a course of study in acupuncture approved by the board in accordance with section 4734.211 of the Revised Code.

(3) Evidence satisfactory to the board that the applicant has passed the acupuncture examination administered by the national board of chiropractic examiners or a person that administers the examinations on the board's behalf.

(B) The board shall review all applications received under this section. The board shall determine whether an applicant meets the requirements to receive a certificate to practice acupuncture not later than sixty days after receiving a complete application. The affirmative vote of not fewer than three members of the board is required to determine that an applicant meets the requirements for a certificate.

(C) At the time of making application for a certificate to practice acupuncture, the applicant shall pay the board a fee in an amount determined by the board pursuant to rules adopted under section 4734.10 of the Revised Code, no part of which shall be returned.

Sec. 4734.283. If the state chiropractic board determines under section

4734.282 of the Revised Code that an applicant meets the requirements for a certificate to practice acupuncture, the executive director of the board shall issue to the applicant a certificate to practice acupuncture. The certificate shall expire annually. It may be renewed in accordance with section 4734.284 of the Revised Code.

Sec. 4734.284. A chiropractor seeking to renew a certificate to practice acupuncture shall follow the standard renewal procedures of Chapter 4745. of the Revised Code and do all of the following:

(A) Furnish the state chiropractic board with satisfactory evidence that the chiropractor completed, during the twenty-four months immediately preceding renewal, at least twelve hours of acupuncture continuing education provided by an entity that administers a course of study approved under section 4734.211 of the Revised Code;

(B) Certify to the board that the chiropractor remains in good standing with the board and has not engaged in any conduct for which the board may take action under division (C) of section 4734.31 of the Revised Code;

(C) Pay a renewal fee in an amount determined by the board pursuant to rules adopted under section 4734.10 of the Revised Code.

Sec. 4734.285. A chiropractor who holds a certificate to practice acupuncture issued under this chapter may represent or advertise the chiropractor to be a "chiropractor certified by the state chiropractic board to practice acupuncture." Unless the chiropractor holds a license issued under section 4762.04 of the Revised Code, the chiropractor shall not represent or advertise the chiropractor as holding any of the titles listed in section 4762.08 of the Revised Code.

This section does not prohibit a chiropractor from using any of the titles listed in division (C) of section 4734.15 of the Revised Code.

Sec. 4734.286. (A) A chiropractor who holds a certificate to practice acupuncture issued under this chapter who intends not to practice acupuncture in this state for an extended period of time may send to the state chiropractic board written notice to that effect on or before the certificate renewal date. If the chiropractor's certificate is in good standing and the chiropractor is not under disciplinary review pursuant to section 4734.31 of the Revised Code, the board shall classify the certificate as inactive and the chiropractor may not engage in the practice of acupuncture in this state or make any representation to the public indicating that the chiropractor is actively certified to practice acupuncture under this chapter. A chiropractor whose certificate to practice acupuncture is classified as inactive is not required to pay the certificate renewal fee for the certificate.

(B) The holder of an inactive certificate to practice acupuncture may apply to the board to have the certificate restored. The board shall consider the length of inactivity and, in accordance with the conditions for issuance of a

license to practice chiropractic established under section 4734.20 of the Revised Code and the requirements for issuance of a certificate to practice acupuncture established under section 4734.282 of the Revised Code, the moral character and the activities of the applicant during the inactive period. The board may impose terms and conditions on restoration of the certificate by doing any of the following:

(1) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination on completion of the training;

(2) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(3) Restricting or limiting the extent, scope, or type of practice of the applicant.

Sec. 4734.31. (A) The state chiropractic board may take any of the actions specified in division (B) of this section against an individual who has applied for or holds a license to practice chiropractic in this state if any of the reasons specified in division (C) of this section for taking action against an individual are applicable. Except as provided in division (D) of this section, actions taken against an individual shall be taken in accordance with Chapter 119. of the Revised Code. The board may specify that any action it takes is a permanent action. The board's authority to take action against an individual is not removed or limited by the individual's failure to renew a license.

(B) In its imposition of sanctions against an individual, the board may do any of the following:

(1) Refuse to issue, renew, restore, or reinstate a license to practice chiropractic or a certificate to practice acupuncture;

(2) Reprimand or censure a license holder;

(3) Place limits, restrictions, or probationary conditions on a license holder's practice;

(4) Impose a civil fine of not more than five thousand dollars according to a schedule of fines specified in rules that the board shall adopt in accordance with ~~chapter~~Chapter 119. of the Revised Code.

(5) Suspend a license to practice chiropractic or a certificate to practice acupuncture for a limited or indefinite period;

(6) Revoke a license to practice chiropractic or a certificate to practice acupuncture.

(C) The board may take the actions specified in division (B) of this section for any of the following reasons:

(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony in any jurisdiction, in which case a certified copy of the court record shall be conclusive

evidence of the conviction;

(2) Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;

(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude, as determined by the board, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(4) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice, in which case a certified copy of the court record shall be conclusive evidence of the matter;

(6) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;

(7) A violation or attempted violation of this chapter or the rules adopted under it governing the practice of chiropractic and the practice of acupuncture by a chiropractor licensed under this chapter;

(8) Failure to cooperate in an investigation conducted by the board, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board at a deposition or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if the board or a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(9) Engaging in an ongoing professional relationship with a person or entity that violates any provision of this chapter or the rules adopted under it, unless the chiropractor makes a good faith effort to have the person or entity comply with the provisions;

(10) Retaliating against a chiropractor for the chiropractor's reporting to the board or any other agency with jurisdiction any violation of the law or for cooperating with the board of another agency in the investigation of any violation of the law;

(11) Aiding, abetting, assisting, counseling, or conspiring with any person in that person's violation of any provision of this chapter or the rules adopted under it, including the practice of chiropractic without a license, the practice of acupuncture without a certificate, or aiding, abetting, assisting, counseling, or conspiring with any person in that person's unlicensed practice of

any other health care profession that has licensing requirements;

(12) With respect to a report or record that is made, filed, or signed in connection with the practice of chiropractic or acupuncture, knowingly making or filing a report or record that is false, intentionally or negligently failing to file a report or record required by federal, state, or local law or willfully impeding or obstructing the required filing, or inducing another person to engage in any such acts;

(13) Making a false, fraudulent, or deceitful statement to the board or any agent of the board during any investigation or other official proceeding conducted by the board under this chapter or in any filing that must be submitted to the board;

(14) Attempting to secure a license to practice chiropractic or certificate to practice acupuncture or to corrupt the outcome of an official board proceeding through bribery or any other improper means;

(15) Willfully obstructing or hindering the board or any agent of the board in the discharge of the board's duties;

(16) Habitually using drugs or intoxicants to the extent that the person is rendered unfit for the practice of chiropractic or acupuncture;

(17) Inability to practice chiropractic or acupuncture according to acceptable and prevailing standards of care by reason of chemical dependency, mental illness, or physical illness, including conditions in which physical deterioration has adversely affected the person's cognitive, motor, or perceptive skills and conditions in which a chiropractor's continued practice may pose a danger to the chiropractor or the public;

(18) Any act constituting gross immorality relative to the person's practice of chiropractic or acupuncture, including acts involving sexual abuse, sexual misconduct, or sexual exploitation;

(19) Exploiting a patient for personal or financial gain;

(20) Failing to maintain proper, accurate, and legible records in the English language documenting each patient's care, including, as appropriate, records of the following: dates of treatment, services rendered, examinations, tests, x-ray reports, referrals, and the diagnosis or clinical impression and clinical treatment plan provided to the patient;

(21) Except as otherwise required by the board or by law, disclosing patient information gained during the chiropractor's professional relationship with a patient without obtaining the patient's authorization for the disclosure;

(22) Commission of willful or gross malpractice, or willful or gross neglect, in the practice of chiropractic or acupuncture;

(23) Failing to perform or negligently performing an act recognized by the board as a general duty or the exercise of due care in the practice of chiropractic or acupuncture, regardless of whether injury results to a patient from

the failure to perform or negligent performance of the act;

(24) Engaging in any conduct or practice that impairs or may impair the ability to practice chiropractic or acupuncture safely and skillfully;

(25) Practicing, or claiming to be capable of practicing, beyond the scope of the practice of chiropractic or acupuncture as established under this chapter and the rules adopted under this chapter;

(26) Accepting and performing professional responsibilities as a chiropractor or chiropractor with a certificate to practice acupuncture when not qualified to perform those responsibilities, if the person knew or had reason to know that the person was not qualified to perform them;

(27) Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual when the delegating chiropractor knows or had reason to know that the employee or other individual is not qualified by training, experience, or professional licensure to perform the responsibilities;

(28) Delegating any of the professional responsibilities of a chiropractor or chiropractor with a certificate to practice acupuncture to an employee or other individual in a negligent manner or failing to provide proper supervision of the employee or other individual to whom the responsibilities are delegated;

(29) Failing to refer a patient to another health care practitioner for consultation or treatment when the chiropractor knows or has reason to know that the referral is in the best interest of the patient;

(30) Obtaining or attempting to obtain any fee or other advantage by fraud or misrepresentation;

(31) Making misleading, deceptive, false, or fraudulent representations in the practice of chiropractic or acupuncture;

(32) Being guilty of false, fraudulent, deceptive, or misleading advertising or other solicitations for patients or knowingly having professional connection with any person that advertises or solicits for patients in such a manner;

(33) Violation of a provision of any code of ethics established or adopted by the board under section 4734.16 of the Revised Code;

(34) Failing to meet the examination requirements for receipt of a license specified under section 4734.20 of the Revised Code;

(35) Actions taken for any reason, other than nonpayment of fees, by the chiropractic or acupuncture licensing authority of another state or country;

(36) Failing to maintain clean and sanitary conditions at the clinic, office, or other place in which chiropractic services or acupuncture services are provided;

(37) Except as provided in division (G) of this section:

(a) Waiving the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay if the waiver is used as an enticement to a patient or group of patients to receive health care services from that chiropractor;

(b) Advertising that the chiropractor will waive the payment of all or any part of a deductible or copayment that a patient, pursuant to a health insurance or health care policy, contract, or plan that covers the chiropractor's services, otherwise would be required to pay.

(38) Failure to supervise an acupuncturist in accordance with the provisions of section 4762.11 of the Revised Code that are applicable to the supervising chiropractor of an acupuncturist.

(D) The adjudication requirements of Chapter 119. of the Revised Code apply to the board when taking actions against an individual under this section, except as follows:

(1) An applicant is not entitled to an adjudication for failing to meet the conditions specified under section 4734.20 of the Revised Code for receipt of a license that involve the board's examination on jurisprudence or the examinations of the national board of chiropractic examiners.

(2) A person is not entitled to an adjudication if the person fails to make a timely request for a hearing, in accordance with Chapter 119. of the Revised Code.

(3) In lieu of an adjudication, the board may accept the surrender of a license to practice chiropractic or certificate to practice acupuncture from a chiropractor.

(4) In lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

(E) This section does not require the board to hire, contract with, or retain the services of an expert witness when the board takes action against a chiropractor concerning compliance with acceptable and prevailing standards of care in the practice of chiropractic or acupuncture. As part of an action taken concerning compliance with acceptable and prevailing standards of care, the board may rely on the knowledge of its members for purposes of making a determination of compliance, notwithstanding any expert testimony presented by the chiropractor that contradicts the knowledge and opinions of the members of the board.

(F) The sealing of conviction records by a court shall have no effect on a

prior board order entered under this section or on the board's jurisdiction to take action under this section if, based on a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(G) Actions shall not be taken pursuant to division (C)(37) of this section against any chiropractor who waives deductibles and copayments as follows:

(1) In compliance with the health benefit plan that expressly allows a practice of that nature. Waiver of the deductibles or copayments shall be made only with the full knowledge and consent of the plan purchaser, payer, and third-party administrator. Documentation of the consent shall be made available to the board upon request.

(2) For professional services rendered to any other person licensed pursuant to this chapter, to the extent allowed by this chapter and the rules of the board.

Sec. 4734.311. On receipt of a notice pursuant to section 3123.43 of the Revised Code, the state chiropractic board shall comply with sections 3123.41 to 3123.50 of the Revised Code and any applicable rules adopted under section 3123.63 of the Revised Code with respect to a license to practice chiropractic or certificate to practice acupuncture issued pursuant to this chapter.

Sec. 4734.34. An individual subject to an action taken under section 4734.31 of the Revised Code, other than permanent revocation of a license to practice chiropractic or certificate to practice acupuncture, may apply to the state chiropractic board to have the individual's license or certificate restored to good standing. The board shall consider the moral character and the activities of the applicant since the board's action was taken, in accordance with the standards for issuance of a license, as established under section 4734.20 of the Revised Code, or the standards for issuance of a certificate to practice acupuncture, as established under section 4734.282 of the Revised Code. The board may impose terms and conditions on restoration of the license or certificate by doing any of the following:

(A) Requiring the applicant to obtain training, which may include requiring the applicant to pass an examination upon completion of the training;

(B) Requiring the applicant to pass an oral or written examination, or both, to determine fitness to resume practice;

(C) Restricting or limiting the extent, scope, or type of practice of the applicant.

Sec. 4734.36. A chiropractor who in this state pleads guilty to or is convicted of aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary, or who in another jurisdiction

pleads guilty to or is convicted of any substantially equivalent criminal offense, is automatically suspended from practice in this state and the license issued under this chapter to practice chiropractic is automatically suspended as of the date of the guilty plea or conviction. If applicable, the chiropractor's certificate issued under this chapter to practice acupuncture is automatically suspended at the same time. Continued practice after suspension under this section shall be considered practicing chiropractic without a license and, if applicable, acupuncture without a certificate. On receiving notice or otherwise becoming aware of the conviction, the state chiropractic board shall notify the individual of the suspension under this section by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license and, if applicable, certificate to practice acupuncture is suspended under this section fails to make a timely request for an adjudication, the board shall enter a final order revoking the individual's license and, if applicable, certificate to practice acupuncture.

Sec. 4734.37. If the state chiropractic board determines that there is clear and convincing evidence that a person who has been granted a license to practice chiropractic and, if applicable, certificate to practice acupuncture under this chapter has committed an act that subjects the person's license and, if applicable, certificate to board action under section 4734.31 of the Revised Code and that the person's continued practice presents a danger of immediate and serious harm to the public, the board may suspend the license and, if applicable, certificate without a prior hearing. A telephone conference call may be utilized for reviewing the matter and taking the vote.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order is not subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the person subject to the suspension requests an adjudication by the board, the date set for the adjudication shall be within twenty days, but not earlier than seven days, after the request, unless otherwise agreed to by both the board and the person subject to the suspension.

Any summary suspension imposed under this section shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to section 4734.31 and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within sixty days after completion of its adjudication. A failure to issue the order within sixty days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

Sec. 4734.38. If any person who has been granted a license to practice chiropractic and, if applicable, certificate to practice acupuncture under this chapter is adjudged by a probate court to be mentally ill or mentally incompetent, the person's license and, if applicable, certificate shall be automatically suspended until the person has filed with the state chiropractic board a certified copy of an adjudication by a probate court of being restored to competency or has submitted to the board proof, satisfactory to the board, of

having been discharged as being restored to competency in the manner and form provided in section 5122.38 of the Revised Code. The judge of the court shall forthwith notify the board of an adjudication of mental illness or mental incompetence.

Sec. 4734.39. (A) For purposes of the state chiropractic board's enforcement of division (C)(16) or (17) of section 4734.31 of the Revised Code, an individual who applies for or receives a license to practice chiropractic or certificate to practice acupuncture under this chapter accepts the privilege of practicing chiropractic and, if applicable, acupuncture in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board in its enforcement of those divisions, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(B) If the board has reason to believe that a chiropractor or applicant suffers an impairment described in division (C)(16) or (17) of section 4734.31 of the Revised Code, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this section shall be undertaken by a provider who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control. A default and final order may be entered without the taking of testimony or presentation of evidence.

If the board determines that an individual's ability to practice is impaired, the board shall suspend the individual's license to practice chiropractic and, if applicable, certificate to practice acupuncture or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, restored, or renewed certification to practice, to submit to care, counseling, or treatment.

(C) Before being eligible to apply for reinstatement of a license or certificate suspended under division (C)(16) of section 4734.31 of the Revised Code or the chemical dependency provisions of division (C)(17) of section 4731.34 of the Revised Code, the impaired individual shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care in the practice of chiropractic and, if applicable, acupuncture under this chapter. If rules have been adopted under section 4734.40 of the Revised Code, the demonstration shall include, but shall not be limited to, the following:

(1) Certification from a treatment provider approved under section 4734.40 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license and, if applicable, certificate suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired individual resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

Sec. 4734.47. (A) The executive director of the state chiropractic board shall function as the chief enforcement officer of the board and shall enforce the laws relating to the practice of chiropractic and acupuncture under this chapter. If the executive director has knowledge or notice of a violation of those laws, the executive director shall investigate the matter or cause the matter to be investigated. On probable cause appearing, the executive director shall prosecute the offender or cause the offender to be prosecuted. If the matter involves a violation by an individual licensed under this chapter, the executive director shall bring the matter before the board. If the matter involves a violation for which a penalty may be imposed under section 4734.99 of the Revised Code, the executive director or a person authorized by the board to represent the executive director may file a complaint with the prosecuting attorney of the proper county. Except as provided in division (B) of this section, the prosecuting attorney shall take charge of and conduct the prosecution.

(B) For purposes of enforcing this chapter, the board may petition a court of record to appoint an attorney to assist the prosecuting attorney in the prosecution of offenders or to take charge of and conduct the prosecutions as a special prosecutor. The court shall grant the petition if it is in the public interest. A special prosecutor appointed by the court shall be compensated by the board in an amount approved by the board.

If the court believes that public knowledge of the appointment of a special prosecutor could allow one or more persons to interfere with the prosecution or any investigation related to the prosecution, the court may seal all documents pertaining to the appointment. Sealed documents shall remain sealed until there is court action on the prosecution or until the court orders the documents to be opened.

Sec. 4734.49. (A) The attorney general, the prosecuting attorney of the county in which a violation of this chapter is committed or is threatened to be committed or in which the offender resides, the state chiropractic board, or any other person having knowledge of a person committing or threatening to commit a violation of this chapter may, in accordance with the provisions of the Revised Code governing injunctions, maintain an action in the name of this state to enjoin the person from committing the violation by applying for an injunction in any court of competent jurisdiction. Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court. If the court grants a final or permanent injunction that is a final appealable order, the court may award to the person or entity that maintained the action an amount not exceeding five thousand dollars to cover reasonable attorney's fees, investigative costs, and other costs related to the investigation or prosecution of the case. Injunction proceedings brought under this section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

(B)(1) The practice of chiropractic by any person not at that time holding a valid and current license issued under this chapter is hereby declared to be inimical to the public welfare and to constitute a public nuisance.

(2) Except for the practice of acupuncture by persons described in section 4762.02 of the Revised Code and persons who hold certificates issued under section 4762.04 of the Revised Code, the practice of acupuncture by any person not at that time holding a valid and current certificate to practice acupuncture issued under this chapter is hereby declared to be inimical to the public welfare and to constitute a public nuisance.

Sec. 4734.50. This chapter does not require the state chiropractic board to act on minor violations of this chapter or the rules adopted under it, if the violations are committed by individuals licensed to practice chiropractic or certified to practice acupuncture under this chapter and the board determines that the public interest is adequately served by issuing a notice or warning to the alleged offender.

Sec. 4734.55. The state chiropractic board shall provide a duplicate license to practice chiropractic or certificate to practice acupuncture to a license or certificate holder on payment of a fee of forty-five dollars.

Upon written request and the payment of a fee of ninety-five dollars, the board shall provide to any person a list of persons holding licenses to practice chiropractic or certificates to practice acupuncture, as indicated in its register maintained pursuant to section 4734.04 of the Revised Code.

Upon written request from the ~~licensee~~ holder of a license or certificate issued under this chapter for the board's certification of information pertaining to the license or certificate, and the payment of a fee of twenty dollars, the board

shall issue its certification of licensure the information to the person identified by the licensee or certificate holder in the request.

Sec. 4734.99. (A) Whoever violates section 4734.14 or 4734.141 of the Revised Code is guilty of a felony of the fifth degree on a first offense, unless the offender previously has been convicted of or has pleaded guilty to a violation of section 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2913.02, 2913.40, 2913.47, 2913.48, 2913.51, 2921.13, 4715.09, 4723.03, 4725.02, 4725.41, 4729.27, 4729.28, 4729.36, 4729.51, 4729.61, 4730.02, 4731.41, 4731.43, 4731.46, 4731.47, 4731.60, 4732.21, 4741.18, 4741.19, 4755.48, 4757.02, 4759.02, 4761.10, or 4773.02 of the Revised Code or an offense under an existing or former law of this state, another state, or the United States that is or was substantially equivalent to a violation of any of those sections, in which case the offender is guilty of a felony of the fourth degree. For each subsequent offense, the offender is guilty of a felony of the fourth degree.

(B) Whoever violates section 4734.161 of the Revised Code is guilty of a misdemeanor of the first degree.

(C) Whoever violates division (A), (B), (C), or (D) of section 4734.32 of the Revised Code is guilty of a minor misdemeanor on a first offense; on each subsequent offense, the person is guilty of a misdemeanor of the fourth degree, except that an individual guilty of a subsequent offense shall not be subject to imprisonment, but to a fine alone of up to one thousand dollars for each offense.

Sec. 4755.471. (A) An individual whom the physical therapy section of the Ohio occupational therapy, physical therapy, and athletic trainers board licenses, certificates, or otherwise legally authorizes to engage in the practice of physical therapy may render the professional services of a physical therapist within this state through a corporation formed under division (B) of section 1701.03 of the Revised Code, a limited liability company formed under Chapter 1705. of the Revised Code, a partnership, or a professional association formed under Chapter 1785. of the Revised Code. This division does not preclude an individual of that nature from rendering professional services as a physical therapist through another form of business entity, including, but not limited to, a nonprofit corporation or foundation, or in another manner that is authorized by or in accordance with sections 4755.40 to 4755.53 of the Revised Code, another chapter of the Revised Code, or rules of the Ohio occupational therapy, physical therapy, and athletic trainers board adopted pursuant to sections 4755.40 to 4755.53 of the Revised Code.

(B) A corporation, limited liability company, partnership, or professional association described in division (A) of this section may be formed for the purpose of providing a combination of the professional services of the following individuals who are licensed, certificated, or otherwise legally authorized to practice their respective professions:

(1) Optometrists who are authorized to practice optometry under Chapter 4725. of the Revised Code;

- (2) Chiropractors who are authorized to practice chiropractic or acupuncture under Chapter 4734. of the Revised Code;
- (3) Psychologists who are authorized to practice psychology under Chapter 4732. of the Revised Code;
- (4) Registered or licensed practical nurses who are authorized to practice nursing as registered nurses or as licensed practical nurses under Chapter 4723. of the Revised Code;
- (5) Pharmacists who are authorized to practice pharmacy under Chapter 4729. of the Revised Code;
- (6) Physical therapists who are authorized to practice physical therapy under sections 4755.40 to ~~4755.53~~4755.56 of the Revised Code;
- (7) Mechanotherapists who are authorized to practice mechanotherapy under section 4731.151 of the Revised Code;
- (8) Doctors of medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery who are authorized for their respective practices under Chapter 4731. of the Revised Code.

This division shall apply notwithstanding a provision of a code of ethics applicable to a physical therapist that prohibits a physical therapist from engaging in the practice of physical therapy in combination with a person who is licensed, certificated, or otherwise legally authorized to practice optometry, chiropractic, acupuncture through the state chiropractic board, psychology, nursing, pharmacy, mechanotherapy, medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery, but who is not also licensed, certificated, or otherwise legally authorized to engage in the practice of physical therapy.

Sec. 4762.01. As used in this chapter:

(A) "Acupuncture" means a form of health care performed by the insertion and removal of specialized needles, with or without the application of moxibustion or electrical stimulation, to specific areas of the human body.

(B) "Chiropractor" means an individual licensed under Chapter 4734. of the Revised Code to engage in the practice of chiropractic.

(C) "Moxibustion" means the use of an herbal heat source on one or more acupuncture points.

~~(C)~~(D) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatry.

Sec. 4762.02. (A) Except as provided in division (B) of this section, no person shall engage in the practice of acupuncture unless the person holds a valid certificate of registration as an acupuncturist issued by the state medical board under this chapter.

(B) Division (A) of this section does not apply to at the following:

(1) A physician or to a:

(2) A person who performs acupuncture as part of a training program in acupuncture operated by an educational institution that holds an effective certificate of authorization issued by the Ohio board of regents under section 1713.02 of the Revised Code or a school that holds an effective certificate of registration issued by the state board of career colleges and schools under section 3332.05 of the Revised Code;

(3) A chiropractor who holds a certificate to practice acupuncture issued by the state chiropractic board under section 4734.283 of the Revised Code.

Sec. 4762.09. An acupuncturist who holds a certificate of registration issued under this chapter shall conspicuously display at the acupuncturist's primary place of business both of the following:

(A) The acupuncturist's certificate of registration issued by the state medical board under this chapter, as evidence that the acupuncturist is authorized to practice acupuncture in this state;

(B) A notice specifying that the practice of acupuncture under the certificate of registration is regulated by the state medical board and the address and telephone number of the board's office.

Sec. 4762.10. All of the following apply to the practice of a person who holds a certificate of registration as an acupuncturist issued under this chapter:

(A) The acupuncturist shall perform acupuncture for a patient only if the patient has received a physician's written referral or prescription for acupuncture from a physician or chiropractor. As specified in the referral or prescription, the acupuncturist shall provide reports to the physician or chiropractor on the patient's condition or progress in treatment and comply with the conditions or restrictions on the acupuncturist's course of treatment.

(B) The acupuncturist shall perform acupuncture under the general supervision of the patient's referring or prescribing physician or chiropractor. General supervision does not require that the acupuncturist and physician or chiropractor practice in the same office.

(C) Prior to treating a patient, the acupuncturist shall advise the patient that acupuncture is not a substitute for conventional medical diagnosis and treatment.

(D) On initially meeting a patient in person, the acupuncturist shall provide in writing the acupuncturist's name, business address, and business telephone number, and information on acupuncture, including the techniques that are used.

(E) While treating a patient, the acupuncturist shall not make a diagnosis. If a patient's condition is not improving or a patient requires emergency medical

treatment, the acupuncturist shall consult promptly with ~~the supervising~~ a physician.

(F) An acupuncturist shall maintain records for each patient treated. In each patient's records, the acupuncturist shall include the written referral or prescription pursuant to which the acupuncturist is treating the patient. The records shall be confidential and shall be retained for not less than three years following termination of treatment.

Sec. 4762.11. All of the following apply to an acupuncturist's supervising physician or chiropractor for a patient:

(A) Before making the referral or prescription for acupuncture, the physician shall perform a medical diagnostic examination of the patient or review the results of a medical diagnostic examination recently performed by another physician, or, in the case of a chiropractor, the chiropractor shall perform a chiropractic diagnostic examination of the patient or review the results of a chiropractic diagnostic examination recently performed by another chiropractor.

(B) The physician or chiropractor shall make the referral or prescription in writing and specify in the referral or prescription all of the following:

(1) The physician's or chiropractor's diagnosis of the ailment or condition that is to be treated by acupuncture;

(2) A time by which or the intervals at which the acupuncturist must provide reports to the physician or chiropractor regarding the patient's condition or progress in treatment;

(3) The conditions or restrictions placed in accordance with division (C) of this section on the acupuncturist's course of treatment.

(C) The physician shall place conditions or restrictions on the acupuncturist's course of treatment in compliance with accepted or prevailing standards of medical care, or, in the case of a chiropractor, the chiropractor shall place conditions or restrictions on the acupuncturist's course of treatment in compliance with accepted or prevailing standards of chiropractic care.

(D) The physician or chiropractor shall be personally available for consultation with the acupuncturist. If the physician or chiropractor is not on the premises at which acupuncture is performed, the physician or chiropractor shall be readily available to the acupuncturist through some means of telecommunication and be in a location that under normal circumstances is not more than sixty minutes travel time away from the location where the acupuncturist is practicing.

Sec. 4762.12. In the case of a patient with a claim under Chapter 4121. or 4123. of the Revised Code, an acupuncturist's supervising physician or chiropractor is eligible to be reimbursed for referring the patient to an acupuncturist or prescribing acupuncture for the patient only if the physician or chiropractor has attained knowledge in the treatment of patients with

acupuncture, demonstrated by successful completion of a course of study in acupuncture administered by a college of medicine, osteopathic medicine, or podiatric medicine, or chiropractic acceptable to the bureau of workers' compensation or administered by another entity acceptable to the bureau.

Sec. 4762.18. ~~The~~ (A) Subject to division (E) of this section, the attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person engaged either directly or by complicity in the practice of acupuncture without having first obtained a certificate of registration to do so pursuant to this chapter, may, in accord with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful practice of acupuncture by applying for an injunction in any court of competent jurisdiction.

(B) Prior to application for an injunction under division (A) of this section, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful practice of acupuncture by registered mail that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

(C) Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court.

(D) Injunction proceedings as authorized by this section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

(E) An injunction proceeding permitted by division (A) of this section may not be maintained against a person described in division (B) of section 4762.02 of the Revised Code or a chiropractor who holds a valid certificate to practice acupuncture issued under section 4734.283 of the Revised Code."

In line 306, after "sections" insert "1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33,"; after "4729.01," insert "4729.161,"; delete "and"; after "4729.41" insert ", 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18"

In line 1 of the title, after "sections" insert "1701.03, 1705.03, 1705.04, 1705.53, 1785.01, 1785.02, 1785.03, 1785.08, 3715.87, 3715.871, 3715.872, 3715.873, 4723.16, 4725.33,"; delete "and"; after "4729.41" insert ", 4731.226, 4731.23, 4731.65, 4732.28, 4734.10, 4734.15, 4734.16, 4734.17, 4734.19, 4734.31, 4734.311, 4734.34, 4734.36, 4734.37, 4734.38, 4734.39, 4734.47, 4734.49, 4734.50, 4734.55, 4734.99, 4755.471, 4762.01, 4762.02, 4762.09, 4762.10, 4762.11, 4762.12, and 4762.18 and to enact sections 4734.141, 4734.142, 4734.211, 4734.28, 4734.281, 4734.282, 4734.283, 4734.284, 4734.285, and 4734.286"

In line 3 of the title, delete "and" and insert a comma

In line 5 of the title, after "Pharmacy" insert ", to permit practice of acupuncture by chiropractors, modify the law regarding the State Medical Board's use of private attorneys as temporary hearing examiners, and modify the immunity from liability that applies under the Drug Repository Program"

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

Senator Jacobson voted in the negative-1.

The amendment was agreed to.

The question recurred, "Shall the bill, **Am. Sub. H. B. No. 524**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller D	Miller R	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

Senator Grendell voted in the negative-1.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Coughlin moved to amend the title as follows:

Add the names: "Armbruster, Clancy, Mumper, Padgett, Schuring, Wachtmann, Zurz, Spada."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Senator Jacobson, having voted on the prevailing side, moved that vote whereby **Sub. H. B. No. 694** was passed, be now reconsidered.

The question being, "Shall the motion be agreed to?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The motion was agreed to.

The question being, "Shall the bill, **Sub. H. B. No. 694**, pass?"

Senator Jacobson moved to amend as follows:

Between lines 64 and 65, insert:

"(h) In the case of a collective bargaining agreement with a labor organization representing employees where the holder of the public office with ultimate responsibility for the award of the state contract is a state official, the labor organization."

Between lines 70 and 71, insert:

"For the purposes of division (A)(4) of this section, a contract for services includes collective bargaining agreements with a labor organization representing employees where the holder of the public office with ultimate responsibility for the award of the agreement is a state official."

In line 539, after "be" insert "the recipient of the contract and"

In line 541, after the period insert "For purposes of divisions (I),(J), (Y) and (Z) of this section, a political contributing entity or political action committee of the labor organization shall be subject to the same limits as applicable to an affiliated political action committee of an incorporated business."

Delete lines 544 - 547

Delete lines 568 - 571

In line 1445, delete "five hundred" and insert "one thousand; delete "one" and insert "two

In line 1463, after the period insert "A contract for services includes collective bargaining agreements with a labor organization representing employees where the holder of the public office with ultimate responsibility for the award of the agreement is a state official."

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 22, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller D	Miller R	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 694**, pass?"

The yeas and nays were taken and resulted - yeas 23, nays 10, as follows:

Those who voted in the affirmative were: Senators

Armbruster	Austria	Carey	Cates
Clancy	Coughlin	Dann	Fingerhut
Gardner	Goodman	Grendell	Hottinger
Jacobson	Jordan	Mumper	Niehaus
Padgett	Schuler	Schuring	Spada
Stivers	Wachtmann		Harris-23.

Those who voted in the negative were: Senators

Amstutz	Fedor	Hagan	Kearney
Miller D	Miller R	Prentiss	Roberts
Wilson			Zurz-10.

So the bill passed.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Sub. S. B. No. 126 - Senators Wachtmann, Stivers Representatives Cassell, Combs, Daniels, DeBose, Evans, C., Luckie, Seaver, Smith, G., White, J.

To amend sections 133.07, 140.03, 140.05, 325.19, 339.01, 339.02, 339.03, 339.06, 339.09, 339.091, 339.14, 339.16, 339.17, 1347.12, 1349.19, 4723.01, and 4723.32 and to repeal section 339.092 of the Revised Code to modify the laws governing county hospitals and licensed practical nurse duties and to exempt a state agency or agency of a political subdivision from the requirement that it disclose or give notice of unauthorized access to personal information if the agency is a covered entity under the Health Insurance Portability and Accountability Act of 1996.

As a substitute bill, in which the concurrence of the Senate is requested:

Attest: Laura P. Clemens,
Clerk.

Senator Jacobson moved that the amendments of the House of representatives to **Sub. S. B. No. 126**, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss

Roberts
Stivers

Schuler
Wachtmann

Schuring
Wilson

Spada
Zurz
Harris-33.

So the Senate concurred in the amendments of the House of Representatives.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Am. Sub. S. B. No. 260 - Senators Austria, Spada, Amstutz, Armbruster, Carey, Cates, Clancy, Coughlin, Dann, Fingerhut, Gardner, Goodman, Grendell, Hagan, Harris, Hottinger, Jacobson, Jordan, Kearney, Mumper, Niehaus, Padgett, Schuler, Schuring, Stivers, Wachtmann, Wilson, Zurz, Fedor, Miller, R., Roberts

To amend sections 109.42, 2743.191, 2907.02, 2907.07, 2921.34, 2923.02, 2929.01, 2929.13, 2929.14, 2929.19, 2930.16, 2941.148, 2950.01, 2950.09, 2950.11, 2950.13, 2950.14, 2967.12, 2967.121, 2971.03, 2971.04, 2971.05, 2971.06, 2971.07, 3109.04, 5120.49, 5120.61, 5120.66, and 5149.10 and to enact section 2941.1418 of the Revised Code to require that a person convicted of rape when the victim is less than 13 or when the person purposely compels the victim to submit by force or threat of force be sentenced to an indefinite prison term of 25 years to life; to require that a person convicted of attempted rape be sentenced to an indefinite prison term of 15 years to life if also convicted of a specification that the completed rape would have been committed against a victim less than 13; to require that a person so sentenced serve that term under the Sexually Violent Predator Law as if a sexually violent predator and automatically is classified a sexual predator for the SORN Law; to permit the court to subject a person so sentenced to supervision with an active global positioning system device if released from a state correctional institution; to increase the penalty for importuning and establish a presumption for a prison term if the victim is under 13; to require a sheriff to notify the public children services agency of registered sex offenders in the jurisdiction; to require the Department of Rehabilitation and Correction to notify sheriffs of the release of sex offenders and child-victim oriented offenders and to require BCII to include on its Internet sex offender database, and sheriffs who operate on the Internet a sex offender database, to include on the database the information received about the offender; to provide for the consideration of specified convictions of members of the household of a parent in making child custody determinations and to declare an emergency.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

In line 890, after the period insert "If an offender is convicted of or pleads guilty to a violation of division (A)(1)(b) of this section, if the offender was less than sixteen years of age at the time the offender committed the violation of that division, and if the offender during or immediately after the commission of the offense did not cause serious physical harm to the victim, the victim was ten years of age or older at the time of the commission of the violation, and the offender has not previously been convicted of or pleaded guilty to a violation of this section or a substantially similar existing or former law of this state, another state, or the United States, the court shall not sentence the offender to a prison term or term of life imprisonment pursuant to section 2971.03 of the Revised Code, and instead the court shall sentence the offender as otherwise provided in this division."

In line 2006, after "Code" insert "and would be sentenced under section 2971.03 of the Revised Code"

In line 2703, after "and" insert "either"

In line 2705, after "Code" insert "or division (B) of section 2907.02 of the Revised Code provides that the court shall not sentence the offender pursuant to section 2971.03 of the Revised Code"

In line 2808, after "sentenced" insert "under section 2971.03 of the Revised Code"

In line 2811, after the underlined comma insert "if the offender is sentenced to a term of life without parole under division (B) of section 2907.02 of the Revised Code,"

In line 2968, after "sentenced" insert "under section 2971.03 of the Revised Code"

In line 2970, after the underlined comma insert "if the offender is sentenced to a term of life without parole under division (B) of section 2907.02 of the Revised Code,"

In line 3198, after "amendment" insert "and division (B) of section 2907.02 of the Revised Code does not prohibit the court from sentencing the offender pursuant to section 2971.03 of the Revised Code,"

In line 3229, after the first "that" insert "the offender was sixteen years of age or older at the time of the commission of the offense and that"

In line 3238, after the first "that" insert "the offender was sixteen years of age or older at the time of the commission of the offense and that"

In line 3240, after "Code" insert a close parenthesis

In line 3250, delete "either the" and insert "specifies that one of the following applies:"

(A) The"

In line 3251, delete "or the" and insert ".

(B) The"

In line 3253, delete ". The" and insert ", and the offender was sixteen years of age or older at the time of the commission of the offense.

The"

In line 3261, delete "either"

In line 3264, after "force" insert ", and the offender was sixteen years of age or older at the time of the commission of the offense"

In line 3512, delete "either" and insert "any"; delete "applies" and insert "apply"

In line 3519, after "amendment" insert ", and either the offender is sentenced under section 2971.03 of the Revised Code or a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code"

In line 3899, after "Code" insert "and if either the person is sentenced under section 2971.03 of the Revised Code, or the court imposes upon the offender a sentence of life without parole under division (B) of section 2907.02 of the Revised Code"

In line 3944, after "amendment" insert "for which sentence is imposed under section 2971.03 of the Revised Code or for which a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code"

In line 4089, after "amendment" insert ", and either the offender is sentenced under section 2971.03 of the Revised Code, or a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code"

In line 4883, after "amendment" insert "and either who is sentenced under section 2971.03 of the Revised Code or upon whom a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code"

In line 5463, after "imprisonment" insert "and except as otherwise provided in division (B) of section 2907.02 of the Revised Code"

In line 5552, after "Code" insert "and either the offender is sentenced under section 2971.03 of the Revised Code or a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code"

In line 5960, after "Code" insert "or division (B) of that section prohibits the court from sentencing the offender pursuant to section 2971.03 of the Revised Code"

In line 5975, after "amendment" insert "pursuant to section 2971.03 of the Revised Code"

In line 7064, after "amendment" insert "and either who is sentenced under section 2971.03 of the Revised Code or upon whom a sentence of life without parole is imposed under division (B) of section 2907.02 of the Revised Code"

Attest:

Laura P. Clemens,
Clerk.

Senator Gardner moved that the amendments of the House of representatives to **Am. Sub. S. B. No. 260**, be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the section, Section 6, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 28, nays 5, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fingerhut	Gardner	Goodman	Grendell
Hagan	Hottinger	Jacobson	Jordan
Kearney	Miller R	Mumper	Niehaus
Padgett	Schuler	Schuring	Spada
Stivers	Wachtmann	Zurz	Harris-28.

Senators Fedor, Miller D, Prentiss, Roberts, and Wilson voted in the negative-5.

So the section, Section 6, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the Senate concurred in the amendments of the House of Representatives.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Am. Sub. S. B. No. 311 - Senators Gardner, Padgett, Harris, Clancy, Mumper, Jacobson, Cates, Goodman, Niehaus Representatives Webster, Blessing, Combs, Evans, D., Martin, Schlichter, Setzer

To amend sections 2151.011, 3301.41, 3301.42, 3313.472, 3313.48, 3313.533, 3313.603, 3313.61, 3313.614, 3313.615, 3313.62, 3314.012, 3314.03, 3317.01, 3317.029, 3325.08, and 3345.06; to enact new section 3313.481 and sections 3301.43, 3301.46, 3302.032, 3313.6013, 3313.6014, 3319.0811, 3319.233, 3319.234, 3333.163, 3333.34, 3345.061, and 3345.062; and to repeal sections 3313.481 and 3313.482 of the Revised Code and to amend Section 6 of Sub. H.B. 115 of the 126th General Assembly to establish the Ohio Core curriculum, to calculate the minimum school year based on hours, rather than days, of instruction, to restructure admission requirements and remedial courses in state universities, to implement other initiatives to enhance secondary and post-secondary education in Ohio, and to make an appropriation.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

- In line 139, delete "2008" and insert "2010"
- In line 274, delete "2008" and insert "2010"
- In line 332, delete "2008" and insert "2010"
- In line 364, delete "2008" and insert "2010"
- In line 365, delete "2012" and insert "2014"
- In line 399, delete "2012" and insert "2014"
- In line 523, delete "2008" and insert "2010"
- In line 991, delete "2008" and insert "2010"
- In line 999, delete "2008" and insert "2010"
- In line 1330, delete "2012-2013" and insert "2014-2015"
- In line 1335, delete "2008" and insert "2010"
- In line 1389, delete "2012-2013" and insert "2014-2015"

In line 1398, delete "2012-2013 and 2013-2014" and insert "2014-2015 and 2015-2016"

In line 1403, delete "2014-2015" and insert "2016-2017"

In line 1409, delete "2015-2016" and insert "2017-2018"

In line 1415, delete "2016-2017" and insert "2018-2019"

In line 1424, delete "2016-2017" and insert "2018-2019"

In line 1430, delete "2012-2013" and insert "2014-2015"

In line 14, after "sections" insert "2151.011, "; after "3313.472," insert "3313.48, 3313.533,"

In line 15, after "3313.615," insert "3313.62, "; after "3314.03," insert "3317.01, 3317.029,"

In line 16, after "amended" insert "and new section 3313.481 and"

Between lines 19 and 20, insert:

"Sec. 2151.011. (A) As used in the Revised Code:

(1) "Juvenile court" means whichever of the following is applicable that has jurisdiction under this chapter and Chapter 2152. of the Revised Code:

(a) The division of the court of common pleas specified in section 2101.022 or 2301.03 of the Revised Code as having jurisdiction under this chapter and Chapter 2152. of the Revised Code or as being the juvenile division or the juvenile division combined with one or more other divisions;

(b) The juvenile court of Cuyahoga county or Hamilton county that is separately and independently created by section 2151.08 or Chapter 2153. of the Revised Code and that has jurisdiction under this chapter and Chapter 2152. of the Revised Code;

(c) If division (A)(1)(a) or (b) of this section does not apply, the probate division of the court of common pleas.

(2) "Juvenile judge" means a judge of a court having jurisdiction under this chapter.

(3) "Private child placing agency" means any association, as defined in section 5103.02 of the Revised Code, that is certified under section 5103.03 of the Revised Code to accept temporary, permanent, or legal custody of children and place the children for either foster care or adoption.

(4) "Private noncustodial agency" means any person, organization, association, or society certified by the department of job and family services that does not accept temporary or permanent legal custody of children, that is privately operated in this state, and that does one or more of the following:

(a) Receives and cares for children for two or more consecutive weeks;

(b) Participates in the placement of children in certified foster homes;

(c) Provides adoption services in conjunction with a public children services agency or private child placing agency.

(B) As used in this chapter:

(1) "Adequate parental care" means the provision by a child's parent or parents, guardian, or custodian of adequate food, clothing, and shelter to ensure the child's health and physical safety and the provision by a child's parent or parents of specialized services warranted by the child's physical or mental needs.

(2) "Adult" means an individual who is eighteen years of age or older.

(3) "Agreement for temporary custody" means a voluntary agreement authorized by section 5103.15 of the Revised Code that transfers the temporary custody of a child to a public children services agency or a private child placing agency.

(4) "Certified foster home" means a foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code.

(5) "Child" means a person who is under eighteen years of age, except that the juvenile court has jurisdiction over any person who is adjudicated an unruly child prior to attaining eighteen years of age until the person attains twenty-one years of age, and, for purposes of that jurisdiction related to that adjudication, a person who is so adjudicated an unruly child shall be deemed a "child" until the person attains twenty-one years of age.

(6) "Child day camp," "child care," "child day-care center," "part-time child day-care center," "type A family day-care home," "certified type B family day-care home," "type B home," "administrator of a child day-care center," "administrator of a type A family day-care home," "in-home aide," and "authorized provider" have the same meanings as in section 5104.01 of the Revised Code.

(7) "Child care provider" means an individual who is a child-care staff member or administrator of a child day-care center, a type A family day-care home, or a type B family day-care home, or an in-home aide or an individual who is licensed, is regulated, is approved, operates under the direction of, or otherwise is certified by the department of job and family services, department of mental retardation and developmental disabilities, or the early childhood programs of the department of education.

(8) "Chronic truant" has the same meaning as in section 2152.02 of the Revised Code.

(9) "Commit" means to vest custody as ordered by the court.

(10) "Counseling" includes both of the following:

(a) General counseling services performed by a public children services

agency or shelter for victims of domestic violence to assist a child, a child's parents, and a child's siblings in alleviating identified problems that may cause or have caused the child to be an abused, neglected, or dependent child.

(b) Psychiatric or psychological therapeutic counseling services provided to correct or alleviate any mental or emotional illness or disorder and performed by a licensed psychiatrist, licensed psychologist, or a person licensed under Chapter 4757. of the Revised Code to engage in social work or professional counseling.

(11) "Custodian" means a person who has legal custody of a child or a public children services agency or private child placing agency that has permanent, temporary, or legal custody of a child.

(12) "Delinquent child" has the same meaning as in section 2152.02 of the Revised Code.

(13) "Detention" means the temporary care of children pending court adjudication or disposition, or execution of a court order, in a public or private facility designed to physically restrict the movement and activities of children.

(14) "Developmental disability" has the same meaning as in section 5123.01 of the Revised Code.

(15) "Foster caregiver" has the same meaning as in section 5103.02 of the Revised Code.

(16) "Guardian" means a person, association, or corporation that is granted authority by a probate court pursuant to Chapter 2111. of the Revised Code to exercise parental rights over a child to the extent provided in the court's order and subject to the residual parental rights of the child's parents.

(17) "Habitual truant" means any child of compulsory school age who is absent without legitimate excuse for absence from the public school the child is supposed to attend for five or more consecutive school days, seven or more school days in one school month, or twelve or more school days in a school year.

(18) "Juvenile traffic offender" has the same meaning as in section 2152.02 of the Revised Code.

(19) "Legal custody" means a legal status that vests in the custodian the right to have physical care and control of the child and to determine where and with whom the child shall live, and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, education, and medical care, all subject to any residual parental rights, privileges, and responsibilities. An individual granted legal custody shall exercise the rights and responsibilities personally unless otherwise authorized by any section of the Revised Code or by the court.

(20) A "legitimate excuse for absence from the public school the child is supposed to attend" includes, but is not limited to, any of the following:

(a) The fact that the child in question has enrolled in and is attending another public or nonpublic school in this or another state;

(b) The fact that the child in question is excused from attendance at school for any of the reasons specified in section 3321.04 of the Revised Code;

(c) The fact that the child in question has received an age and schooling certificate in accordance with section 3331.01 of the Revised Code.

(21) "Mental illness" and "mentally ill person subject to hospitalization by court order" have the same meanings as in section 5122.01 of the Revised Code.

(22) "Mental injury" means any behavioral, cognitive, emotional, or mental disorder in a child caused by an act or omission that is described in section 2919.22 of the Revised Code and is committed by the parent or other person responsible for the child's care.

(23) "Mentally retarded person" has the same meaning as in section 5123.01 of the Revised Code.

(24) "Nonsecure care, supervision, or training" means care, supervision, or training of a child in a facility that does not confine or prevent movement of the child within the facility or from the facility.

(25) "Of compulsory school age" has the same meaning as in section 3321.01 of the Revised Code.

(26) "Organization" means any institution, public, semipublic, or private, and any private association, society, or agency located or operating in the state, incorporated or unincorporated, having among its functions the furnishing of protective services or care for children, or the placement of children in certified foster homes or elsewhere.

(27) "Out-of-home care" means detention facilities, shelter facilities, certified children's crisis care facilities, certified foster homes, placement in a prospective adoptive home prior to the issuance of a final decree of adoption, organizations, certified organizations, child day-care centers, type A family day-care homes, child care provided by type B family day-care home providers and by in-home aides, group home providers, group homes, institutions, state institutions, residential facilities, residential care facilities, residential camps, day camps, public schools, chartered nonpublic schools, educational service centers, hospitals, and medical clinics that are responsible for the care, physical custody, or control of children.

(28) "Out-of-home care child abuse" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Engaging in sexual activity with a child in the person's care;

(b) Denial to a child, as a means of punishment, of proper or necessary subsistence, education, medical care, or other care necessary for a child's health;

(c) Use of restraint procedures on a child that cause injury or pain;

(d) Administration of prescription drugs or psychotropic medication to the child without the written approval and ongoing supervision of a licensed physician;

(e) Commission of any act, other than by accidental means, that results in any injury to or death of the child in out-of-home care or commission of any act by accidental means that results in an injury to or death of a child in out-of-home care and that is at variance with the history given of the injury or death.

(29) "Out-of-home care child neglect" means any of the following when committed by a person responsible for the care of a child in out-of-home care:

(a) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child;

(b) Failure to provide reasonable supervision according to the standards of care appropriate to the age, mental and physical condition, or other special needs of the child, that results in sexual or physical abuse of the child by any person;

(c) Failure to develop a process for all of the following:

(i) Administration of prescription drugs or psychotropic drugs for the child;

(ii) Assuring that the instructions of the licensed physician who prescribed a drug for the child are followed;

(iii) Reporting to the licensed physician who prescribed the drug all unfavorable or dangerous side effects from the use of the drug.

(d) Failure to provide proper or necessary subsistence, education, medical care, or other individualized care necessary for the health or well-being of the child;

(e) Confinement of the child to a locked room without monitoring by staff;

(f) Failure to provide ongoing security for all prescription and nonprescription medication;

(g) Isolation of a child for a period of time when there is substantial risk that the isolation, if continued, will impair or retard the mental health or physical well-being of the child.

(30) "Permanent custody" means a legal status that vests in a public children services agency or a private child placing agency, all parental rights, duties, and obligations, including the right to consent to adoption, and divests the natural parents or adoptive parents of all parental rights, privileges, and obligations, including all residual rights and obligations.

(31) "Permanent surrender" means the act of the parents or, if a child has only one parent, of the parent of a child, by a voluntary agreement authorized by section 5103.15 of the Revised Code, to transfer the permanent custody of the child to a public children services agency or a private child placing agency.

(32) "Person" means an individual, association, corporation, or partnership and the state or any of its political subdivisions, departments, or agencies.

(33) "Person responsible for a child's care in out-of-home care" means any of the following:

(a) Any foster caregiver, in-home aide, or provider;

(b) Any administrator, employee, or agent of any of the following: a public or private detention facility; shelter facility; certified children's crisis care facility; organization; certified organization; child day-care center; type A family day-care home; certified type B family day-care home; group home; institution; state institution; residential facility; residential care facility; residential camp; day camp; school district; community school; chartered nonpublic school; educational service center; hospital; or medical clinic;

(c) Any person who supervises or coaches children as part of an extracurricular activity sponsored by a school district, public school, or chartered nonpublic school;

(d) Any other person who performs a similar function with respect to, or has a similar relationship to, children.

(34) "Physically impaired" means having one or more of the following conditions that substantially limit one or more of an individual's major life activities, including self-care, receptive and expressive language, learning, mobility, and self-direction:

(a) A substantial impairment of vision, speech, or hearing;

(b) A congenital orthopedic impairment;

(c) An orthopedic impairment caused by disease, rheumatic fever or any other similar chronic or acute health problem, or amputation or another similar cause.

(35) "Placement for adoption" means the arrangement by a public children services agency or a private child placing agency with a person for the care and adoption by that person of a child of whom the agency has permanent custody.

(36) "Placement in foster care" means the arrangement by a public children services agency or a private child placing agency for the out-of-home care of a child of whom the agency has temporary custody or permanent custody.

(37) "Planned permanent living arrangement" means an order of a

juvenile court pursuant to which both of the following apply:

(a) The court gives legal custody of a child to a public children services agency or a private child placing agency without the termination of parental rights.

(b) The order permits the agency to make an appropriate placement of the child and to enter into a written agreement with a foster care provider or with another person or agency with whom the child is placed.

(38) "Practice of social work" and "practice of professional counseling" have the same meanings as in section 4757.01 of the Revised Code.

(39) "Sanction, service, or condition" means a sanction, service, or condition created by court order following an adjudication that a child is an unruly child that is described in division (A)(4) of section 2152.19 of the Revised Code.

(40) "Protective supervision" means an order of disposition pursuant to which the court permits an abused, neglected, dependent, or unruly child to remain in the custody of the child's parents, guardian, or custodian and stay in the child's home, subject to any conditions and limitations upon the child, the child's parents, guardian, or custodian, or any other person that the court prescribes, including supervision as directed by the court for the protection of the child.

(41) "Psychiatrist" has the same meaning as in section 5122.01 of the Revised Code.

(42) "Psychologist" has the same meaning as in section 4732.01 of the Revised Code.

(43) "Residential camp" means a program in which the care, physical custody, or control of children is accepted overnight for recreational or recreational and educational purposes.

(44) "Residential care facility" means an institution, residence, or facility that is licensed by the department of mental health under section 5119.22 of the Revised Code and that provides care for a child.

(45) "Residential facility" means a home or facility that is licensed by the department of mental retardation and developmental disabilities under section 5123.19 of the Revised Code and in which a child with a developmental disability resides.

(46) "Residual parental rights, privileges, and responsibilities" means those rights, privileges, and responsibilities remaining with the natural parent after the transfer of legal custody of the child, including, but not necessarily limited to, the privilege of reasonable visitation, consent to adoption, the privilege to determine the child's religious affiliation, and the responsibility for support.

(47) "School day" means the school day established by the ~~state~~ board of education ~~of the applicable school district~~ pursuant to section ~~3313.48~~3313.481 of the Revised Code.

(48) "School ~~month~~" and "school year" ~~have~~has the same ~~meanings~~meaning as in section 3313.62 of the Revised Code.

(49) "Secure correctional facility" means a facility under the direction of the department of youth services that is designed to physically restrict the movement and activities of children and used for the placement of children after adjudication and disposition.

(50) "Sexual activity" has the same meaning as in section 2907.01 of the Revised Code.

(51) "Shelter" means the temporary care of children in physically unrestricted facilities pending court adjudication or disposition.

(52) "Shelter for victims of domestic violence" has the same meaning as in section 3113.33 of the Revised Code.

(53) "Temporary custody" means legal custody of a child who is removed from the child's home, which custody may be terminated at any time at the discretion of the court or, if the legal custody is granted in an agreement for temporary custody, by the person who executed the agreement.

(C) For the purposes of this chapter, a child shall be presumed abandoned when the parents of the child have failed to visit or maintain contact with the child for more than ninety days, regardless of whether the parents resume contact with the child after that period of ninety days."

Between lines 240 and 241, insert:

"**Sec. 3313.48.** (A) The board of education of each city, exempted village, local, and joint vocational school district shall provide for the free education of the youth of school age within the district under its jurisdiction, at such places as will be most convenient for the attendance of the largest number thereof. ~~Except as provided in section 3313.481 of the Revised Code, each~~Each school so provided and each chartered nonpublic school shall be open for instruction with pupils in attendance, including scheduled classes, supervised activities, and approved education options but excluding lunch and breakfast periods and extracurricular activities, for not less than ~~one hundred eighty-two days~~four hundred fifty-five hours in the case of pupils in kindergarten unless such pupils are provided all-day kindergarten, as defined in section 3317.029 of the Revised Code, in which case the pupils shall be in attendance for nine hundred ten hours; nine hundred ten hours in the case of pupils in grades one through six; and one thousand one hours in the case of pupils in grades seven through twelve in each school year, which may include all of the following:

(A)(1) ~~Up to four school days~~ten hours per year ~~in which classes are dismissed one-half day early or the equivalent amount of time during a different~~

~~number of days in grades kindergarten through six and up to eleven hours per year in grades seven through twelve during which pupils would otherwise be in attendance but are not required to attend for the purpose of individualized parent-teacher conferences and reporting periods;~~

~~(B)(2) Up to two days ten hours per year during which pupils would otherwise be in attendance but are not required to attend for professional meetings of teachers when such days occur during a regular school week and schools are not in session of grades kindergarten through six, and up to eleven hours per year for such meetings of teachers of grades seven through twelve;~~

~~(C) The number of days the school is closed as a result of public calamity, as provided in section 3317.01 of the Revised Code (3) Morning and afternoon recess periods of not more than fifteen minutes duration per period for pupils in grades kindergarten through six.~~

~~The state board of education shall adopt standards for defining "school day" as used in sections 3313.48 and 3317.01 of the Revised Code.~~

~~Except as otherwise provided in this section, each day for grades seven through twelve shall consist of not less than five clock hours with pupils in attendance, except in such emergency situations, including lack of classroom space, as are approved by the state board of education. Except as otherwise provided in this section, each day for grades one through six shall consist of not less than five clock hours with pupils in attendance which may include fifteen minute morning and afternoon recess periods, except in such emergency situations, including lack of classroom space, as are approved by the state board of education.~~

~~(B) No school operated by a city, exempted village, local, or joint vocational school district shall reduce the number of hours in each school year and the number days in each school week that the school is scheduled to be open for instruction from the number of hours per year and the number of days per week the school was open for instruction during the previous school year unless either reduction is approved by a resolution adopted by the district board of education. Any reduction so approved shall not result in fewer hours of instruction per school year than the applicable number of hours required under this section.~~

~~(C) Prior to making any change in the hours or days in which a high school under its jurisdiction is open for instruction, the board of education of each city, exempted village, and local school district shall consider the compatibility of the proposed change with the scheduling needs of any joint vocational school district in which any of the high school's students are also enrolled. The board shall consider the impact of the proposed change on student access to the instructional programs offered by the joint vocational school district, incentives for students to participate in vocational education, transportation, and the timing of graduation. The board shall provide the joint vocational school district board with advance notice of the proposed change and the two boards shall enter into a written agreement prescribing reasonable~~

accommodations to meet the scheduling needs of the joint vocational school district prior to implementation of the change.

(D) Prior to making any change in the hours or days in which the schools under its jurisdiction are open for instruction, the board of education of each city, exempted village, and local school district shall consult with the chartered nonpublic schools and community schools, established under Chapter 3314. of the Revised Code, to which the district is required to transport students under section 3314.09 or 3327.01 of the Revised Code and shall consider the effect of the proposed change on the schedule for transportation of those students to their nonpublic or community schools.

Sec. 3313.481. Wherever in Title XXXIII of the Revised Code the term "school day" is used, unless otherwise specified, that term shall be construed to mean the time during a calendar day other than Saturday or Sunday that a school is open for instruction pursuant to the schedule adopted by the board of education of the school district or the governing authority of the chartered nonpublic school in accordance with section 3313.48 of the Revised Code.

Sec. 3313.533. (A) The board of education of a city, exempted village, or local school district may adopt a resolution to establish and maintain an alternative school in accordance with this section. The resolution shall specify, but not necessarily be limited to, all of the following:

(1) The purpose of the school, which purpose shall be to serve students who are on suspension, who are having truancy problems, who are experiencing academic failure, who have a history of class disruption, who are exhibiting other academic or behavioral problems specified in the resolution, or who have been discharged or released from the custody of the department of youth services under section 5139.51 of the Revised Code;

(2) The grades served by the school, which may include any of grades kindergarten through twelve;

(3) A requirement that the school be operated in accordance with this section. The board of education adopting the resolution under division (A) of this section shall be the governing board of the alternative school. The board shall develop and implement a plan for the school in accordance with the resolution establishing the school and in accordance with this section. Each plan shall include, but not necessarily be limited to, all of the following:

(a) Specification of the reasons for which students will be accepted for assignment to the school and any criteria for admission that are to be used by the board to approve or disapprove the assignment of students to the school;

(b) Specification of the criteria and procedures that will be used for returning students who have been assigned to the school back to the regular education program of the district;

(c) An evaluation plan for assessing the effectiveness of the school and its educational program and reporting the results of the evaluation to the public.

(B) Notwithstanding any provision of Title XXXIII of the Revised Code to the contrary, the alternative school plan may include any of the following:

(1) A requirement that on each school day students must attend school or participate in other programs specified in the plan or by the chief administrative officer of the school for a period equal to the minimum school day set by the state board of education under section 3313.48 of the Revised Code plus any additional time required in the plan or by the chief administrative officer;

(2) Restrictions on student participation in extracurricular or interscholastic activities;

(3) A requirement that students wear uniforms prescribed by the district board of education.

(C) In accordance with the alternative school plan, the district board of education may employ teachers and nonteaching employees necessary to carry out its duties and fulfill its responsibilities or may contract with a nonprofit or for profit entity to operate the alternative school, including the provision of personnel, supplies, equipment, or facilities.

(D) An alternative school may be established in all or part of a school building.

(E) If a district board of education elects under this section, or is required by section 3313.534 of the Revised Code, to establish an alternative school, the district board may join with the board of education of one or more other districts to form a joint alternative school by forming a cooperative education school district under section 3311.52 or 3311.521 of the Revised Code, or a joint educational program under section 3313.842 of the Revised Code. The authority to employ personnel or to contract with a nonprofit or for profit entity under division (C) of this section applies to any alternative school program established under this division.

(F) Any individual employed as a teacher at an alternative school operated by a nonprofit or for profit entity under this section shall be licensed and shall be subject to background checks, as described in section 3319.39 of the Revised Code, in the same manner as an individual employed by a school district.

(G) Division (G) of this section applies only to any alternative school that is operated by a nonprofit or for profit entity under contract with the school district.

(1) In addition to the specifications authorized under division (B) of this section, any plan adopted under that division for an alternative school to which division (G) of this section also applies shall include the following:

(a) A description of the educational program provided at the alternative school, which shall include:

(i) Provisions for the school to be configured in clusters or small learning

communities;

(ii) Provisions for the incorporation of education technology into the curriculum;

(iii) Provisions for accelerated learning programs in reading and mathematics.

(b) A method to determine the reading and mathematics level of each student assigned to the alternative school and a method to continuously monitor each student's progress in those areas. The methods employed under this division shall be aligned with the curriculum adopted by the school district board of education under section 3313.60 of the Revised Code.

(c) A plan for social services to be provided at the alternative school, such as, but not limited to, counseling services, psychological support services, and enrichment programs;

(d) A plan for a student's transition from the alternative school back to a school operated by the school district;

(e) A requirement that the alternative school maintain financial records in a manner that is compatible with the form prescribed for school districts by the auditor of state to enable the district to comply with any rules adopted by the auditor of state.

(2) Notwithstanding division (A)(2) of this section, any alternative school to which division (G) of this section applies shall include only grades six through twelve.

(3) Notwithstanding anything in division (A)(3)(a) of this section to the contrary, the characteristics of students who may be assigned to an alternative school to which division (G) of this section applies shall include only disruptive and low-performing students.

(H) When any district board of education determines to contract with a nonprofit or for profit entity to operate an alternative school under this section, the board shall use the procedure set forth in this division.

(1) The board shall publish notice of a request for proposals in a newspaper of general circulation in the district once each week for a period of at least two consecutive weeks prior to the date specified by the board for receiving proposals. Notices of requests for proposals shall contain a general description of the subject of the proposed contract and the location where the request for proposals may be obtained. The request for proposals shall include all of the following information:

(a) Instructions and information to respondents concerning the submission of proposals, including the name and address of the office where proposals are to be submitted;

(b) Instructions regarding communications, including at least the names,

titles, and telephone numbers of persons to whom questions concerning a proposal may be directed;

(c) A description of the performance criteria that will be used to evaluate whether a respondent to which a contract is awarded is meeting the district's educational standards or the method by which such performance criteria will be determined;

(d) Factors and criteria to be considered in evaluating proposals, the relative importance of each factor or criterion, and a description of the evaluation procedures to be followed;

(e) Any terms or conditions of the proposed contract, including any requirement for a bond and the amount of such bond;

(f) Documents that may be incorporated by reference into the request for proposals, provided that the request for proposals specifies where such documents may be obtained and that such documents are readily available to all interested parties.

(2) After the date specified for receiving proposals, the board shall evaluate the submitted proposals and may hold discussions with any respondent to ensure a complete understanding of the proposal and the qualifications of such respondent to execute the proposed contract. Such qualifications shall include, but are not limited to, all of the following:

(a) Demonstrated competence in performance of the required services as indicated by effective implementation of educational programs in reading and mathematics and at least three years of experience successfully serving a student population similar to the student population assigned to the alternative school;

(b) Demonstrated performance in the areas of cost containment, the provision of educational services of a high quality, and any other areas determined by the board;

(c) Whether the respondent has the resources to undertake the operation of the alternative school and to provide qualified personnel to staff the school;

(d) Financial responsibility.

(3) The board shall select for further review at least three proposals from respondents the board considers qualified to operate the alternative school in the best interests of the students and the district. If fewer than three proposals are submitted, the board shall select each proposal submitted. The board may cancel a request for proposals or reject all proposals at any time prior to the execution of a contract.

The board may hold discussions with any of the three selected respondents to clarify or revise the provisions of a proposal or the proposed contract to ensure complete understanding between the board and the respondent of the terms under which a contract will be entered. Respondents shall be accorded fair and equal treatment with respect to any opportunity for discussion

regarding clarifications or revisions. The board may terminate or discontinue any further discussion with a respondent upon written notice.

(4) Upon further review of the three proposals selected by the board, the board shall award a contract to the respondent the board considers to have the most merit, taking into consideration the scope, complexity, and nature of the services to be performed by the respondent under the contract.

(5) Except as provided in division (H)(6) of this section, the request for proposals, submitted proposals, and related documents shall become public records under section 149.43 of the Revised Code after the award of the contract.

(6) Any respondent may request in writing that the board not disclose confidential or proprietary information or trade secrets contained in the proposal submitted by the respondent to the board. Any such request shall be accompanied by an offer of indemnification from the respondent to the board. The board shall determine whether to agree to the request and shall inform the respondent in writing of its decision. If the board agrees to nondisclosure of specified information in a proposal, such information shall not become a public record under section 149.43 of the Revised Code. If the respondent withdraws its proposal at any time prior to the execution of a contract, the proposal shall not be a public record under section 149.43 of the Revised Code.

(I) Upon a recommendation from the department and in accordance with section 3301.16 of the Revised Code, the state board of education may revoke the charter of any alternative school operated by a school district that violates this section."

Between lines 881 and 882, insert:

"**Sec. 3313.62.** The school year shall begin on the first day of July of each calendar year and close on the thirtieth day of June of the succeeding calendar year. A school week shall consist of up to five days, and ~~a school month of four school weeks~~shall not include Saturday or Sunday."

Between lines 1174 and 1175, insert:

"**Sec. 3317.01.** As used in this section and section 3317.011 of the Revised Code, "school district," unless otherwise specified, means any city, local, exempted village, joint vocational, or cooperative education school district and any educational service center.

This chapter shall be administered by the state board of education. The superintendent of public instruction shall calculate the amounts payable to each school district and shall certify the amounts payable to each eligible district to the treasurer of the district as provided by this chapter. As soon as possible after such amounts are calculated, the superintendent shall certify to the treasurer of each school district the district's adjusted charge-off increase, as defined in section 5705.211 of the Revised Code. No moneys shall be distributed pursuant to this chapter without the approval of the controlling board.

The state board of education shall, in accordance with appropriations made by the general assembly, meet the financial obligations of this chapter.

Annually, the department of education shall calculate and report to each school district the district's total state and local funds for providing an adequate basic education to the district's nonhandicapped students, utilizing the determination in section 3317.012 of the Revised Code. In addition, the department shall calculate and report separately for each school district the district's total state and local funds for providing an adequate education for its handicapped students, utilizing the determinations in both sections 3317.012 and 3317.013 of the Revised Code.

Not later than the thirty-first day of August of each fiscal year, the department of education shall provide to each school district and county MR/DD board a preliminary estimate of the amount of funding that the department calculates the district will receive under each of divisions (C)(1) and (4) of section 3317.022 of the Revised Code. No later than the first day of December of each fiscal year, the department shall update that preliminary estimate.

Moneys distributed pursuant to this chapter shall be calculated and paid on a fiscal year basis, beginning with the first day of July and extending through the thirtieth day of June. The moneys appropriated for each fiscal year shall be distributed at least monthly to each school district unless otherwise provided for. The state board shall submit a yearly distribution plan to the controlling board at its first meeting in July. The state board shall submit any proposed midyear revision of the plan to the controlling board in January. Any year-end revision of the plan shall be submitted to the controlling board in June. If moneys appropriated for each fiscal year are distributed other than monthly, such distribution shall be on the same basis for each school district.

The total amounts paid each month shall constitute, as nearly as possible, one-twelfth of the total amount payable for the entire year.

Until fiscal year 2007, payments made during the first six months of the fiscal year may be based on an estimate of the amounts payable for the entire year. Payments made in the last six months shall be based on the final calculation of the amounts payable to each school district for that fiscal year. Payments made in the last six months may be adjusted, if necessary, to correct the amounts distributed in the first six months, and to reflect enrollment increases when such are at least three per cent.

Beginning in fiscal year 2007, payments shall be calculated to reflect the biannual reporting of average daily membership. In fiscal year 2007 and in each fiscal year thereafter, annualized periodic payments for each school district shall be based on the district's student counts certified pursuant to section 3317.03 of the Revised Code as follows:

the sum of one-half of the number of students reported
for the first full week in October plus one-half of the
average of the numbers reported for the first full week

in October and for the first full week in February

Except as otherwise provided, payments under this chapter shall be made only to those school districts in which:

(A) The school district, except for any educational service center and any joint vocational or cooperative education school district, levies for current operating expenses at least twenty mills. Levies for joint vocational or cooperative education school districts or county school financing districts, limited to or to the extent apportioned to current expenses, shall be included in this qualification requirement. School district income tax levies under Chapter 5748. of the Revised Code, limited to or to the extent apportioned to current operating expenses, shall be included in this qualification requirement to the extent determined by the tax commissioner under division (D) of section 3317.021 of the Revised Code.

(B) The school year next preceding the fiscal year for which such payments are authorized meets the requirement of section 3313.48 ~~or 3313.481~~ of the Revised Code, with regard to the minimum number of ~~days or~~ hours school must be open for instruction with pupils in attendance, for individualized parent-teacher conference and reporting periods, and for professional meetings of teachers. ~~This requirement shall be waived by the superintendent of public instruction if it had been necessary for a school to be closed because of disease epidemic, hazardous weather conditions, inoperability of school buses or other equipment necessary to the school's operation, damage to a school building, or other temporary circumstances due to utility failure rendering the school building unfit for school use, provided that for those school districts operating pursuant to section 3313.48 of the Revised Code the number of days the school was actually open for instruction with pupils in attendance and for individualized parent-teacher conference and reporting periods is not less than one hundred seventy-five, or for those school districts operating on a trimester plan the number of days the school was actually open for instruction with pupils in attendance not less than seventy-nine days in any trimester, for those school districts operating on a quarterly plan the number of days the school was actually open for instruction with pupils in attendance not less than fifty-nine days in any quarter, or for those school districts operating on a pentamester plan the number of days the school was actually open for instruction with pupils in attendance not less than forty-four days in any pentamester.~~

A school district shall not be considered to have failed to comply with this division ~~or section 3313.481 of the Revised Code~~ because schools were open for instruction but either twelfth grade students were excused from attendance for up to ~~three days~~sixteen and one-half hours or only a portion of the kindergarten students were in attendance for up to ~~three days~~fifteen hours, in the case of students attending all-day kindergarten, and seven and one-half hours, in the case of students attending half-day kindergarten, in order to allow for the gradual orientation to school of such students.

~~The superintendent of public instruction shall waive the requirements of~~

~~this section with reference to the minimum number of days or hours school must be in session with pupils in attendance for the school year succeeding the school year in which a board of education initiates a plan of operation pursuant to section 3313.481 of the Revised Code. The minimum requirements of this section shall again be applicable to such a district beginning with the school year commencing the second July succeeding the initiation of one such plan, and for each school year thereafter.~~

~~A school district shall not be considered to have failed to comply with this division or section 3313.48 or 3313.481 of the Revised Code because schools were open for instruction but the length of the regularly scheduled school day, for any number of days during the school year, was reduced by not more than two hours due to hazardous weather conditions.~~

(C) The school district has on file, and is paying in accordance with, a teachers' salary schedule which complies with section 3317.13 of the Revised Code.

A board of education or governing board of an educational service center which has not conformed with other law and the rules pursuant thereto, shall not participate in the distribution of funds authorized by sections 3317.022 to 3317.0211, 3317.11, 3317.16, 3317.17, and 3317.19 of the Revised Code, except for good and sufficient reason established to the satisfaction of the state board of education and the state controlling board.

All funds allocated to school districts under this chapter, except those specifically allocated for other purposes, shall be used to pay current operating expenses only.

Sec. 3317.029. (A) As used in this section:

(1) "Poverty percentage" means the quotient obtained by dividing the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified or adjusted under section 3317.10 of the Revised Code, by the district's three-year average formula ADM.

(2) "Statewide poverty percentage" means the five-year average of the total number of children ages five to seventeen years residing in the state and receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, divided by the sum of the three-year average formula ADMs for all school districts in the state.

(3) "Poverty index" means the quotient obtained by dividing the school district's poverty percentage by the statewide poverty percentage.

(4) "Poverty student count" means the five-year average number of children ages five to seventeen residing in the school district and living in a family receiving assistance under the Ohio works first program or an antecedent program known as TANF or ADC, as certified under section 3317.10 of the

Revised Code.

(5) "Kindergarten ADM" means the number of students reported under section 3317.03 of the Revised Code as enrolled in kindergarten, excluding any kindergarten students reported under division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.

(6) "Kindergarten through third grade ADM" means the amount calculated as follows:

(a) Multiply the kindergarten ADM by the sum of one plus the all-day kindergarten percentage;

(b) Add the number of students in grades one through three;

(c) Subtract from the sum calculated under division (A)(6)(b) of this section the number of special education students in grades kindergarten through three.

"Kindergarten through third grade ADM" shall not include any students reported under division (B)(3)(e) or (f) of section 3317.03 of the Revised Code.

(7) "All-day kindergarten" means a kindergarten class that is in session ~~five days per week~~ for not less than the same number of clock hours each ~~day~~week as for pupils in grades one through six.

(8) "All-day kindergarten percentage" means the percentage of a district's actual total number of students enrolled in kindergarten who are enrolled in all-day kindergarten.

(9) "Buildings with the highest concentration of need" means the school buildings in a district with percentages of students in grades kindergarten through three receiving assistance under Ohio works first at least as high as the district-wide percentage of students receiving such assistance.

If, in any fiscal year, the information provided by the department of job and family services under section 3317.10 of the Revised Code is insufficient to determine the Ohio works first percentage in each building, "buildings with the highest concentration of need" has the meaning given in rules that the department of education shall adopt. The rules shall base the definition of "buildings with the highest concentration of need" on family income of students in grades kindergarten through three in a manner that, to the extent possible with available data, approximates the intent of this division and division (K) of this section to designate buildings where the Ohio works first percentage in those grades equals or exceeds the district-wide Ohio works first percentage.

(B) In addition to the amounts required to be paid to a school district under section 3317.022 of the Revised Code, the department of education shall compute and distribute to each school district for poverty-based assistance the greater of the following:

(1) The amount the district received in fiscal year 2005 for disadvantaged

pupil impact aid pursuant to Section 41.10 of Am. Sub. H.B. 95 of the 125th ~~General Assembly~~ general assembly, as amended, minus the amount deducted from the district under Section 16 of Am. Sub. S.B. 2 of the 125th ~~General Assembly~~ general assembly that year for payments to internet- and computer-based community schools;

(2) The sum of the computations made under divisions (C) to (I) of this section.

(C) A payment for academic intervention programs, if the district's poverty index is greater than or equal to 0.25, calculated as follows:

(1) If the district's poverty index is greater than or equal to 0.25, calculate the district's level one amount for large-group academic intervention for all students as follows:

(a) If the district's poverty index is greater than or equal to 0.25 but less than 0.75:

$$\begin{aligned} & \text{large-group intervention units X hourly rate X} \\ & \text{level one hours X } [(\text{poverty index} - 0.25) / 0.5] \\ & \text{X phase-in percentage} \end{aligned}$$

Where:

(i) "Large-group intervention units" equals the district's formula ADM divided by 20;

(ii) "Hourly rate" equals \$20.00 in fiscal year 2006 and \$20.40 in fiscal year 2007;

(iii) "Level one hours" equals 25 hours;

(iv) "Phase-in percentage" equals 0.60 in fiscal year 2006 and 1.00 in fiscal year 2007.

(b) If the district's poverty index is greater than or equal to 0.75:

$$\begin{aligned} & \text{large-group intervention units X hourly rate X} \\ & \text{level one hours X phase-in percentage} \end{aligned}$$

Where "large-group intervention units," "hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section.

(2) If the district's poverty index is greater than or equal to 0.75, calculate the district's level two amount for medium-group academic intervention for all students as follows:

(a) If the district's poverty index is greater than or equal to 0.75 but less than 1.50:

$$\begin{aligned} & \text{medium-group intervention units X hourly rate} \\ & \text{X } \{ \text{level one hours} + [25 \text{ hours X } ((\text{poverty index} - 0.75) / 0.75)] \} \\ & \text{X phase-in percentage} \end{aligned}$$

Where:

(i) "Medium group intervention units" equals the district's formula ADM divided by 15;

(ii) "Hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section.

(b) If the district's poverty index is greater than or equal to 1.50:

$$\text{medium-group intervention units} \times \text{hourly rate} \times$$

$$\text{level two hours} \times \text{phase-in percentage}$$

Where:

(i) "Medium group intervention units" has the same meaning as in division (C)(2)(a)(i) of this section;

(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;

(iii) "Level two hours" equals 50 hours.

(3) If the district's poverty index is greater than or equal to 1.50, calculate the district's level three amount for small-group academic intervention for impoverished students as follows:

(a) If the district's poverty index is greater than or equal to 1.50 but less than 2.50:

$$\text{small group intervention units} \times \text{hourly rate} \times$$

$$\{ \text{level one hours} + [\text{level three hours} \times$$

$$(\text{poverty index} - 1.50)] \} \times \text{phase-in percentage}$$

Where:

(i) "Small group intervention units" equals the quotient of (the district's poverty student count times 3) divided by 10;

(ii) "Hourly rate," "level one hours," and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;

(iii) "Level three hours" equals 135 hours.

(b) If the district's poverty index is greater than or equal to 2.50:

$$\text{small group intervention units} \times \text{hourly rate}$$

$$\times \text{level three hours} \times \text{phase-in percentage}$$

Where:

(i) "Small group intervention units" has the same meaning as in division (C)(3)(a)(i) of this section;

(ii) "Hourly rate" and "phase-in percentage" have the same meanings as in division (C)(1)(a) of this section;

(iii) "Level three hours" equals 160 hours.

Any district that receives funds under division (C)(2) or (3) of this section annually shall submit to the department of education by a date established by the department a plan describing how the district will deploy those funds. The deployment measures described in that plan shall comply with any applicable spending requirements prescribed in division (J)(6) of this section or with any order issued by the superintendent of public instruction under section 3317.017 of the Revised Code.

(D) A payment for all-day kindergarten if the poverty index of the school district is greater than or equal to 1.0 or if the district's three-year average formula ADM exceeded seventeen thousand five hundred. In addition, the department shall make a payment under this division to any school district that, in a prior fiscal year, qualified for this payment and provided all-day kindergarten, regardless of changes to the district's poverty index. The department shall calculate the payment under this division by multiplying the all-day kindergarten percentage by the kindergarten ADM and multiplying that product by the formula amount.

(E) A class-size reduction payment based on calculating the number of new teachers necessary to achieve a lower student-teacher ratio, as follows:

(1) Determine or calculate a formula number of teachers per one thousand students based on the poverty index of the school district as follows:

(a) If the poverty index of the school district is less than 1.0, the formula number of teachers is 50.0, which is the number of teachers per one thousand students at a student-teacher ratio of twenty to one;

(b) If the poverty index of the school district is greater than or equal to 1.0, but less than 1.5, the formula number of teachers is calculated as follows:

$$50.0 + \{[(\text{poverty index} - 1.0)/0.5] \times 16.667\}$$

Where 50.0 is the number of teachers per one thousand students at a student-teacher ratio of twenty to one; 0.5 is the interval from a poverty index of 1.0 to a poverty index of 1.5; and 16.667 is the difference in the number of teachers per one thousand students at a student-teacher ratio of fifteen to one and the number of teachers per one thousand students at a student-teacher ratio of twenty to one.

(c) If the poverty index of the school district is greater than or equal to 1.5, the formula number of teachers is 66.667, which is the number of teachers per one thousand students at a student-teacher ratio of fifteen to one.

(2) Multiply the formula number of teachers determined or calculated in division (E)(1) of this section by the kindergarten through third grade ADM for the district and divide that product by one thousand;

(3) Calculate the number of new teachers as follows:

(a) Multiply the kindergarten through third grade ADM by 50.0, which is the number of teachers per one thousand students at a student-teacher ratio of

twenty to one, and divide that product by one thousand;

(b) Subtract the quotient obtained in division (E)(3)(a) of this section from the product in division (E)(2) of this section.

(4) Multiply the greater of the difference obtained under division (E)(3) of this section or zero by the statewide average teachers compensation. For this purpose, the "statewide average teacher compensation" is \$53,680 in fiscal year 2006 and \$54,941 in fiscal year 2007, which includes an amount for the value of fringe benefits.

(F) A payment for services to limited English proficient students, if the district's poverty index is greater than or equal to 1.0 and the proportion of its students who are limited English proficient, as reported in 2003 on its school district report issued under section 3302.03 of the Revised Code for the 2002-2003 school year, is greater than or equal to 2.0%, calculated as follows:

(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per limited English proficient student as follows:

$$\{0.125 + [0.125 \times ((\text{poverty index} - 1.0)/0.75)]\} \\ \times \text{formula amount}$$

(2) If the district's poverty index is greater than or equal to 1.75, the amount per limited English proficient student equals:

$$0.25 \times \text{formula amount}$$

(3) Multiply the per student amount determined for the district under division (F)(1) or (2) of this section by the number of the district's limited English proficient students, times a phase-in percentage of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007. For purposes of this calculation, the number of limited English proficient students for each district shall be the number determined by the department when it calculated the district's percentage of limited English proficient students for its school district report card issued in 2003 for the 2002-2003 school year.

Not later than December 31, 2006, the department of education shall recommend to the general assembly and the director of budget and management a method of identifying the number of limited English proficient students for purposes of calculating payments under this division after fiscal year 2007.

(G) A payment for professional development of teachers, if the district's poverty index is greater than or equal to 1.0, calculated as follows:

(1) If the district's poverty index is greater than or equal to 1.0, but less than 1.75, determine the amount per teacher as follows:

$$[(\text{poverty index} - 1.0)/0.75] \times 0.045 \times \text{formula amount}$$

(2) If the district's poverty index is greater than or equal to 1.75, the amount per teacher equals:

$$0.045 \times \text{formula amount}$$

(3) Determine the number of teachers, as follows:
(formula ADM/17)

(4) Multiply the per teacher amount determined for the district under division (G)(1) or (2) of this section by the number of teachers determined under division (G)(3) of this section, times a phase-in percentage of 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(H) A payment for dropout prevention, if the district is a big eight school district as defined in section 3314.02 of the Revised Code, calculated as follows:
 $0.005 \times \text{formula amount} \times \text{poverty index}$
 $\times \text{formula ADM} \times \text{phase-in percentage}$

Where "phase-in percentage" equals 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(I) An amount for community outreach, if the district is an urban school district as defined in section 3314.02 of the Revised Code, calculated as follows:
 $0.005 \times \text{formula amount} \times \text{poverty index} \times$
 $\text{formula ADM} \times \text{phase-in percentage}$

Where "phase-in percentage" equals 0.40 in fiscal year 2006 and 0.70 in fiscal year 2007.

(J) This division applies only to school districts whose poverty index is 1.0 or greater.

(1) Each school district subject to this division shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage. To satisfy this requirement, a district may use funds paid under division (C), (F), (G), (H), or (I) of this section to provide all-day kindergarten in addition to the all-day kindergarten payment under division (D) of this section.

(2) Except as permitted under division (J)(1) of this section, each school district shall use its payment under division (F) of this section for one or more of the following purposes:

(a) To hire teachers for limited English proficient students or other personnel to provide intervention services for those students;

(b) To contract for intervention services for those students;

(c) To provide other services to assist those students in passing the third-grade reading achievement test, and to provide for those students the intervention services required by section 3313.608 of the Revised Code.

(3) Except as permitted under division (J)(1) of this section, each school district shall use its payment under division (G) of this section for professional development of teachers or other licensed personnel providing educational services to students only in one or more of the following areas:

- (a) Data-based decision making;
- (b) Standards-based curriculum models;
- (c) Job-embedded professional development activities that are research-based, as defined in federal law.

In addition, each district shall use the payment only to implement programs identified on a list of eligible professional development programs provided by the department of education. The department annually shall provide the list to each district receiving a payment under division (G) of this section. However, a district may apply to the department for a waiver to implement an alternative professional development program in one or more of the areas specified in divisions (J)(3)(a) to (c) of this section. If the department grants the waiver, the district may use its payment under division (G) of this section to implement the alternative program.

(4) Except as permitted under division (J)(1) of this section, each big eight school district shall use its payment under division (H) of this section either for preventing at-risk students from dropping out of school, for safety and security measures described in division (J)(5)(b) of this section, for academic intervention services described in division (J)(6) of this section, or for a combination of those purposes. Not later than September 1, 2005, the department of education shall provide each big eight school district with a list of dropout prevention programs that it has determined are successful. The department subsequently may update the list. Each district that elects to use its payment under division (H) of this section for dropout prevention shall use the payment only to implement a dropout prevention program specified on the department's list. However, a district may apply to the department for a waiver to implement an alternative dropout prevention program. If the department grants the waiver, the district may use its payment under division (H) of this section to implement the alternative program.

(5) Except as permitted under division (J)(1) of this section, each urban school district that has a poverty index greater than or equal to 1.0 shall use its payment under division (I) of this section for one or a combination of the following purposes:

- (a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel;
- (b) To implement programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;
- (c) To implement academic intervention services described in division (J)(6) of this section.

(6) Except as permitted under division (J)(1) of this section, each school district with a poverty index greater than or equal to 1.0 shall use the amount of its payment under division (C) of this section, and may use any amount of its payment under division (H) or (I) of this section, for academic intervention

services for students who have failed or are in danger of failing any of the tests administered pursuant to section 3301.0710 of the Revised Code, including intervention services required by section 3313.608 of the Revised Code. Except as permitted under division (J)(1) of this section, no district shall spend any portion of its payment under division (C) of this section for any other purpose. Notwithstanding any provision to the contrary in Chapter 4117. of the Revised Code, no collective bargaining agreement entered into after June 30, 2005, shall require use of the payment for any other purpose.

(7) Except as otherwise required by division (K) or permitted under division (O) of this section, all remaining funds distributed under this section to districts with a poverty index greater than or equal to 1.0 shall be utilized for the purpose of the third grade guarantee. The third grade guarantee consists of increasing the amount of instructional attention received per pupil in kindergarten through third grade, either by reducing the ratio of students to instructional personnel or by increasing the amount of instruction and curriculum-related activities by extending the length of the school day or the school year.

School districts may implement a reduction of the ratio of students to instructional personnel through any or all of the following methods:

(a) Reducing the number of students in a classroom taught by a single teacher;

(b) Employing full-time educational aides or educational paraprofessionals issued a permit or license under section 3319.088 of the Revised Code;

(c) Instituting a team-teaching method that will result in a lower student-teacher ratio in a classroom.

Districts may extend the school day either by increasing the amount of time allocated for each class, increasing the number of classes provided per day, offering optional academic-related after-school programs, providing curriculum-related extra curricular activities, or establishing tutoring or remedial services for students who have demonstrated an educational need. In accordance with section 3319.089 of the Revised Code, a district extending the school day pursuant to this division may utilize a participant of the work experience program who has a child enrolled in a public school in that district and who is fulfilling the work requirements of that program by volunteering or working in that public school. If the work experience program participant is compensated, the school district may use the funds distributed under this section for all or part of the compensation.

Districts may extend the school year either through adding regular days of instruction to the school calendar or by providing summer programs.

(K) Each district shall not expend any funds received under division (E) of this section in any school buildings that are not buildings with the highest

concentration of need, unless there is a ratio of instructional personnel to students of no more than fifteen to one in each kindergarten and first grade class in all buildings with the highest concentration of need. This division does not require that the funds used in buildings with the highest concentration of need be spent solely to reduce the ratio of instructional personnel to students in kindergarten and first grade. A school district may spend the funds in those buildings in any manner permitted by division (J)(7) of this section, but may not spend the money in other buildings unless the fifteen-to-one ratio required by this division is attained.

(L)(1) By the first day of August of each fiscal year, each school district wishing to receive any funds under division (D) of this section shall submit to the department of education an estimate of its all-day kindergarten percentage. Each district shall update its estimate throughout the fiscal year in the form and manner required by the department, and the department shall adjust payments under this section to reflect the updates.

(2) Annually by the end of December, the department of education, utilizing data from the information system established under section 3301.0714 of the Revised Code, shall determine for each school district subject to division (J) of this section whether in the preceding fiscal year the district's ratio of instructional personnel to students and its number of kindergarten students receiving all-day kindergarten appear reasonable, given the amounts of money the district received for that fiscal year pursuant to divisions (D) and (E) of this section. If the department is unable to verify from the data available that students are receiving reasonable amounts of instructional attention and all-day kindergarten, given the funds the district has received under this section and that class-size reduction funds are being used in school buildings with the highest concentration of need as required by division (K) of this section, the department shall conduct a more intensive investigation to ensure that funds have been expended as required by this section. The department shall file an annual report of its findings under this division with the chairpersons of the committees in each house of the general assembly dealing with finance and education.

(M)(1) Each school district with a poverty index less than 1.0 that receives a payment under division (D) of this section shall first utilize funds received under this section so that, when combined with other funds of the district, sufficient funds exist to provide all-day kindergarten to at least the number of children in the district's all-day kindergarten percentage. To satisfy this requirement, a district may use funds paid under division (C) or (I) of this section to provide all-day kindergarten in addition to the all-day kindergarten payment under division (D) of this section.

(2) Except as permitted under division (M)(1) of this section, each school district with a poverty index less than 1.0 that receives a payment under division (C) of this section shall use its payment under that division in accordance with all requirements of division (J)(6) of this section.

(3) Except as permitted under division (M)(1) of this section, each school

district with a poverty index less than 1.0 that receives a payment under division (I) of this section shall use its payment under that division for one or a combination of the following purposes:

(a) To hire or contract for community liaison officers, attendance or truant officers, or safety and security personnel;

(b) To implement programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(c) To implement academic intervention services described in division (J)(6) of this section.

(4) Each school district to which division (M)(1), (2), or (3) of this section applies shall expend the remaining funds received under this section, and any other district with a poverty index less than 1.0 shall expend all funds received under this section, for any of the following purposes:

(a) The purchase of technology for instructional purposes for remediation;

(b) All-day kindergarten;

(c) Reduction of class sizes in grades kindergarten through three, as described in division (J)(7) of this section;

(d) Summer school remediation;

(e) Dropout prevention programs approved by the department of education under division (J)(4) of this section;

(f) Guaranteeing that all third graders are ready to progress to more advanced work;

(g) Summer education and work programs;

(h) Adolescent pregnancy programs;

(i) Head start, preschool, early childhood education, or early learning programs;

(j) Reading improvement and remediation programs described by the department of education;

(k) Programs designed to ensure that schools are free of drugs and violence and have a disciplined environment conducive to learning;

(l) Furnishing, free of charge, materials used in courses of instruction, except for the necessary textbooks or electronic textbooks required to be furnished without charge pursuant to section 3329.06 of the Revised Code, to pupils living in families participating in Ohio works first in accordance with section 3313.642 of the Revised Code;

(m) School breakfasts provided pursuant to section 3313.813 of the Revised Code.

(N) If at any time the superintendent of public instruction determines that a school district receiving funds under division (D) of this section has enrolled less than the all-day kindergarten percentage reported for that fiscal year, the superintendent shall withhold from the funds otherwise due the district under this section a proportional amount as determined by the difference in the certified all-day kindergarten percentage and the percentage actually enrolled in all-day kindergarten.

The superintendent shall also withhold an appropriate amount of funds otherwise due a district for any other misuse of funds not in accordance with this section.

(O)(1) A district may use a portion of the funds calculated for it under division (D) of this section to modify or purchase classroom space to provide all-day kindergarten, if both of the following conditions are met:

(a) The district certifies to the department, in a manner acceptable to the department, that it has a shortage of space for providing all-day kindergarten.

(b) The district provides all-day kindergarten to the number of children in the all-day kindergarten percentage it certified under this section.

(2) A district may use a portion of the funds described in division (J)(7) of this section to modify or purchase classroom space to enable it to further reduce class size in grades kindergarten through two with a goal of attaining class sizes of fifteen students per licensed teacher. To do so, the district must certify its need for additional space to the department, in a manner satisfactory to the department."

In line 1479, after "sections" insert "2151.011,"; after "3313.472," insert "3313.48, 3313.533,"

In line 1480, after "3313.615," insert "3313.62,"; after "3314.03," insert "3317.01, 3317.029,"

In line 1481, after "3345.06" insert "and sections 3313.481 and 3313.482"

Between lines 1637 and 1638, insert:

Section 9. The amendment of sections 2151.011, 3313.48, 3313.533, 3313.62, and 3317.029, the repeal and reenactment of section 3313.481, and the repeal of section 3313.482 of the Revised Code by this act shall take effect July 1, 2007. Section 3317.01 of the Revised Code, as amended by this act, shall take effect July 1, 2008.

Section 10. The amendments to sections 3313.48, 3313.533, 3313.62, 3317.01, and 3317.029; the repeal and reenactment of section 3313.481; and the repeal of section 3313.482 of the Revised Code made by this act do not apply to any collective bargaining agreement executed under Chapter 4117. of the Revised Code prior to the effective date of this section. Any collective bargaining agreement or renewal executed after that date shall comply with the

changes provided for in this act."

In line 1638, delete "9" and insert "11"

In line 1647, delete "10" and insert "12"

In line 1 of the title, after "sections" insert "2151.011,"; after "3313.472," insert "3313.48, 3313.533,"

In line 2 of the title, after "3313.615," insert "3313.62,"

In line 3 of the title, after "3314.03," insert "3317.01, 3317.029,"; delete the second "and" and insert a semicolon; after "enact" insert "new section 3313.481 and"

In line 6 of the title, after "3345.062" insert "; and to repeal sections 3313.481 and 3313.482"

In line 9 of the title, after the comma insert "to calculate the minimum school year based on hours, rather than days, of instruction,"

In line 55, after "(14)" insert "One representative of a comprehensive or compact career-technical school, appointed by the governor;

(15)"

In line 340, after the underlined period insert "Such initiatives are expected to require an investment of \$120,000,000 over five years."

In lines 1528, 1529, and 1530, strike through "\$13,200,000" and insert "\$30,000,000"

Between lines 1596 and 1597, insert:

"(F) Of the foregoing appropriation item 200-536, Ohio Core Support, up to \$16,800,000 in fiscal year 2007 shall be used to fund grants under the Ohio Core Grant Program. This program shall be administered by the Ohio Department of Education. Grant funds shall be used by eligible school districts to directly support Ohio Core purposes such as building teacher capacity, recruiting and retaining teachers in required disciplines, providing intervention services to students, and other related purposes. The grants shall be awarded by the Department to eligible school districts, as determined by the Department. The Department shall consult with the Partnership for Continued Learning in establishing processes and procedures to distribute funds to eligible school districts. The Department shall evaluate the effectiveness of the grant program.

The General Assembly intends to fund the Ohio Core Grant Program from fiscal year 2008 through fiscal year 2012 at a minimum of \$16,800,000 each fiscal year."

In line 11 of the title, delete "and"

In line 13 of the title, after "Ohio" insert ", and to make an appropriation"

Attest:

Laura P. Clemens,

Clerk.

Senator Jacobson moved that the amendments of the House of representatives to **Am. Sub. S. B. No. 311** , be brought up for consideration.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 21, nays 12, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Jordan	Kearney	Miller D	Miller R
Prentiss	Roberts	Wilson	Zurz-12.

So the Senate concurred in the amendments of the House of Representatives.

OFFERING OF RESOLUTIONS

Senator Harris offered the following resolution:

S. R. No. 277-Senators Harris, Amstutz, Armbruster, Austria, Carey, Cates, Clancy, Coughlin, Gardner, Goodman, Hottinger, Jacobson, Jordan, Mumper, Niehaus, Padgett, Schuler, Schuring, Spada, Stivers, Wachtmann, Dann, Fedor, Fingerhut, Hagan, Kearney, Miller, D., Miller, R., Prentiss, Roberts, Wilson, Zurz.

Honoring Samuel W. Speck as outgoing director of the Ohio Department of Natural Resources.

The question being, "Shall the resolution, **S. R. No. 277**, be adopted?"

So the resolution was adopted.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 5540.02 of the Ohio Revised Code, the President of the

Senate appoints the following member to serve as a non-voting member on the Hamilton County Transportation Improvement District:

Senator Schuler (term beginning January 1, 2007)

MOTIONS

Senator Hottinger moved that Senators absent the week of Sunday, December 17, 2006, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

CLERK'S NOTATION

Pursuant to section 10, Article II of the Constitution of the State of Ohio the following protest was filed by Senator C. J. Prentiss on December 19, 2006:

We the undersigned State Senators protest the Ohio Senate's decision to pass Substitute House Bill 690. For years this body has refused to address working Ohioans' need for an adequate minimum wage. On November 7, 2006, Ohio voters finally decided to take the matter into their own hands by approving Issue 2, the Ohio Fair Minimum Wage Amendment, which became Section 34a of Article II of the Ohio Constitution. The Amendment raised Ohio's minimum wage and provided for annual cost-of-living increases in the future. It also expanded minimum wage protections for workers not previously covered by the state and federal minimum wage, and provided for appropriate enforcement to ensure that workers would receive the minimum wages to which they are entitled.

The voters wrote all of these minimum labor standards into the state constitution. In so doing, they followed the example of earlier generations of Ohio reformers who inscribed other basic labor protections such as the eight-hour work day for public works employees (Ohio Const. art. II, sect. 37) into the Ohio Constitution in 1912. This year's voter-approved Amendment authorizes the legislature to pass laws implementing it ("Laws may be passed to implement its provisions and create additional remedies, increase the minimum wage rate and extend the coverage of the section ..."). However, it expressly bars the legislature from weakening the protections contained in the voter-approved Amendment ("... but in no manner restricting any provision of the section...").

That latter safeguard has proven prescient. No sooner had the voters voiced their support for a stronger minimum wage, than this body set to work attempting to undermine and weaken the protections established under the new Fair Minimum Wage Amendment.

First, and most shocking, the proponents of Substitute H.B. 690 originally

proposed to narrow Ohio's longstanding ban on agreements to work for less than the minimum wage. Under the original Substitute H.B. 690, this protection, which is set forth in Revised Code 4111.10(A), would be restricted to apply only to overtime violations. As a practical matter, this attempt to roll back basic minimum wage protections would have been largely symbolic, since the Fair Minimum Wage Amendment clearly does not countenance waiver of the minimum wage by agreement. It provides unequivocally that employers " shall pay their employees" not less than the minimum wage. Nonetheless, this troubling proposal was emblematic of this legislation's intent to weaken Ohio's minimum wage " at the very time that the people of Ohio have voted to strengthen it and enshrine it in our state constitution to insulate it from legislative meddling.

In another example, the Fair Minimum Wage Amendment adopted by reference the definition of "employee" used in the federal Fair Labor Standards Act (FLSA), but specifically did not adopt FLSA's outdated and much criticized "Exemptions." The FLSA exemptions are found in a separate section of the law and are not part and parcel of the definition of "employee".

The Fair Minimum Wage Amendment did not simply fail to mention the FLSA exemptions; it specifically states: "Only the exemptions set forth in this section shall apply." The Amendment therefore clearly extends minimum wage rights to workers who are exempted from FLSA coverage or who were exempted from coverage under Ohio's old minimum wage law. Yet Substitute H.B. Bill 690 attempts to reverse this expansion by taking minimum wage coverage away from workers if they fall under the FLSA exemptions and the exemptions contained in Ohio's old minimum wage law. This attempt to deny workers the right to a basic minimum wage is contrary to the express requirements of the Fair Minimum Wage Amendment and so is patently unconstitutional.

Similarly, the Fair Minimum Wage Amendment clearly provides that where a group of employees are not paid the minimum wage, an employee may bring an enforcement action under the Amendment on behalf of "all employees similarly situated." This provision preserves the long-established practice in Ohio that allows minimum wage claims to be brought using the ordinary class action rules that apply to all civil claims in Ohio. However, Substitute H.B. 690 purports to take away this long-established right, at least for minimum wage claims that are brought under brought under the Revised Code as opposed to directly under the Constitution. Substitute H.B. 690 would instead require that minimum wage claims brought under the Revised Code can be brought only under a restrictive "opt-in" rule. Such opt-in rules have been widely criticized as substantially impeding effective minimum wage compliance. Substitute H.B. 690's opt-in rule for minimum wage claims brought under the Revised Code is clearly unconstitutional. The voter-approved Fair Minimum Wage Amendment expressly authorizes claims to be brought on behalf of "all similarly situated employees," and expressly provides that, "There shall be no exhaustion requirement, no procedural,

pleading or burden of proof requirements beyond those that apply generally to civil suits in order to maintain such action ..." By establishing for statutory minimum wage claims "procedural . . . requirements beyond those that apply generally to civil suits," Substitute H.B. 690 violates this clear constitutional limitation. Substitute H.B. 690's opt-in provision also purports to create a situation in Ohio in which workers may freely seek to recover for overtime violations through a traditional class action format, but workers who seek to recover for minimum wage violations can seek redress for such exploitation only by individually opting-in to a lawsuit. Thus, Substitute H.B. 690 sends the message to employers that if you are a bad apple, and cheat your workers of overtime pay, Ohio will permit workers to obtain redress for these violations collectively. However, if you are not just a bad apple, but a rotten apple who denies workers payment of the minimum wage, the General Assembly will protect you by imposing procedural requirements to make it difficult for the poorest of workers to collect their minimum wages due. This short-sighted attempt by the General Assembly to impede minimum wage compliance turns the voter-approved Fair Minimum Wage Amendment on its head.

Proponents of Substitute H.B. 690 have taken the surprising position that the General Assembly is not bound to honor the will of the people of Ohio as clearly expressed in the Ohio Fair Minimum Wage Amendment. The majority bases this novel contention on Section 34 of Article II of the Ohio Constitution, which authorizes the Ohio legislature to enact wage legislation, and provides that "no other provision of the constitution shall impair or limit this power."

However, as the Ohio Supreme Court has indicated, the language in Section 34 was added as part of Ohio's 1912 constitutional reform to clarify that provisions such as the equal protection, due process, takings, and home rule provisions of the Ohio Constitution should not be construed as implicitly invalidating statutory labor protections. The proponents of the Fair Minimum Wage Amendment deliberately chose not to repeal that important protection, because to do so would have then opened all of Ohio labor law to precisely these sort of challenges, which Section 34 was meant to put to rest once and for all.

Moreover, settled case law makes clear that Section 34 in no way limits the sovereign power of the people of Ohio to amend their constitution to establish minimum labor standards and to bar the legislature from weakening those standards, as they did in the Fair Minimum Wage Amendment. The same 1912 constitutional overhaul that added Section 34 also added several other labor protections to the Ohio Constitution. These include Section 37 of Article II, which mandates an eight-hour day for employees on public works projects in the state. Section 37 was much like the Fair Minimum Wage Amendment in that it established directly in the constitution a minimum labor standard.

In events strikingly similar to today's, the General Assembly then purported to implement the eight-hour day in a manner that conflicted with the

constitution. While the eight-hour-day amendment took effect immediately, the legislature enacted legislation purporting to defer its effective date until after July 1, 1915. When the validity of the statute was challenged, the Supreme Court of Ohio held in the case of Stange v City of Cleveland, 94 Ohio St. 377 (1916), that "[A]fter the adoption of that provision in the Constitution, the Legislature was without power to affirmatively make lawful a working day of more than eight hours." 94 Ohio St. at 380. Notwithstanding the language in Section 34, the Court made clear that when the people write a minimum labor standard into the Ohio Constitution, the General Assembly is without power to remove that protection.

In fact, the Fair Minimum Wage Amendment is even clearer than the Section 37 eight-hour-day amendment in its requirements. The Fair Minimum Wage Amendment explicitly forbids the legislature from weakening its protections. It is thus well settled that after the people of Ohio spoke on November 7, 2006, and added to the Ohio Constitution a Fair Minimum Wage Amendment, the legislature is without power to narrow or weaken it. Substitute H.B. 690 is therefore constitutionally flawed in numerous regards.

We note, however, that the proponents of Sub. H.B. 690 have provided important clarifications as to the intended interpretation of several of its provisions. For example, Sub. H.B. 690 provides that it does not "affect[] the right of an employer and employee to agree to submit a dispute under this section to alternative dispute resolution, including, but not limited to, arbitration, in lieu of maintaining the civil suit specified in division . . . this section." Our understanding from the legislation's sponsors is that this provision contemplates only voluntary agreements by an employee to arbitrate after a dispute arises, not coerced waivers under which, as a condition of employment, an employee must agree to arbitrate all future disputes.

Finally, regarding section 4111.14(D), the definition of an "individual employed in or about the property of an employer or an individual's residence on a casual basis" in the legislature. We understand that the sponsors' intention is that a worker whose vocation is to perform construction work, but who frequently works for different employers. A day laborer, for example, would not fall under that definition. Therefore such an employee will be entitled to receive the minimum wage under the statute.

For the aforementioned reasons, we protest the Senate's decision to pass Substitute H.B. 690.

Senator C.J. Prentiss
Minority Leader

Senator Kimberly Zurz
Assistant Minority Leader

Senator Teresa Fedor
Minority Whip

Senator Tom Roberts

Assistant Minority Whip

Senator Eric Fingerhut

Senator Robert Hagan

Senator Eric Kearney

Senator Dale Miller

Senator Ray Miller

Senator Charlie Wilson

On the motion of Senator Jacobson, the Senate adjourned until Wednesday, December 20, 2006 at 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.