

office of victim services.

(2) Each division established by the director of youth services shall consist of managing officers and other employees, including those employed in institutions and regions as necessary to perform the functions assigned to them. The director or appropriate deputy director or managing officer of the department shall supervise the work of each division and determine general policies governing the exercise of powers vested in the department and assigned to each division. The appropriate managing officer or deputy director is responsible to the director for the organization, direction, and supervision of the work of the division or unit and for the exercise of the powers and the performance of the duties of the department assigned to it and, with the director's approval, may establish bureaus or other administrative units within the department.

(B) The director shall appoint all managing officers, who shall be in the unclassified civil service. The director may appoint a person who holds a certified position in the classified service within the department to a position as a managing officer within the department. A person appointed pursuant to this division to a position as a managing officer shall retain the right to resume the position and status held by the person in the classified service immediately prior to the person's appointment as managing officer, regardless of the number of positions the person held in the unclassified service. A managing officer's right to resume a position in the classified service may only be exercised when the director demotes the managing officer to a pay range lower than the managing officer's current pay range or revokes the managing officer's appointment to the position of managing officer. A person who holds a position in the classified service and who is appointed to the position of managing officer on or after January 1, 2016, shall have the right to resume a position in the classified service under this division only within five years after the effective date of the person's appointment as managing officer. A managing officer forfeits the right to resume a position in the classified service when the managing officer is removed from the position of managing officer due to incompetence, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of this chapter or Chapter 124. of the Revised Code, the rules of the director of youth services or the director of administrative services, any other failure of good behavior, any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. A managing officer also forfeits the right to resume a position in the classified service upon transfer to a different agency.

Reinstatement to a position in the classified service shall be to the position held in the classified service immediately prior to appointment as managing officer, or to another position certified by the director of administrative services as being substantially equal to that position. If the position the person previously held in the classified service immediately prior to appointment as a managing officer has been placed in the unclassified service or is otherwise unavailable, the person shall be appointed to a position in the classified service within the department that the director of administrative services certifies is comparable in compensation to the position the person previously held in the classified service. Service as a managing officer shall be counted as service in the position in the classified service held by the person immediately prior to the person's appointment as a managing officer. If a person is reinstated to a position in the classified service under this division, the person shall be returned to the pay range and step to which the person had been assigned at the time of the appointment as managing officer. Longevity, where applicable, shall be calculated pursuant to the provisions of section 124.181 of the Revised Code.

(C) Each person appointed as a managing officer shall have received special training and shall have experience in the type of work that the person's division is required to perform. Each managing officer, under the supervision of the director, has entire charge of the division, institution, unit, or region for which the managing officer is appointed and, with the director's approval, shall appoint necessary employees and may remove them for cause.

(D) The director may designate one or more deputy directors to sign any personnel actions on the director's behalf. The director shall make a designation in a writing signed by the director, and the designation shall remain in effect until the director revokes or supersedes it with a new designation.

Sec. 5139.03. (A) The department of youth services shall control and manage all state institutions or facilities established or created for the training or rehabilitation of delinquent children committed to the department, except where the control and management of an institution or facility is vested by law in another agency. The department shall employ, in addition to other personnel authorized under Chapter 5139. of the Revised Code, sufficient personnel to maintain food service and buildings and grounds operations.

(B) The department of youth services shall, insofar as practicable, purchase foods and other commodities incident to food service operations

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from the department of mental health and addiction services. The department of youth services may enter into agreements with the department of mental health and addiction services providing for assistance and consultation in the construction of, or major modifications to, capital facilities of the department of youth services.

(C) The directors of mental health and addiction services and of youth services shall enter into written agreements to implement this section. Such directors may, from time to time, amend any agreements entered into under this section for the purposes of making more efficient use of personnel, taking advantage of economies in quantity purchasing, or for any other purpose which is mutually advantageous to both the department of youth services and the department of mental health and addiction services.

~~The department of youth services may transfer any of its excess or surplus supplies to a community corrections facility. These supplies shall remain the property of the department for a period of five years from the date of the transfer. After the five-year period, the supplies shall become the property of the facility.~~

Sec. 5139.50. (A) The release authority of the department of youth services is hereby created as a bureau in the department. The release authority shall consist of a minimum of three, but not more than five, members who are appointed by the director of youth services and who have the qualifications specified in division (B) of this section. The members of the release authority shall devote their full time to the duties of the release authority and shall neither seek nor hold other public office. The members shall be in the unclassified civil service.

(B) A person appointed as a member of the release authority shall have a bachelor's degree from an accredited college or university or equivalent relevant experience and shall have the skills, training, or experience necessary to analyze issues of law, administration, and public policy. The membership of the release authority shall represent, insofar as practicable, the diversity found in the children in the legal custody of the department of youth services.

In appointing the ~~five~~ members, the director shall ensure that the appointments include all of the following:

(1) At least ~~four members~~ one member who ~~have~~ has five or more years of experience in criminal justice, juvenile justice, or an equivalent relevant profession;

(2) At least one member who has experience in victim services or advocacy or who has been a victim of a crime or is a family member of a victim;

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(3) At least one member who has experience in direct care services to delinquent children.

~~(C) The initial appointments of members of the release authority shall be for a term of six years for the chairperson and one member, a term of four years for two members, and a term of two years for one member. Thereafter, members shall be appointed for six-year terms until the effective date of this amendment, after which members~~ Members shall be appointed for four-year terms. At the conclusion of a term, a member shall hold office until the appointment and qualification of the member's successor. The director shall fill a vacancy occurring before the expiration of a term for the remainder of that term and, if a member is on extended leave or disability status for more than thirty work days, may appoint an interim member to fulfill the duties of that member. A member may be reappointed. A member may be removed for good cause by the director.

(D) The director of youth services shall designate as chairperson of the release authority one of the members who has experience in criminal justice, juvenile justice, or an equivalent relevant profession. The chairperson shall be a managing officer of the department, shall supervise the members of the board and the other staff in the bureau, and shall perform all duties and functions necessary to ensure that the release authority discharges its responsibilities. The chairperson shall serve as the official spokesperson for the release authority.

(E) The release authority shall do all of the following:

(1) Serve as the final and sole authority for making decisions, in the interests of public safety and the children involved, regarding the release and discharge of all children committed to the legal custody of the department of youth services, except children placed by a juvenile court on judicial release to court supervision or on judicial release to department of youth services supervision, children who have not completed a prescribed minimum period of time or prescribed period of time in a secure facility, or children who are required to remain in a secure facility until they attain twenty-one years of age;

(2) Establish written policies and procedures for conducting reviews of the status for all youth in the custody of the department, setting or modifying dates of release and discharge, specifying the duration, terms, and conditions of release to be carried out in supervised release subject to the addition of additional consistent terms and conditions by a court in accordance with section 5139.51 of the Revised Code, and giving a child notice of all reviews;

(3) Maintain records of its official actions, decisions, orders, and

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hearing summaries and make the records accessible in accordance with division (D) of section 5139.05 of the Revised Code;

(4) Cooperate with public and private agencies, communities, private groups, and individuals for the development and improvement of its services;

(5) Collect, develop, and maintain statistical information regarding its services and decisions;

(6) Submit to the director an annual report that includes a description of the operations of the release authority, an evaluation of its effectiveness, recommendations for statutory, budgetary, or other changes necessary to improve its effectiveness, and any other information required by the director.

(F) The release authority may do any of the following:

(1) Conduct inquiries, investigations, and reviews and hold hearings and other proceedings necessary to properly discharge its responsibilities;

(2) Issue subpoenas, enforceable in a court of law, to compel a person to appear, give testimony, or produce documentary information or other tangible items relating to a matter under inquiry, investigation, review, or hearing;

(3) Administer oaths and receive testimony of persons under oath;

(4) Request assistance, services, and information from a public agency to enable the authority to discharge its responsibilities and receive the assistance, services, and information from the public agency in a reasonable period of time;

(5) Request from a public agency or any other entity that provides or has provided services to a child committed to the department's legal custody information to enable the release authority to properly discharge its responsibilities with respect to that child and receive the information from the public agency or other entity in a reasonable period of time.

(G) The release authority may delegate responsibilities to hearing officers or other designated staff under the release authority's auspices. However, the release authority shall not delegate its authority to make final decisions regarding policy or the release of a child.

The release authority shall adopt a written policy and procedures governing appeals of its release and discharge decisions.

(H) The legal staff of the department of youth services shall provide assistance to the release authority in the formulation of policy and in its handling of individual cases.

Sec. 5147.07. No articles or supplies manufactured under ~~sections 5147.01~~ this section or sections 5147.12 to 5147.26 5147.22 of the Revised

Code by the labor of convicts of state correctional institutions shall be purchased from any other source for the state or its institutions unless the department of administrative services, in consultation with the department of rehabilitation and correction ~~first certifies, on requisition made,~~ determines that the articles or supplies cannot be furnished and issues a waiver under section 125.035 of the Revised Code.

Sec. 5160.37. (A) A medical assistance recipient's enrollment in a medical assistance program gives an automatic right of recovery to the department of medicaid and a county department of job and family services against the liability of a third party for the cost of medical assistance paid on behalf of the recipient. When an action or claim is brought against a third party by a medical assistance recipient, any payment, settlement or compromise of the action or claim, or any court award or judgment, is subject to the recovery right of the department of medicaid or county department. Except in the case of a medical assistance recipient who receives medical assistance through a medicaid managed care organization, the department's or county department's claim shall not exceed the amount of medical assistance paid by the department or county department on behalf of the recipient. A payment, settlement, compromise, judgment, or award that excludes the cost of medical assistance paid for by the department or county department shall not preclude a department from enforcing its rights under this section.

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

(C) A medical assistance recipient, and the recipient's attorney, if any, shall cooperate with the departments. In furtherance of this requirement, the medical assistance recipient, or the recipient's attorney, if any, shall, not later than thirty days after initiating informal recovery activity or filing a legal recovery action against a third party, provide written notice of the activity or action to the department of medicaid or county department if it has paid for medical assistance under a medical assistance program.

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

(E) No settlement, compromise, judgment, or award or any recovery in

any action or claim by a medical assistance recipient where the department or county department has a right of recovery shall be made final without first giving the department or county department written notice as described in division (C) of this section and a reasonable opportunity to perfect its rights of recovery. If the department or county department is not given the appropriate written notice, the medical assistance recipient and, if there is one, the recipient's attorney, are liable to reimburse the department or county department for the recovery received to the extent of medical assistance payments made by the department or county department.

(F) The department or county department shall be permitted to enforce its recovery rights against the third party even though it accepted prior payments in discharge of its rights under this section if, at the time the department or county department received such payments, it was not aware that additional medical expenses had been incurred but had not yet been paid by the department or county department. The third party becomes liable to the department or county department as soon as the third party is notified in writing of the valid claims for recovery under this section.

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

(2) Reasonable attorneys' fees, not to exceed one-third of the total judgment, award, settlement, or compromise, plus costs and other expenses incurred by the medical assistance recipient in securing the judgment, award, settlement, or compromise, shall first be deducted from the total judgment, award, settlement, or compromise. After fees, costs, and other expenses are deducted from the total judgment, award, settlement, or compromise, there shall be a rebuttable presumption that the department of medicaid or county department shall receive no less than one-half of the remaining amount, or the actual amount of medical assistance paid, whichever is less. A party may rebut the presumption in accordance with division (L)(1) or (2) of this section, as applicable.

(H) A right of recovery created by this section may be enforced separately or jointly by the department of medicaid or county department. To enforce its recovery rights, the department or county department may do any of the following:

(1) Intervene or join in any action or proceeding brought by the medical

assistance recipient or on the recipient's behalf against any third party who may be liable for the cost of medical assistance paid;

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

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

(I) A medical assistance recipient shall not assess attorney fees, costs, or other expenses against the department of medicaid or a county department when the department or county department enforces its right of recovery created by this section.

(J) The right of recovery given to the department under this section includes payments made by a third party under contract with a person having a duty to support.

(K) The department of medicaid may assign to a medical assistance provider the right of recovery given to the department under this section with respect to any claim for which the department has notified the provider that the department intends to recoup the department's prior payment for the claim.

(L)(1) Prior to any payment to the department or a county department pursuant to the department's or county department's right of recovery under this section, a party that desires to rebut the presumption in division (G) of this section shall submit to the department or county department a request for a hearing in accordance with the procedure the department establishes in rules required by division (O) of this section. The amount sought by the department or county department shall be held in escrow or in an interest on lawyers' trust account until the hearing examiner renders a decision or the case is otherwise concluded. A party successfully rebuts the presumption by a showing of clear and convincing evidence that a different allocation is warranted.

(2) A medical assistance recipient who has repaid money, on or after September 29, 2007, to the department or a county department pursuant to the department's or county department's right of recovery under this section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code may request a hearing to rebut the presumption in division (G) of this section. The request shall be made in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. It must be made not later than one hundred eighty days after the effective date of this amendment or ninety days after the payment is made, whichever is later. A party successfully rebuts the

presumption by a showing of clear and convincing evidence that a different allocation is warranted.

(3) With respect to a hearing requested under division (L)(1) or (2) of this section, all of the following are the case:

(a) The hearing examiner may consider, but is not bound by the allocation of, medical expenses specified in a settlement agreement between the medical assistance recipient and the relevant third party;

(b) The department or county department may raise affirmative defenses during the hearing, including the existence of a prior settlement with the medical assistance recipient, the doctrine of accord and satisfaction, or the common law principle of res judicata;

(c) If the parties agree, live testimony shall not be presented at the hearing;

(d) The hearing may be governed by rules adopted under section 5160.02 of the Revised Code. If such rules are adopted, Chapter 119. of the Revised Code applies to the hearing only to the extent specified in those rules;

(e) The hearing examiner's decision is binding on the department or county department and the medical assistance recipient unless the decision is reversed or modified on appeal to the medicaid director as described in division (M) of this section.

(M)(1) A medical assistance recipient who disagrees with a hearing examiner's decision under division (L) of this section may file an administrative appeal with the medicaid director in accordance with the procedure the department establishes for this purpose in rules required by division (O) of this section. A hearing is not required during the administrative appeal, but the director or the director's designee shall review the hearing examiner's decision and any prior relevant administrative action. After the review, the director or the director's designee shall affirm, modify, remand, or reverse the hearing decision. A decision made under this division is final and binding on the department or county department and the medical assistance recipient unless it is reversed or modified on appeal to a court of common pleas as described in division (N) of this section.

(2) An administrative appeal may be governed by rules adopted under section 5160.02 of the Revised Code. If such rules are adopted, Chapter 119. of the Revised Code applies to an administrative appeal only to the extent specified in those rules.

(N) A party to an administrative appeal described in division (M) of this section may file an appeal with a court of common pleas in accordance with section 119.12 of the Revised Code.

(O) The medicaid director shall adopt rules under section 5160.02 of the Revised Code as necessary to implement this section, including rules establishing procedures a party may use to request a hearing under division (L)(1) or (2) of this section or an administrative appeal under division (M)(1) of this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

(P) Divisions (L) to (N) of this section are remedial in nature and shall be liberally construed by the courts of this state in accordance with section 1.11 of the Revised Code. Those divisions specify the sole remedy available to a party who claims the department or a county department has received or is to receive more money than entitled to receive under this section, section 5160.38 of the Revised Code, or former section 5101.58 or 5101.59 of the Revised Code.

Sec. 5160.401. (A) A payment made by a third party under division (A)(4) of section 5160.40 of the Revised Code on a claim for payment of a medical item or service provided to a medical assistance recipient is final on the date that is two years after the payment was made to the department of medicaid or the applicable medicaid managed care organization. After a claim is final, the claim is subject to adjustment only if an action for recovery of an overpayment was commenced under division (B) of this section before the date the claim became final and the recovery is agreed to by the department or medicaid managed care organization under division (C) of this section.

(B) If a third party determines that it overpaid a claim for payment, the third party may seek to recover all or part of the overpayment by filing a notice of its intent to seek recovery with the department or medicaid managed care organization, as applicable. The notice of recovery must be filed in writing before the date the payment is final. The notice must specify all of the following:

(1) The full name of the medical assistance recipient who received the medical item or service that is the subject of the claim;

(2) The date or dates on which the medical item or service was provided;

(3) The amount allegedly overpaid and the amount the third party seeks to recover;

(4) The claim number and any other number the department or medicaid managed care organization has assigned to the claim;

(5) The third party's rationale for seeking recovery;

(6) The date the third party made the payment and the method of payment used;

(7) If payment was made by check, the check number:

(8) Whether the third party would prefer to receive the amount being sought by obtaining a payment from the department or medicaid managed care organization, either by check or electronic means, or by offsetting the amount from a future payment to be made to the department or medicaid managed care organization.

(C) If the department or appropriate medicaid managed care organization determines that a notice of recovery was filed before the claim for payment is final and agrees to the amount sought by the third party, the department or medicaid managed care organization, as applicable, shall notify the third party in writing of its determination and agreement. Recovery of the amount shall proceed in accordance with the method specified by the third party pursuant to division (B)(8) of this section.

Sec. 5162.01. (A) As used in the Revised Code:

(1) "Medicaid" and "medicaid program" mean the program of medical assistance established by Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., including any medical assistance provided under the medicaid state plan or a federal medicaid waiver granted by the United States secretary of health and human services.

(2) "Medicare" and "medicare program" mean the federal health insurance program established by Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) As used in this chapter:

(1) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(2) "Exchange" has the same meaning as in 45 C.F.R. 155.20.

(3) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

(4) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(5) "Healthy start component" means the component of the medicaid program that covers pregnant women and children and is identified in rules adopted under section 5162.02 of the Revised Code as the healthy start component.

(6) "Home and community-based services" means services provided under a home and community-based services medicaid waiver component.

(7) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(8) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(9) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

(10) "Medicaid provider" has the same meaning as in section 5164.01 of the Revised Code.

(11) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(12) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code;

(13) "Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

~~(13)~~(14) "Political subdivision" means a municipal corporation, township, county, school district, or other body corporate and politic responsible for governmental activities only in a geographical area smaller than that of the state.

~~(14)~~(15) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

~~(15)~~(16) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

~~(16)~~(17) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing authority of a community school established under Chapter 3314. of the Revised Code, the state school for the deaf, and the state school for the blind to which both of the following apply:

(a) It holds a valid provider agreement.

(b) It meets all other conditions for participation in the medicaid school component of the medicaid program established in rules authorized by section 5162.364 of the Revised Code.

~~(17)~~(18) "State agency" means every organized body, office, or agency, other than the department of medicaid, established by the laws of the state for the exercise of any function of state government.

~~(18)~~(19) "Vendor offset" means a reduction of a medicaid payment to a medicaid provider to correct a previous, incorrect medicaid payment to that provider.

Sec. 5162.11. (A) The department of medicaid shall enter into an agreement with the department of administrative services for the department of administrative services to contract through competitive selection pursuant

to section 125.07 of the Revised Code with a vendor to perform an assessment of the data collection and data warehouse functions of the medicaid data warehouse system, including the ability to link the data sets of all agencies serving medicaid recipients.

The assessment of the data system shall include functions related to fraud and abuse detection, program management and budgeting, and performance measurement capabilities of all agencies serving medicaid recipients, including the departments of aging, health, job and family services, medicaid, mental health and addiction services, and developmental disabilities.

A qualified vendor with whom the department of administrative services contracts to assess the data system shall also assist the medicaid agencies in the definition of the requirements for an enhanced data system or a new data system and assist the department of administrative services in the preparation of a request for proposals to enhance or develop a data system.

(B) Based on the assessment performed pursuant to division (A) of this section, the department of administrative services shall seek a qualified vendor through competitive selection pursuant to ~~section 125.07~~ Chapter 125 of the Revised Code to develop or enhance a data collection and data warehouse system for the department of medicaid and all agencies serving medicaid recipients.

The department of medicaid shall seek enhanced federal financial participation for ninety per cent of the funds required to establish or enhance the data system. The department of administrative services shall not award a contract for establishing or enhancing the data system until the department of medicaid receives approval from the United States secretary of health and human services for the ninety per cent federal financial participation.

Sec. 5162.12. (A) The medicaid director ~~may~~ shall enter into a contract with one or more persons to receive and process, on the director's behalf, requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data made by persons who intend to use the items prepared pursuant to the requests for commercial or academic purposes.

(B) At a minimum, a contract entered into under this section shall do both of the following:

(1) Authorize the contracting person to engage in the activities described in division (A) of this section for compensation, which must be stated as a percentage of the fees paid by persons who are provided the items;

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(2) ~~Specify the schedule of fees~~ Require the contracting person is to charge for ~~the items~~ an item prepared pursuant to a request a fee in an amount equal to one hundred two per cent of the cost the department of medicaid incurs in making the data used to prepare the item available to the contracting person.

(C) Except as required by federal or state law and subject to division (E) of this section, both of the following conditions apply with respect to a request for data described in division (A) of this section:

(1) The request shall be made through a person who has entered into a contract with the medicaid director under this section.

(2) An item prepared pursuant to the request may be provided to the department of medicaid and is confidential and not subject to disclosure under section 149.43 or 1347.08 of the Revised Code.

(D) The medicaid director shall use fees the director receives pursuant to a contract entered into under this section to pay obligations specified in contracts entered under this section. Any money remaining after the obligations are paid shall be deposited in the health care services administration fund created under section 5162.54 of the Revised Code.

(E) This section does not apply to requests for medicaid recipient or claims payment data, data from reports of audits conducted under section 5165.109 of the Revised Code, or extracts or analyses of any of the foregoing data that are for any of the following purposes:

(1) Treatment of medicaid recipients;

(2) Payment of medicaid claims;

(3) Establishment or management of medicaid third party liability pursuant to sections 5160.35 to 5160.43 of the Revised Code;

(4) Compliance with the terms of an agreement the medicaid director enters into for purposes of administering the medicaid program;

(5) Compliance with an operating protocol the executive director of the office of health transformation or the executive director's designee adopts under division (D) of section 191.06 of the Revised Code.

Sec. 5162.13. (A) On or before the first day of January of each year, the department of medicaid shall complete a report on the effectiveness of the medicaid program in meeting the health care needs of low-income pregnant women, infants, and children. The report shall include all of the following:
~~the~~

(1) The estimated number of pregnant women, infants, and children eligible for the program; ~~the~~

(2) The actual number of eligible persons enrolled in the program; ~~the~~

(3) The actual number of enrolled pregnant women categorized by

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estimated gestational age at time of enrollment:

(4) The number of prenatal, postpartum, and child health visits; a

(5) The rates at which enrolled pregnant women receive addiction or mental health services, progesterone therapy, and any other service specified by the department;

(6) A report on birth outcomes, including a comparison of low-birthweight births and infant mortality rates of medicaid recipients with the general female child-bearing and infant population in this state; and a

(7) A comparison of the prenatal, delivery, and child health costs of the program with such costs of similar programs in other states, where available.

(B) The department shall submit the report to the general assembly in accordance with section 101.68 of the Revised Code and to the joint medicaid oversight committee. The department also shall make the report available to the public.

Sec. 5162.36. ~~(A)-(B)~~ The medicaid director shall create, in accordance with sections 5162.36 to ~~5162.364~~ 5162.365 of the Revised Code, the medicaid school component of the medicaid program.

Sec. 5162.361. A qualified medicaid school provider participating in the medicaid school component of the medicaid program may submit a claim to the department of medicaid for federal financial participation for providing, in schools, services covered by the medicaid school component to medicaid recipients who are eligible for the services. No qualified medicaid school provider may submit such a claim before the provider incurs the cost of providing the service.

The claim shall include certification of the qualified medicaid school provider's expenditures for the service. The certification shall show that the money the qualified medicaid school provider used for the expenditures was nonfederal money the provider may legally use for providing the service and that the amount of the expenditures was sufficient to pay the full cost of the service.

Except as otherwise provided in sections 5162.36 to ~~5162.364~~ 5162.365 of the Revised Code ~~and rules authorized by sections 5162.363 and 5162.364 of the Revised Code~~, a qualified medicaid school provider is subject to all conditions of participation in the medicaid program that generally apply to providers of goods and services under the medicaid program, including conditions regarding claims, audits, and recovery of overpayments.

Sec. 5162.363. The department of medicaid shall enter into an interagency agreement with the department of education under section 5162.35 of the Revised Code that provides for the department of education

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to administer the medicaid school component of the medicaid program other than the aspects of the component that sections 5162.36 to ~~5162.364~~ 5162.365 of the Revised Code require the department of medicaid to administer. The interagency agreement may include a provision that provides for the department of education to pay to the department of medicaid the nonfederal share of a portion of the administrative expenses the department of medicaid incurs in administering the aspects of the component that the department of medicaid administers.

To the extent authorized by rules authorized by section 5162.021 of the Revised Code, the department of education shall ~~establish, in~~ adopt rules ~~adopted under section 5162.02 of the Revised Code, establishing~~ a process by which qualified medicaid school providers participating in the medicaid school component pay to the department of education the nonfederal share of the department's expenses incurred in administering the component. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5162.365. (A) A qualified medicaid school provider is solely responsible for timely repaying any overpayment that the provider receives under the medicaid school component of the medicaid program and that is discovered by a federal or state audit. This is the case regardless of whether the audit's finding identifies the provider, department of medicaid, or department of education as being responsible for the overpayment.

(B) The department of medicaid shall not do any of the following regarding an overpayment for which a qualified medicaid school provider is responsible for repaying:

(1) Make a payment to the federal government to meet or delay the provider's repayment obligation;

(2) Assume the provider's repayment obligation;

(3) Forgive the provider's repayment obligation.

(C) Each qualified medicaid school provider shall indemnify and hold harmless the department of medicaid for any cost or penalty resulting from a federal or state audit finding that a claim submitted by the provider under section 5162.361 of the Revised Code did not comply with a federal or state requirement applicable to the claim, including a requirement of a medicaid waiver component.

Sec. 5163.03. (A) Subject to section 5163.05 of the Revised Code, the medicaid program shall cover all mandatory eligibility groups.

(B) The medicaid program shall cover all of the optional eligibility groups that state statutes require the medicaid program to cover.

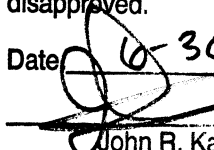
(C) The medicaid program may cover any of the optional eligibility groups to which either of the following applies:

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(1) State statutes expressly permit the medicaid program to cover the optional eligibility group.

(2) ~~State statutes do not address whether~~ Except as provided in division (D)(1) of this section, the medicaid program may cover covers the optional eligibility group on the effective date of this amendment.

(D) The medicaid program shall not cover any optional eligibility group ~~that state to which either of the following applies:~~

(1) State statutes expressly prohibit the medicaid program from covering the optional eligibility group.

(2) State statutes do not address whether the medicaid program may cover the optional eligibility group.

Sec. 5163.04. The income eligibility threshold for an optional eligibility group shall be the following:

(A) The percentage of the federal poverty line specified in state statute for the group;

(B) If the income eligibility threshold for the group is not specified in state statute, a percentage of the federal poverty line not exceeding the percentage of the federal poverty line that, on the effective date of this section, is the group's income eligibility threshold.

Sec. 5163.06. The medicaid program shall cover all of the following optional eligibility groups:

(A) The group consisting of children placed with adoptive parents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(VIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(VIII);

(B) Subject to section 5163.061 of the Revised Code, the group consisting of women during pregnancy and the sixty-day period beginning on the last day of the pregnancy, infants, and children who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(IX), 42 U.S.C. 1396a(a)(10)(A)(ii)(IX);

(C) Subject to sections 5163.09 to 5163.098 of the Revised Code, the group consisting of employed individuals with disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XV), 42 U.S.C. 1396a(a)(10)(A)(ii)(XV);

(D) Subject to sections 5163.09 to 5163.098 of the Revised Code, the group consisting of employed individuals with medically improved disabilities who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI);

(E) The group consisting of independent foster care adolescents who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVII);

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(F) The group consisting of women in need of treatment for breast or cervical cancer who are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XVIII), 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII);

~~(G) The group consisting of nonpregnant individuals who may receive family planning services and supplies and are specified in the "Social Security Act," section 1902(a)(10)(A)(ii)(XXI), 42 U.S.C. 1396a(a)(10)(A)(ii)(XXI).~~

Sec. 5163.21. (A)(1) This section applies only to either of the following:

(a) Initial eligibility determinations for the medicaid program;

(b) An appeal from an initial eligibility determination pursuant to section 5160.31 of the Revised Code.

(2)(a) Except as provided in division (A)(2)(b) of this section, this section shall not be used by a court to determine the effect of a trust on an individual's initial eligibility for the medicaid program.

(b) The prohibition in division (A)(2)(a) of this section does not apply to an appeal described in division (A)(1)(b) of this section.

(B) As used in this section:

(1) "Trust" means any arrangement in which a grantor transfers real or personal property to a trust with the intention that it be held, managed, or administered by at least one trustee for the benefit of the grantor or beneficiaries. "Trust" includes any legal instrument or device similar to a trust.

(2) "Legal instrument or device similar to a trust" includes, but is not limited to, escrow accounts, investment accounts, partnerships, contracts, and other similar arrangements that are not called trusts under state law but are similar to a trust and to which all of the following apply:

(a) The property in the trust is held, managed, retained, or administered by a trustee.

(b) The trustee has an equitable, legal, or fiduciary duty to hold, manage, retain, or administer the property for the benefit of the beneficiary.

(c) The trustee holds identifiable property for the beneficiary.

(3) "Grantor" is a person who creates a trust, including all of the following:

(a) An individual;

(b) An individual's spouse;

(c) A person, including a court or administrative body, with legal authority to act in place of or on behalf of an individual or an individual's spouse;

(d) A person, including a court or administrative body, that acts at the direction or on request of an individual or the individual's spouse.

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(4) "Beneficiary" is a person or persons, including a grantor, who benefits in some way from a trust.

(5) "Trustee" is a person who manages a trust's principal and income for the benefit of the beneficiaries.

(6) "Person" has the same meaning as in section 1.59 of the Revised Code and includes an individual, corporation, business trust, estate, trust, partnership, and association.

(7) "Applicant" is an individual who applies for medicaid or the individual's spouse.

(8) "Recipient" is an individual who receives medicaid or the individual's spouse.

(9) "Revocable trust" is a trust that can be revoked by the grantor or the beneficiary, including all of the following, even if the terms of the trust state that it is irrevocable:

(a) A trust that provides that the trust can be terminated only by a court;

(b) A trust that terminates on the happening of an event, but only if the event occurs at the direction or control of the grantor, beneficiary, or trustee.

(10) "Irrevocable trust" is a trust that cannot be revoked by the grantor or terminated by a court and that terminates only on the occurrence of an event outside of the control or direction of the beneficiary or grantor.

(11) "Payment" is any disbursement from the principal or income of the trust, including actual cash, noncash or property disbursements, or the right to use and occupy real property.

(12) "Payments to or for the benefit of the applicant or recipient" is a payment to any person resulting in a direct or indirect benefit to the applicant or recipient.

(13) "Testamentary trust" is a trust that is established by a will and does not take effect until after the death of the person who created the trust.

(14) "Home" means a home described in section 1613(a)(1) of the "Social Security Act," 42 U.S.C. 1382b(a)(1).

(C)(1) If an applicant or recipient is a beneficiary of a trust, the applicant or recipient shall submit a complete copy of the trust instrument to the county department of job and family services and the department of medicaid. A copy shall be considered complete if it contains all pages of the trust instrument and all schedules, attachments, and accounting statements referenced in or associated with the trust. The copy is confidential and is not subject to disclosure under section 149.43 of the Revised Code.

(2) On receipt of a copy of a trust instrument or otherwise determining that an applicant or recipient is a beneficiary of a trust, the county department of job and family services shall determine what type of trust it is

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and shall treat the trust in accordance with the appropriate provisions of this section and rules adopted under section 5163.02 of the Revised Code governing trusts. The county department of job and family services may determine that any of the following is the case regarding the trust or portion of the trust:

- (a) It is a resource available to the applicant or recipient;
- (b) It contains income available to the applicant or recipient;
- (c) Divisions (C)(2)(a) and (b) of this section are both applicable;
- (d) Neither division (C)(2)(a) nor (b) of this section is applicable.

(3) Except as provided in division (F) of this section, a trust or portion of a trust that is a resource available to the applicant or recipient or contains income available to the applicant or recipient shall be counted for purposes of determining medicaid eligibility.

(D)(1) A trust or legal instrument or device similar to a trust shall be considered a medicaid qualifying trust if all of the following apply:

- (a) The trust was established on or prior to August 10, 1993.
- (b) The trust was not established by a will.
- (c) The trust was established by an applicant or recipient.
- (d) The applicant or recipient is or may become the beneficiary of all or part of the trust.

(e) Payment from the trust is determined by one or more trustees who are permitted to exercise any discretion with respect to the distribution to the applicant or recipient.

(2) If a trust meets the requirement of division (D)(1) of this section, the amount of the trust that is considered by the county department of job and family services to be a resource available to the applicant or recipient shall be the maximum amount of payments permitted under the terms of the trust to be distributed to the applicant or recipient, assuming the full exercise of discretion by the trustee or trustees. The maximum amount shall include only amounts that are permitted to be distributed but are not distributed from either the income or principal of the trust.

(3) Amounts that are actually distributed from a medicaid qualifying trust to a beneficiary for any purpose shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income.

(4) Availability of a medicaid qualifying trust shall be considered without regard to any of the following:

- (a) Whether or not the trust is irrevocable or was established for purposes other than to enable a grantor to qualify for medicaid;
- (b) Whether or not the trustee actually exercises discretion.
- (5) If any real or personal property is transferred to a medicaid

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qualifying trust that is not distributable to the applicant or recipient, the transfer shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(6) The baseline date for the look-back period for disposition of assets involving a medicaid qualifying trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(E)(1) A trust or legal instrument or device similar to a trust shall be considered a self-settled trust if all of the following apply:

(a) The trust was established on or after August 11, 1993.

(b) The trust was not established by a will.

(c) The trust was established by an applicant or recipient, spouse of an applicant or recipient, or a person, including a court or administrative body, with legal authority to act in place of or on behalf of an applicant, recipient, or spouse, or acting at the direction or on request of an applicant, recipient, or spouse.

(2) ~~A trust that meets the requirements of division (E)(1) of this section and is~~ (a) Except as provided in division (E)(2)(b) of this section, a revocable self-settled trust shall be treated by the county department of job and family services as follows:

~~(a)(i)~~ The corpus of the trust shall be considered a resource available to the applicant or recipient.

~~(b)(ii)~~ Payments from the trust to or for the benefit of the applicant or recipient shall be considered unearned income of the applicant or recipient.

~~(c)(iii)~~ Any other payments from the trust shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(b) The home of an applicant or recipient held in a revocable self-settled trust is not subject to division (E)(2)(a) of this section, is not a resource available to the applicant or recipient as described in division (C)(2)(a) of this section, and shall be excluded from the computation of spousal share determined pursuant to section 1924(c) of the "Social Security Act," 42 U.S.C. 1396r-5(c).

(c) A transfer of an applicant's or recipient's home from a revocable self-settled trust to the applicant or recipient or that individual's spouse shall not be considered an improper disposition of assets or a disposal of assets for less than fair market value for which a period of medicaid ineligibility may be imposed under section 5163.30 of the Revised Code.

(3) A trust that meets the requirements of division (E)(1) of this section

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~~and is an~~ An irrevocable self-settled trust shall be treated by the county department of job and family services as follows:

(a) If there are any circumstances under which payment from the trust could be made to or for the benefit of the applicant or recipient, including a payment that can be made only in the future, the portion from which payments could be made shall be considered a resource available to the applicant or recipient. The county department of job and family services shall not take into account when payments can be made.

(b) Any payment that is actually made to or for the benefit of the applicant or recipient from either the corpus or income shall be considered unearned income.

(c) If a payment is made to someone other than to the applicant or recipient and the payment is not for the benefit of the applicant or recipient, the payment shall be considered an improper disposition of assets and shall be subject to section 5163.30 of the Revised Code and rules to implement that section adopted under section 5163.02 of the Revised Code.

(d) The date of the disposition shall be the later of the date of establishment of the trust or the date of the occurrence of the event.

(e) When determining the value of the disposed asset under this provision, the value of the trust shall be its value on the date payment to the applicant or recipient was foreclosed.

(f) Any income earned or other resources added subsequent to the foreclosure date shall be added to the total value of the trust.

(g) Any payments to or for the benefit of the applicant or recipient after the foreclosure date but prior to the application date shall be subtracted from the total value. Any other payments shall not be subtracted from the value.

(h) Any addition of assets after the foreclosure date shall be considered a separate disposition.

(4) If a trust is funded with assets of another person or persons in addition to assets of the applicant or recipient, the applicable provisions of this section and rules adopted under section 5163.02 of the Revised Code governing trusts shall apply only to the portion of the trust attributable to the applicant or recipient.

(5) The availability of a self-settled trust shall be considered without regard to any of the following:

(a) The purpose for which the trust is established;

(b) Whether the trustees have exercised or may exercise discretion under the trust;

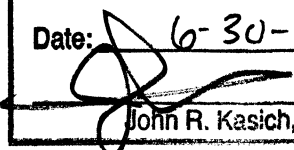
(c) Any restrictions on when or whether distributions may be made from the trust;



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(d) Any restrictions on the use of distributions from the trust.

(6) The baseline date for the look-back period for dispositions of assets involving a self-settled trust shall be the date on which the applicant or recipient is both institutionalized and first applies for medicaid.

(F) The principal or income from any of the following shall not be a resource available to the applicant or recipient:

(1)(a) A special needs trust that meets all of the following requirements:

(i) The trust contains assets of an applicant or recipient under sixty-five years of age and may contain the assets of other individuals.

(ii) The applicant or recipient is disabled as defined in rules adopted under section 5163.02 of the Revised Code.

(iii) The trust is established for the benefit of the applicant or recipient by a parent, grandparent, legal guardian, or a court.

(iv) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) If a special needs trust meets the requirements of division (F)(1)(a) of this section and has been established for a disabled applicant or recipient under sixty-five years of age, the exemption for the trust granted pursuant to division (F) of this section shall continue after the disabled applicant or recipient becomes sixty-five years of age if the applicant or recipient continues to be disabled as defined in rules adopted under section 5163.02 of the Revised Code. Except for income earned by the trust, the grantor shall not add to or otherwise augment the trust after the applicant or recipient attains sixty-five years of age. An addition or augmentation of the trust by the applicant or recipient with the applicant's own assets after the applicant or recipient attains sixty-five years of age shall be treated as an improper disposition of assets.

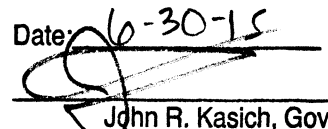
(c) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.

(d) Transfers of assets to a special needs trust shall not be treated as an improper transfer of resources. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the individual.

(2)(a) A qualifying income trust that meets all of the following requirements:

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(i) The trust is composed only of pension, social security, and other income to the applicant or recipient, including accumulated interest in the trust.

(ii) The income is received by the individual and the right to receive the income is not assigned or transferred to the trust.

(iii) The trust requires that on the death of the applicant or recipient the state will receive all amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the applicant or recipient.

(b) No resources shall be used to establish or augment the trust.

(c) If an applicant or recipient has irrevocably transferred or assigned the applicant's or recipient's right to receive income to the trust, the trust shall not be considered a qualifying income trust by the county department of job and family services.

(d) Income placed in a qualifying income trust shall not be counted in determining an applicant's or recipient's eligibility for medicaid. The recipient of the funds may place any income directly into a qualifying income trust without those funds adversely affecting the applicant's or recipient's eligibility for medicaid. Income generated by the trust that remains in the trust shall not be considered as income to the applicant or recipient.

(e) All income placed in a qualifying income trust shall be combined with any income available to the individual that is not placed in the trust to arrive at a base income figure to be used for spend down calculations.

(f) The base income figure shall be used for post-eligibility deductions, including personal needs allowance, monthly income allowance, family allowance, and medical expenses not subject to third party payment. Any income remaining shall be used toward payment of patient liability. Payments made from a qualifying income trust shall not be combined with the base income figure for post-eligibility calculations. JRK

(g) The base income figure shall be used when determining the spend down budget for the applicant or recipient. Any income remaining after allowable deductions are permitted as provided under rules adopted under section 5163.02 of the Revised Code shall be considered the applicant's or recipient's spend down liability.

(3)(a) A pooled trust that meets all of the following requirements:

(i) The trust contains the assets of the applicant or recipient of any age who is disabled as defined in rules adopted under section 5163.02 of the Revised Code.

(ii) The trust is established and managed by a nonprofit organization.

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(iii) A separate account is maintained for each beneficiary of the trust but, for purposes of investment and management of funds, the trust pools the funds in these accounts.

(iv) Accounts in the trust are established by the applicant or recipient, the applicant's or recipient's parent, grandparent, or legal guardian, or a court solely for the benefit of individuals who are disabled.

(v) The trust requires that, to the extent that any amounts remaining in the beneficiary's account on the death of the beneficiary are not retained by the trust, the trust pay to the state the amounts remaining in the trust up to an amount equal to the total amount of medicaid payments made on behalf of the beneficiary.

(b) Cash distributions to the applicant or recipient shall be counted as unearned income. All other distributions from the trust shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing in-kind income.

(c) Transfers of assets to a pooled trust shall not be treated as an improper disposition of assets. An asset held prior to the transfer to the trust shall be considered as a resource available to the applicant or recipient, income available to the applicant or recipient, or both a resource and income available to the applicant or recipient.

(4) A supplemental services trust that meets the requirements of section 5815.28 of the Revised Code and to which all of the following apply:

(a) A person may establish a supplemental services trust pursuant to section 5815.28 of the Revised Code only for another person who is eligible to receive services through one of the following agencies:

- (i) The department of developmental disabilities;
- (ii) A county board of developmental disabilities;
- (iii) The department of mental health and addiction services;
- (iv) A board of alcohol, drug addiction, and mental health services.

(b) A county department of job and family services shall not determine eligibility for another agency's program. An applicant or recipient shall do one of the following:

(i) Provide documentation from one of the agencies listed in division (F)(4)(a) of this section that establishes that the applicant or recipient was determined to be eligible for services from the agency at the time of the creation of the trust;

(ii) Provide an order from a court of competent jurisdiction that states that the applicant or recipient was eligible for services from one of the agencies listed in division (F)(4)(a) of this section at the time of the creation of the trust.

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(c) At the time the trust is created, the trust principal does not exceed the maximum amount permitted. The maximum amount permitted in calendar year 2006 is two hundred twenty-two thousand dollars. Each year thereafter, the maximum amount permitted is the prior year's amount plus two thousand dollars.

(d) A county department of job and family services shall review the trust to determine whether it complies with the provisions of section 5815.28 of the Revised Code.

(e) Payments from supplemental services trusts shall be exempt as long as the payments are for supplemental services as defined in rules adopted under section 5163.02 of the Revised Code. All supplemental services shall be purchased by the trustee and shall not be purchased through direct cash payments to the beneficiary.

(f) If a trust is represented as a supplemental services trust and a county department of job and family services determines that the trust does not meet the requirements provided in division (F)(4) of this section and section 5815.28 of the Revised Code, the county department of job and family services shall not consider it an exempt trust.

(G)(1) A trust or legal instrument or device similar to a trust shall be considered a trust established by an individual for the benefit of the applicant or recipient if all of the following apply:

(a) The trust is created by a person other than the applicant or recipient.

(b) The trust names the applicant or recipient as a beneficiary.

(c) The trust is funded with assets or property in which the applicant or recipient has never held an ownership interest prior to the establishment of the trust.

(2) Any portion of a trust that meets the requirements of division (G)(1) of this section shall be a resource available to the applicant or recipient only if the trust permits the trustee to expend principal, corpus, or assets of the trust for the applicant's or recipient's medical care, care, comfort, maintenance, health, welfare, general well being, or any combination of these purposes.

(3) A trust that meets the requirements of division (G)(1) of this section shall be considered a resource available to the applicant or recipient even if the trust contains any of the following types of provisions:

(a) A provision that prohibits the trustee from making payments that would supplant or replace medicaid or other public assistance;

(b) A provision that prohibits the trustee from making payments that would impact or have an effect on the applicant's or recipient's right, ability, or opportunity to receive medicaid or other public assistance;

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(c) A provision that attempts to prevent the trust or its corpus or principal from being a resource available to the applicant or recipient.

(4) A trust that meets the requirements of division (G)(1) of this section shall not be counted as a resource available to the applicant or recipient if at least one of the following circumstances applies:

(a) If a trust contains a clear statement requiring the trustee to preserve a portion of the trust for another beneficiary or remainderman, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to preserve a portion of the trust shall not qualify as a clear statement requiring the trustee to preserve a portion of the trust.

(b) If a trust contains a clear statement requiring the trustee to use a portion of the trust for a purpose other than medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, that portion of the trust shall not be counted as a resource available to the applicant or recipient. Terms of a trust that grant discretion to limit the use of a portion of the trust shall not qualify as a clear statement requiring the trustee to use a portion of the trust for a particular purpose.

(c) If a trust contains a clear statement limiting the trustee to making fixed periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income. Terms of a trust that grant discretion to limit payments shall not qualify as a clear statement requiring the trustee to make fixed periodic payments.

(d) If a trust contains a clear statement that requires the trustee to terminate the trust if it is counted as a resource available to the applicant or recipient, the trust shall not be counted as such. Terms of a trust that grant discretion to terminate the trust do not qualify as a clear statement requiring the trustee to terminate the trust.

(e) If a person obtains a judgment from a court of competent jurisdiction that expressly prevents the trustee from using part or all of the trust for the medical care, care, comfort, maintenance, welfare, or general well being of the applicant or recipient, the trust or that portion of the trust subject to the court order shall not be counted as a resource available to the applicant or recipient.

(f) If a trust is specifically exempt from being counted as a resource available to the applicant or recipient by a provision of the Revised Code, rules, or federal law, the trust shall not be counted as such.

(g) If an applicant or recipient presents a final judgment from a court

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demonstrating that the applicant or recipient was unsuccessful in a civil action against the trustee to compel payments from the trust, the trust shall not be counted as a resource available to the applicant or recipient.

(h) If an applicant or recipient presents a final judgment from a court demonstrating that in a civil action against the trustee the applicant or recipient was only able to compel limited or periodic payments, the trust shall not be counted as a resource available to the applicant or recipient and payments shall be treated in accordance with rules adopted under section 5163.02 of the Revised Code governing income.

(i) If an applicant or recipient provides written documentation showing that the cost of a civil action brought to compel payments from the trust would be cost prohibitive, the trust shall not be counted as a resource available to the applicant or recipient.

(5) Any actual payments to the applicant or recipient from a trust that meet the requirements of division (G)(1) of this section, including trusts that are not counted as a resource available to the applicant or recipient, shall be treated as provided in rules adopted under section 5163.02 of the Revised Code governing income. Payments to any person other than the applicant or recipient shall not be considered income to the applicant or recipient. Payments from the trust to a person other than the applicant or recipient shall not be considered an improper disposition of assets.

Sec. 5163.30. (A) As used in this section:

(1) "Assets" include all of an individual's income and resources and those of the individual's spouse, including any income or resources the individual or spouse is entitled to but does not receive because of action by any of the following:

(a) The individual or spouse;

(b) A person or government entity, including a court or administrative agency, with legal authority to act in place of or on behalf of the individual or spouse;

(c) A person or government entity, including a court or administrative agency, acting at the direction or on the request of the individual or spouse.

(2) "Home and community-based services" means home and community-based services furnished under a medicaid waiver granted by the United States secretary of health and human services under the "Social Security Act," section 1915(c) or (d), 42 U.S.C. 1396n(c) or (d).

(3) "Institutionalized individual" means a resident of a nursing facility, an inpatient in a medical institution for whom a payment is made based on a level of care provided in a nursing facility, or an individual described in the "Social Security Act," section 1902(a)(10)(A)(ii)(VI), 42 U.S.C.

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1396a(a)(10)(A)(ii)(VI).

(4) "Look-back date" means the date that is a number of months specified in rules adopted under section 5163.02 of the Revised Code immediately before either of the following:

(a) The date an individual becomes an institutionalized individual if the individual is eligible for medicaid on that date;

(b) The date an individual applies for medicaid while an institutionalized individual.

(5) "Nursing facility equivalent services" means services that are covered by the medicaid program, equivalent to nursing facility services, provided by an institution that provides the same level of care as a nursing facility, and provided to an inpatient of the institution who is a medicaid recipient eligible for medicaid-covered nursing facility equivalent services.

(6) "Undue hardship" means being deprived of either of the following:

(a) Medical care such that an individual's health or life is endangered;

(b) Food, clothing, shelter, or other necessities of life.

(B) Except as provided in division (C) of this section and rules adopted under section 5163.02 of the Revised Code, an institutionalized individual is ineligible for nursing facility services, nursing facility equivalent services, and home and community-based services if the individual or individual's spouse disposes of assets for less than fair market value on or after the look-back date. The institutionalized individual's ineligibility shall begin on a date determined in accordance with rules adopted under section 5163.02 of the Revised Code and shall continue for a number of months determined in accordance with such rules.

(C)(1) An institutionalized individual may be granted a waiver of all or a portion of the period of ineligibility to which the individual would otherwise be subjected under division (B) of this section if the ineligibility would cause an undue hardship for the individual. ~~An~~

(2) An institutionalized individual shall be granted a waiver of all or a portion of the period of ineligibility if the administrator of the nursing facility in which the individual resides has notified the individual of a proposed transfer or discharge under section 3721.16 of the Revised Code due to failure to pay for the care the nursing facility has provided to the individual, the individual or the individual's sponsor requests a hearing on the proposed transfer or discharge in accordance with section 3721.161 of the Revised Code, and the transfer or discharge is upheld by a final determination that is not subject to further appeal. ~~Waivers~~

(3) An institutionalized individual may be granted a waiver of all of the period of ineligibility if all of the assets that were disposed of for less than

fair market value are returned to the individual or individual's spouse or if the individual or individual's spouse receives cash or other personal or real property that equals the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets. Except as provided in division (C)(1) or (2) of this section, no waiver of any part of the period of ineligibility shall be granted if the amount the individual or individual's spouse receives is less than the difference between what the individual or individual's spouse received for the assets and the fair market value of the assets.

(4) Waivers shall be granted in accordance with rules adopted under section 5163.02 of the Revised Code.

(D) To secure compliance with this section, the medicaid director may require an individual, as a condition of initial or continued eligibility for medicaid, to provide documentation of the individual's assets up to five years before the date the individual becomes an institutionalized individual if the individual is eligible for medicaid on that date or the date the individual applies for medicaid while an institutionalized individual. Documentation may include tax returns, records from financial institutions, and real property records.

Sec. 5163.33. (A) In determining the amount of income that a medicaid recipient must apply monthly toward payment of the cost of care in a nursing facility or ICF/IID, a county department of job and family services shall deduct from the recipient's monthly income a monthly personal needs allowance in accordance with the "Social Security Act," section 1902(q), 42 U.S.C. 1396a(q).

(B) In the case of a resident of a nursing facility, the monthly personal needs allowance shall be as follows:

~~(1) Prior to January 1, 2014, not less than forty dollars for an individual resident and not less than eighty dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility;~~

~~(2) For calendar year 2014, not less than forty-five dollars for an individual resident and not less than ninety dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility;~~

~~(3) For calendar year 2015 and each calendar year thereafter, not less than fifty dollars for an individual resident and not less than one hundred dollars for a married couple if both spouses are residents of a nursing facility and their incomes are considered available to each other in determining eligibility.~~

(C) In the case of a resident of an ICF/IID, the monthly personal needs allowance shall be as follows:

(1) Prior to January 1, 2016, forty dollars unless the resident has earned income, in which case the monthly personal needs allowance shall be determined by the department of medicaid, or the department's designee, but shall not exceed one hundred five dollars;

(2) For calendar year 2016 and each calendar year thereafter, not less than fifty dollars for an individual resident and not less than one hundred dollars for a married couple if both spouses are residents of an ICF/IID and their incomes are considered available to each other in determining eligibility.

Sec. 5164.01. As used in this chapter:

(A) "Adjudication" has the same meaning as in section 119.01 of the Revised Code.

(B) "Early and periodic screening, diagnostic, and treatment services" has the same meaning as in the "Social Security Act," section 1905(r), 42 U.S.C. 1396d(r).

~~(B)~~(C) "Federal financial participation" has the same meaning as in section 5160.01 of the Revised Code.

~~(C)~~(D) "Healthcheck" means the component of the medicaid program that provides early and periodic screening, diagnostic, and treatment services.

~~(D)~~(E) "Home and community-based services medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

~~(E)~~(F) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

~~(F)~~(G) "ICDS participant" means a dual eligible individual who participates in the integrated care delivery system.

~~(G)~~(H) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

~~(H)~~(I) "Integrated care delivery system" and "ICDS" mean the demonstration project authorized by section 5164.91 of the Revised Code.

~~(I)~~(J) "Mandatory services" means the health care services and items that must be covered by the medicaid state plan as a condition of the state receiving federal financial participation for the medicaid program.

~~(J)~~(K) "Medicaid managed care organization" has the same meaning as in section 5167.01 of the Revised Code.

~~(K)~~(L) "Medicaid provider" means a person or government entity with a valid provider agreement to provide medicaid services to medicaid

recipients. To the extent appropriate in the context, "medicaid provider" includes a person or government entity applying for a provider agreement, a former medicaid provider, or both.

~~(L)~~(M) "Medicaid services" means either or both of the following:

- (1) Mandatory services;
- (2) Optional services that the medicaid program covers.

~~(M)~~(N) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

~~(N)~~(O) "Optional services" means the health care services and items that may be covered by the medicaid state plan or a federal medicaid waiver and for which the medicaid program receives federal financial participation.

~~(O)~~(P) "Prescribed drug" has the same meaning as in 42 C.F.R. 440.120.

~~(P)~~(Q) "Provider agreement" means an agreement to which all of the following apply:

- (1) It is between a medicaid provider and the department of medicaid;
- (2) It provides for the medicaid provider to provide medicaid services to medicaid recipients;
- (3) It complies with 42 C.F.R. 431.107(b).

~~(Q)~~(R) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code.

Sec. 5164.38. (A) As used in this section:

(1) ~~"Adjudication" has the same meaning as in division (D) of section 119.01 of the Revised Code.~~

(2) "Party" has the same meaning as in division (G) of section 119.01 of the Revised Code.

~~(3)~~(2) "Revalidate" means to approve a medicaid provider's continued enrollment as a medicaid provider in accordance with the revalidation process established in rules authorized by section 5164.32 of the Revised Code.

(B) This section does not apply to either of the following:

(1) Any action taken or decision made by the department of medicaid with respect to entering into or refusing to enter into a contract with a managed care organization pursuant to section 5167.10 of the Revised Code;

(2) Any action taken by the department under division (D)(2) of section 5124.60, division (D)(1) or (2) of section 5124.61, or sections 5165.60 to 5165.89 of the Revised Code.

(C) Except as provided in division (E) of this section and section 5164.58 of the Revised Code, the department shall do any of the following by issuing an order pursuant to an adjudication conducted in accordance with Chapter 119. of the Revised Code:

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- (1) Refuse to enter into a provider agreement with a medicaid provider;
- (2) Refuse to revalidate a medicaid provider's provider agreement;
- (3) Suspend or terminate a medicaid provider's provider agreement;
- (4) Take any action based upon a final fiscal audit of a medicaid provider.

(D) Any party who is adversely affected by the issuance of an adjudication order under division (C) of this section may appeal to the court of common pleas of Franklin county in accordance with section 119.12 of the Revised Code.

(E) The department is not required to comply with division (C)(1), (2), or (3) of this section whenever any of the following occur:

(1) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain a certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of medicaid, and the license, permit, certificate, or certification has been denied, revoked, not renewed, suspended, or otherwise limited.

(2) The terms of a provider agreement require the medicaid provider to hold a license, permit, or certificate or maintain certification issued by an official, board, commission, department, division, bureau, or other agency of state or federal government other than the department of medicaid, and the provider has not obtained the license, permit, certificate, or certification.

(3) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated or not revalidated, because of or pursuant to any of the following:

(a) The termination, refusal to renew, or denial of a license, permit, certificate, or certification by an official, board, commission, department, division, bureau, or other agency of this state other than the department of medicaid, notwithstanding the fact that the provider may hold a license, permit, certificate, or certification from an official, board, commission, department, division, bureau, or other agency of another state;

(b) Division (D) or (E) of section 5164.35 of the Revised Code;

(c) The provider's termination, suspension, or exclusion from the medicare program or from another state's medicaid program and, in either case, the termination, suspension, or exclusion is binding on the provider's participation in the medicaid program in this state;

(d) The provider's pleading guilty to or being convicted of a criminal activity materially related to either the medicare or medicaid program;

(e) The provider or its owner, officer, authorized agent, associate, manager, or employee having been convicted of one of the offenses that

caused the provider's provider agreement to be suspended pursuant to section 5164.36 of the Revised Code;

(f) The provider's failure to provide the department the national provider identifier assigned the provider by the national provider system pursuant to 45 C.F.R. 162.408.

(4) The medicaid provider's application for a provider agreement is denied, or the provider's provider agreement is terminated or suspended, as a result of action by the United States department of health and human services and that action is binding on the provider's medicaid participation.

(5) Pursuant to either section 5164.36 or 5164.37 of the Revised Code, the medicaid provider's provider agreement is suspended and payments to the provider are suspended pending indictment of the provider.

(6) The medicaid provider's application for a provider agreement is denied because the provider's application was not complete;

(7) The medicaid provider's provider agreement is converted under section 5164.32 of the Revised Code from a provider agreement that is not time-limited to a provider agreement that is time-limited.

(8) Unless the medicaid provider is a nursing facility or ICF/IID, the provider's provider agreement is not revalidated pursuant to division (B)(1) of section 5164.32 of the Revised Code.

(9) The medicaid provider's provider agreement is suspended, terminated, or not revalidated because of either of the following:

(a) Any reason authorized or required by one or more of the following: 42 C.F.R. 455.106, 455.23, 455.416, 455.434, or 455.450;

(b) The provider has not billed or otherwise submitted a medicaid claim for two years or longer.

(F) In the case of a medicaid provider described in division (E)(3)(f), (6), (7), or (9)(b) of this section, the department may take its action by sending a notice explaining the action to the provider. The notice shall be sent to the medicaid provider's address on record with the department. The notice may be sent by regular mail.

(G) The department may withhold payments for medicaid services rendered by a medicaid provider during the pendency of proceedings initiated under division (C)(1), (2), or (3) of this section. If the proceedings are initiated under division (C)(4) of this section, the department may withhold payments only to the extent that they equal amounts determined in a final fiscal audit as being due the state. This division does not apply if the department fails to comply with section 119.07 of the Revised Code, requests a continuance of the hearing, or does not issue a decision within thirty days after the hearing is completed. This division does not apply to

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nursing facilities and ICFs/IID.

Sec. 5164.57. (A) ~~As used in this section, "adjudication" has the same meaning as in section 119.01 of the Revised Code.~~

~~(B)~~(1) Except as provided in division ~~(B)~~(A)(2) of this section, the department of medicaid may recover a medicaid payment or portion of a payment made to a medicaid provider to which the provider is not entitled if the department notifies the provider of the overpayment during the five-year period immediately following the end of the state fiscal year in which the overpayment was made.

(2) In the case of a hospital medicaid provider, if the department determines as a result of a medicare or medicaid cost report settlement that the provider received an amount under the medicaid program to which the provider is not entitled, the department may recover the overpayment if the department notifies the provider of the overpayment during the later of the following:

(a) The five-year period immediately following the end of the state fiscal year in which the overpayment was made;

(b) The one-year period immediately following the date the department receives from the United States centers for medicare and medicaid services a completed, audited, medicare cost report for the provider that applies to the state fiscal year in which the overpayment was made.

~~(C)~~(B) Among the overpayments that may be recovered under this section are the following:

(1) Payment for a medicaid service, or a day of service, not rendered;

(2) Payment for a day of service at a full per diem rate that should have been paid at a percentage of the full per diem rate;

(3) Payment for a medicaid service, or day of service, that was paid by, or partially paid by, a third party, as defined in section 5160.35 of the Revised Code, and the third party's payment or partial payment was not offset against the amount paid by the medicaid program to reduce or eliminate the amount that was paid by the medicaid program;

(4) Payment when a medicaid recipient's responsibility for payment was understated and resulted in an overpayment to the provider.

~~(D)~~(C) The department may recover an overpayment under this section prior to or after any of the following:

(1) Adjudication of a final fiscal audit that section 5164.38 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(2) Adjudication of a finding under any other provision of state statutes governing the medicaid program or the rules adopted under those statutes;

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(3) Expiration of the time to issue a final fiscal audit that section 5164.38 of the Revised Code requires to be conducted in accordance with Chapter 119. of the Revised Code;

(4) Expiration of the time to issue a finding under any other provision of state statutes governing the medicaid program or the rules adopted under those statutes.

~~(E)~~(D)(1) Subject to division ~~(E)~~(D)(2) of this section, the recovery of an overpayment under this section does not preclude the department from subsequently doing the following:

(a) Issuing a final fiscal audit in accordance with Chapter 119. of the Revised Code, as required under section 5164.38 of the Revised Code;

(b) Issuing a finding under any other provision of state statutes governing the medicaid program or the rules adopted under those statutes.

(2) A final fiscal audit or finding issued subsequent to the recovery of an overpayment under this section shall be reduced by the amount of the prior recovery, as appropriate.

~~(F)~~(E) Nothing in this section limits the department's authority to recover overpayments pursuant to any other provision of the Revised Code.

Sec. 5164.78. The medicaid payment rate for medical transportation services shall include a component that pays for providers' fuel costs. The department of medicaid shall revise the rate for the fuel component each month. The rate for the fuel component for a month shall be at least five per cent higher than the national average for fuel prices for the immediately preceding month as reported by the United States energy information administration.

Sec. 5164.912. A medical transportation provider may submit a claim to the medicaid program for a medical transportation service provided to an ICDS participant without the medicare program first denying the claim if the medicaid program is responsible for paying the claim instead of the medicare program.

Sec. 5165.15. ~~(A)~~ Except as otherwise provided by sections 5165.151 to 5165.157 and 5165.34 of the Revised Code, the total per medicaid day payment rate that the department of medicaid shall pay a nursing facility provider for nursing facility services the provider's nursing facility provides during a fiscal year shall ~~equal~~ be determined as follows:

(A) Determine the sum of all of the following:

(1) The per medicaid day payment rate for ancillary and support costs determined for the nursing facility under section 5165.16 of the Revised Code;

(2) The per medicaid day payment rate for capital costs determined for

The above boxed and Initialed text was disapproved.

Date: 6-30-15

John R. Kasich, Governor

the nursing facility under section 5165.17 of the Revised Code;

(3) The per medicaid day payment rate for direct care costs determined for the nursing facility under section 5165.19 of the Revised Code;

(4) The per medicaid day payment rate for tax costs determined for the nursing facility under section 5165.21 of the Revised Code;

(5) If the nursing facility qualifies as a critical access nursing facility, the nursing facility's critical access incentive payment paid under section 5165.23 of the Revised Code;

~~(6) The quality incentive payment paid to the nursing facility under section 5165.25 of the Revised Code Sixteen dollars and forty-four cents.~~

~~(B) In addition to paying a nursing facility provider the nursing facility's total rate determined under division (A) of this section for a fiscal year, the department shall pay the provider a quality bonus under section 5165.26 of the Revised Code for that fiscal year if the provider's nursing facility is a qualifying nursing facility, as defined in that section, for that fiscal year. The quality bonus shall not be part of the total rate From the sum determined under division (A) of this section, subtract one dollar and seventy-nine cents.~~

~~(C) To the difference determined under division (B) of this section, add the per medicaid day quality payment rate determined for the nursing facility under section 5165.25 of the Revised Code.~~

Sec. 5165.151. (A) The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be the initial rate for nursing facility services provided by a new nursing facility. Instead, the initial total per medicaid day payment rate for nursing facility services provided by a new nursing facility shall be determined in the following manner:

(1) The initial rate for ancillary and support costs shall be the rate for the new nursing facility's peer group determined under division (D) of section 5165.16 of the Revised Code.

(2) The initial rate for capital costs shall be the rate for the new nursing facility's peer group determined under division (D) of section 5165.17 of the Revised Code;

(3) The initial rate for direct care costs shall be the product of the cost per case-mix unit determined under division (D) of section 5165.19 of the Revised Code for the new nursing facility's peer group and the new nursing facility's case-mix score determined under division (B) of this section.

(4) The initial rate for tax costs shall be the median rate for tax costs for the new nursing facility's peer group in which the nursing facility is placed under division (C) of section 5165.16 of the Revised Code.

(5) The quality ~~incentive~~ payment shall be the mean quality payment ~~made to rate determined for~~ nursing facilities under section 5165.25 of the Revised Code.

(6) Fourteen dollars and sixty-five cents shall be added to the sum of the rates and payment specified in divisions (A)(1) to (5) of this section.

(B) For the purpose of division (A)(3) of this section, a new nursing facility's case-mix score shall be the following:

(1) Unless the new nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the median annual average case-mix score for the new nursing facility's peer group;

(2) If the nursing facility replaces an existing nursing facility that participated in the medicaid program immediately before the new nursing facility begins participating in the medicaid program, the semiannual case-mix score most recently determined under section 5165.192 of the Revised Code for the replaced nursing facility as adjusted, if necessary, to reflect any difference in the number of beds in the replaced and new nursing facilities.

(C) Subject to division (D) of this section, the department shall adjust the rates established under division (A) of this section effective the first day of July, to reflect new rate calculations for all nursing facilities under this chapter.

(D) If a rate for direct care costs is determined under this section for a new nursing facility using the median annual average case-mix score for the new nursing facility's peer group, the rate shall be redetermined to reflect the new nursing facility's actual semiannual average case-mix score determined under section 5165.192 of the Revised Code after the new nursing facility submits its first two quarterly assessment data that qualify for use in calculating a case-mix score in accordance with rules authorized by section 5165.192 of the Revised Code. If the new nursing facility's quarterly submissions do not qualify for use in calculating a case-mix score, the department shall continue to use the median annual average case-mix score for the new nursing facility's peer group in lieu of the new nursing facility's semiannual case-mix score until the new nursing facility submits two consecutive quarterly assessment data that qualify for use in calculating a case-mix score.

Sec. 5165.152. The total per medicaid day payment rate determined under section 5165.15 of the Revised Code shall not be paid for nursing facility services provided to low resource utilization residents. Instead, the total rate for such nursing facility services shall be ~~one~~ the following:

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(A) One hundred ~~thirty~~ fifteen dollars per medicaid day if the department of medicaid is satisfied that the nursing facility's provider is cooperating with the long-term care ombudsman program in efforts to help the nursing facility's low resource utilization residents receive the services that are most appropriate for such residents' level of care needs;

(B) Ninety-one dollars and seventy cents per medicaid day if division (A) of this section does not apply to the nursing facility.

Sec. 5165.157. (A) The medicaid director ~~may~~ shall establish an alternative purchasing model for nursing facility services provided by designated discrete units of nursing facilities to medicaid recipients with specialized health care needs. ~~If the alternative purchasing model is established, the~~ The director shall do all of the following with regard to the model:

(1) Establish criteria that a discrete unit of a nursing facility must meet to be designated as a unit that, under the alternative purchasing model, may admit and provide nursing facility services to medicaid recipients with specialized health care needs;

(2) Specify the health care conditions that medicaid recipients must have to have specialized health care needs, which may include dependency on a ventilator, severe traumatic brain injury, the need to be admitted to a long-term acute care hospital or rehabilitation hospital if not for nursing facility services, and other serious health care conditions;

(3) For each fiscal year, set the total per medicaid day payment rate for nursing facility services provided under the alternative purchasing model at either of the following:

(a) Sixty per cent of the statewide average of the total per medicaid day payment rate for long-term acute care hospital services as of the first day of the fiscal year;

(b) Another amount determined in accordance with an alternative methodology that includes improved health outcomes as a factor in determining the payment rate;

(4) Require, to the extent the director considers necessary, a medicaid recipient to obtain prior authorization for admission to a long-term acute care hospital or rehabilitation hospital as a condition of medicaid payment for long-term acute care hospital or rehabilitation hospital services.

(B) The criteria established under division (A)(1) of this section shall provide for a discrete unit of a nursing facility to be excluded from the alternative purchasing model if the unit is paid for nursing facility services in accordance with section 5165.153, 5165.154, or 5165.156 of the Revised Code. The criteria may require the provider of a nursing facility that has a

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discrete unit designated for participation in the alternative purchasing model to report health outcome measurement data to the department of medicaid.

(C) A discrete unit of a nursing facility that provides nursing facility services to medicaid recipients with specialized health care needs under the alternative purchasing model shall be paid for those services in accordance with division (A)(3) of this section instead of the total per medicaid day payment rate determined under section 5165.15, 5165.153, 5165.154, or 5165.156 of the Revised Code.

Sec. 5165.16. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of medicaid's initial determination under division (D) of this section of each peer group's rate for ancillary and support costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer group's rate for ancillary and support costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of medicaid shall determine each nursing facility's per medicaid day payment rate for ancillary and support costs. A nursing facility's rate shall be the rate determined under division (D) of this section for the nursing facility's peer group. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following:

(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three;

(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four.

(C) For the purpose of determining nursing facilities' rates for ancillary and support costs, the department shall establish six peer groups.

(1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred

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or more beds shall be placed in peer group two.

(b) Each nursing facility located in any of the following counties shall be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

(c) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(2) Beginning with the first rebasing, the peer groups shall be composed as they are under division (C)(1) of this section except as follows:

(a) Each nursing facility that has fewer than one hundred beds and is located in Allen, Mahoning ~~or~~, Stark, or Trumbull county shall be placed in peer group three rather than peer group five.

(b) Each nursing facility that has one hundred or more beds and is located in Allen, Mahoning ~~or~~, Stark, or Trumbull county shall be placed in peer group four rather than peer group six.

(D)(1) The department shall determine the rate for ancillary and support costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do all of the following:

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(a) Subject to division (D)(2) of this section, determine the rate for ancillary and support costs for each nursing facility in the peer group for the applicable calendar year by using the greater of the nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been ninety per cent;

(b) Subject to division (D)(3) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the rate for ancillary and support costs for the applicable calendar year determined under division (D)(1)(a) of this section;

(c) Multiply the rate for ancillary and support costs determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section by the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year using the following:

(i) Until the first rebasing occurs, the consumer price index for all items for all urban consumers for the north central region, published by the United States bureau of labor statistics, as that index existed on July 1, 2005;

(ii) Effective with the first rebasing and except as provided in division (D)(1)(c)(iii) of this section, the consumer price index for all items for all urban consumers for the midwest region, published by the United States bureau of labor statistics;

(iii) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(1)(c)(ii) of this section, the index the bureau subsequently publishes that covers urban consumers' prices for items for the region that includes this state.

(d) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(c) of this section by five and eight hundredths per cent.

(2) For the purpose of determining a nursing facility's occupancy rate under division (D)(1)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity unless the nursing facility also removes the beds from its licensed bed capacity.

(3) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose ancillary and support costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per

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diem ancillary and support cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(4) The department shall not redetermine a peer group's rate for ancillary and support costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for ancillary and support costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

Sec. 5165.17. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of medicaid's initial determination under division (D) of this section of each peer group's rate for capital costs, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer group's rate for capital costs using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such rates.

(B) The department of medicaid shall determine each nursing facility's per medicaid day payment rate for capital costs. A nursing facility's rate shall be the rate determined under division (D) of this section. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be the rate determined for the following:

(1) If the nursing facility has fewer than one hundred beds, the nursing facilities in peer group three;

(2) If the nursing facility has one hundred or more beds, the nursing facilities in peer group four.

(C) For the purpose of determining nursing facilities' rates for capital costs, the department shall establish six peer groups.

(1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one or two: Brown, Butler, Clermont, Clinton, Hamilton, and Warren. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group one. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group two.

(b) Each nursing facility located in any of the following counties shall

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be placed in peer group three or four: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group three. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group four.

(c) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot. Each nursing facility located in any of those counties that has fewer than one hundred beds shall be placed in peer group five. Each nursing facility located in any of those counties that has one hundred or more beds shall be placed in peer group six.

(2) Beginning with the first rebasing, the peer groups shall be composed as they are under division (C)(1) of this section except as follows:

(a) Each nursing facility that has fewer than one hundred beds and is located in Allen, Mahoning or Stark, or Trumbull county shall be placed in peer group three rather than peer group five.

(b) Each nursing facility that has one hundred or more beds and is located in Allen, Mahoning or Stark, or Trumbull county shall be placed in peer group four rather than peer group six.

(D)(1) The department shall determine the rate for capital costs for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, the rate for capital costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for capital costs, the department shall do both of the following:

(a) Determine the rate for capital costs for the nursing facility in the peer group that is at the twenty-fifth percentile of the rate for capital costs for the

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applicable calendar year;

(b) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(a) of this section by five and eight hundredths per cent.

(2) To identify the nursing facility in a peer group that is at the twenty-fifth percentile of the rate for capital costs for the applicable calendar year, the department shall do both of the following:

(a) Subject to division (D)(3) of this section, use the greater of each nursing facility's actual inpatient days for the applicable calendar year or the inpatient days the nursing facility would have had for the applicable calendar year if its occupancy rate had been one hundred per cent;

(b) Exclude both of the following:

(i) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(ii) Nursing facilities whose capital costs are more than one standard deviation from the mean desk-reviewed, actual, allowable, per diem capital cost for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) For the purpose of determining a nursing facility's occupancy rate under division (D)(2)(a) of this section, the department shall include any beds that the nursing facility removes from its medicaid-certified capacity after June 30, 2005, unless the nursing facility also removes the beds from its licensed bed capacity.

(4) The department shall not redetermine a peer group's rate for capital costs under this division based on additional information that it receives after the rate is determined. The department shall redetermine a peer group's rate for capital costs only if the department made an error in determining the rate based on information available to the department at the time of the original determination.

(E) Buildings shall be depreciated using the straight line method over forty years or over a different period approved by the department. Components and equipment shall be depreciated using the straight-line method over a period designated in rules adopted under section 5165.02 of the Revised Code, consistent with the guidelines of the American hospital association, or over a different period approved by the department. Any rules authorized by this division that specify useful lives of buildings, components, or equipment apply only to assets acquired on or after July 1, 1993. Depreciation for costs paid or reimbursed by any government agency shall not be included in capital costs unless that part of the payment under this chapter is used to reimburse the government agency.

(F) The capital cost basis of nursing facility assets shall be determined

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in the following manner:

(1) Except as provided in division (F)(3) of this section, for purposes of calculating the rates to be paid for facilities with dates of licensure on or before June 30, 1993, the capital cost basis of each asset shall be equal to the desk-reviewed, actual, allowable, capital cost basis that is listed on the facility's cost report for the calendar year preceding the fiscal year during which the rate will be paid.

(2) For facilities with dates of licensure after June 30, 1993, the capital cost basis shall be determined in accordance with the principles of the medicare program, except as otherwise provided in this chapter.

(3) Except as provided in division (F)(4) of this section, if a provider transfers an interest in a facility to another provider after June 30, 1993, there shall be no increase in the capital cost basis of the asset if the providers are related parties or the provider to which the interest is transferred authorizes the provider that transferred the interest to continue to operate the facility under a lease, management agreement, or other arrangement. If the previous sentence does not prohibit the adjustment of the capital cost basis under this division, the basis of the asset shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time that the transferor held the asset.

(4) If a provider transfers an interest in a facility to another provider who is a related party, the capital cost basis of the asset shall be adjusted as specified in division (F)(3) of this section if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) Except as provided in division (F)(4)(c)(ii) of this section, the provider making the transfer retains no ownership interest in the facility;

(c) The department determines that the transfer is an arm's length transaction pursuant to rules adopted under section 5165.02 of the Revised Code. The rules shall provide that a transfer is an arm's length transaction if all of the following apply:

(i) Once the transfer goes into effect, the provider that made the transfer has no direct or indirect interest in the provider that acquires the facility or the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a creditor.

(ii) The provider that made the transfer does not reacquire an interest in the facility except through the exercise of a creditor's rights in the event of a default. If the provider reacquires an interest in the facility in this manner, the department shall treat the facility as if the transfer never occurred when

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the department calculates its reimbursement rates for capital costs.

(iii) The transfer satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a provider making the transfer who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under division (F)(4) of this section or actual, allowable capital costs was determined most recently under division (G)(9) of this section.

(G) As used in this division:

"Imputed interest" means the lesser of the prime rate plus two per cent or ten per cent.

"Lease expense" means lease payments in the case of an operating lease and depreciation expense and interest expense in the case of a capital lease.

"New lease" means a lease, to a different lessee, of a nursing facility that previously was operated under a lease.

(1) Subject to division (B) of this section, for a lease of a facility that was effective on May 27, 1992, the entire lease expense is an actual, allowable capital cost during the term of the existing lease. The entire lease expense also is an actual, allowable capital cost if a lease in existence on May 27, 1992, is renewed under either of the following circumstances:

(a) The renewal is pursuant to a renewal option that was in existence on May 27, 1992;

(b) The renewal is for the same lease payment amount and between the same parties as the lease in existence on May 27, 1992.

(2) Subject to division (B) of this section, for a lease of a facility that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(3) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that is initially operated under a lease, actual, allowable capital costs shall include the annual lease expense if there was a substantial commitment of money for construction of the facility after December 22, 1992, and before July 1, 1993. If there was not a substantial commitment of money after December 22, 1992, and before July

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1, 1993, actual, allowable capital costs shall include the lesser of the annual lease expense or the sum of the following:

(a) The annual depreciation expense that would be calculated at the inception of the lease using the lessor's entire historical capital asset cost basis;

(b) The greater of the lessor's actual annual amortization of financing costs and interest expense at the inception of the lease or the imputed interest expense calculated at the inception of the lease using seventy per cent of the lessor's historical capital asset cost basis.

(4) Subject to division (B) of this section, for a lease of a facility with a date of licensure on or after May 27, 1992, that was not initially operated under a lease and has been in existence for ten years, actual, allowable capital costs shall include the lesser of the annual lease expense or the annual depreciation expense and imputed interest expense that would be calculated at the inception of the lease using the entire historical capital asset cost basis of one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, during the time the lessor held each asset until the beginning of the lease.

(5) Subject to division (B) of this section, for a new lease of a facility that was operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of the annual new lease expense or the annual old lease payment. If the old lease was in effect for ten years or longer, the old lease payment from the beginning of the old lease shall be adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

(6) Subject to division (B) of this section, for a new lease of a facility that was not in existence or that was in existence but not operated under a lease on May 27, 1992, actual, allowable capital costs shall include the lesser of annual new lease expense or the annual amount calculated for the old lease under division (G)(2), (3), (4), or (6) of this section, as applicable. If the old lease was in effect for ten years or longer, the lessor's historical capital asset cost basis shall be, for purposes of calculating the annual amount under division (G)(2), (3), (4), or (6) of this section, adjusted by one-half of the change in the consumer price index for all items for all urban consumers, as published by the United States bureau of labor statistics, from the beginning of the old lease to the beginning of the new lease.

In the case of a lease under division (G)(3) of this section of a facility for which a substantial commitment of money was made after December 22,

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1992, and before July 1, 1993, the old lease payment shall be adjusted for the purpose of determining the annual amount.

(7) For any revision of a lease described in division (G)(1), (2), (3), (4), (5), or (6) of this section, or for any subsequent lease of a facility operated under such a lease, other than execution of a new lease, the portion of actual, allowable capital costs attributable to the lease shall be the same as before the revision or subsequent lease.

(8) Except as provided in division (G)(9) of this section, if a provider leases an interest in a facility to another provider who is a related party or previously operated the facility, the related party's or previous operator's actual, allowable capital costs shall include the lesser of the annual lease expense or the reasonable cost to the lessor.

(9) If a provider leases an interest in a facility to another provider who is a related party, regardless of the date of the lease, the related party's actual, allowable capital costs shall include the annual lease expense, subject to the limitations specified in divisions (G)(1) to (7) of this section, if all of the following conditions are met:

(a) The related party is a relative of owner;

(b) If the lessor retains an ownership interest, it is, except as provided in division (G)(9)(c)(ii) of this section, in only the real property and any improvements on the real property;

(c) The department determines that the lease is an arm's length transaction pursuant to rules adopted under section 5165.02 of the Revised Code. The rules shall provide that a lease is an arm's length transaction if all of the following apply:

(i) Once the lease goes into effect, the lessor has no direct or indirect interest in the lessee or, except as provided in division (G)(9)(b) of this section, the facility itself, including interest as an owner, officer, director, employee, independent contractor, or consultant, but excluding interest as a lessor.

(ii) The lessor does not reacquire an interest in the facility except through the exercise of a lessor's rights in the event of a default. If the lessor reacquires an interest in the facility in this manner, the department shall treat the facility as if the lease never occurred when the department calculates its reimbursement rates for capital costs.

(iii) The lease satisfies any other criteria specified in the rules.

(d) Except in the case of hardship caused by a catastrophic event, as determined by the department, or in the case of a lessor who is at least sixty-five years of age, not less than twenty years have elapsed since, for the same facility, the capital cost basis was adjusted most recently under

division (F)(4) of this section or actual, allowable capital costs were determined most recently under division (G)(9) of this section.

(10) This division does not apply to leases of specific items of equipment.

Sec. 5165.19. (A) As used in this section:

(1) "Applicable calendar year" means the following:

(a) For the purpose of the department of medicaid's initial determination under division (D) of this section of each peer group's cost per case-mix unit, calendar year 2003;

(b) For the purpose of the department's rebasings, the calendar year the department selects.

(2) "Rebasing" means a redetermination under division (D) of this section of each peer group's cost per case-mix unit using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous determination of such costs.

(B) Semiannually, the department of medicaid shall determine each nursing facility's per medicaid day payment rate for direct care costs by multiplying the facility's semiannual case-mix score determined under section 5165.192 of the Revised Code by the cost per case-mix unit determined under division (D) of this section for the facility's peer group. However, for the period beginning October 1, 2013, and ending on the first day of the first rebasing, the rate for a nursing facility located in Mahoning or Stark county shall be determined semiannually by multiplying the facility's semiannual case-mix score determined under section 5165.192 of the Revised Code by the cost per case-mix unit determined under division (D) of this section for the nursing facilities in peer group two.

(C) For the purpose of determining nursing facilities' rates for direct care costs, the department shall establish three peer groups.

(1) Until the first rebasing occurs, the peer groups shall be composed as follows:

(a) Each nursing facility located in any of the following counties shall be placed in peer group one: Brown, Butler, Clermont, Clinton, Hamilton, and Warren.

(b) Each nursing facility located in any of the following counties shall be placed in peer group two: Ashtabula, Champaign, Clark, Cuyahoga, Darke, Delaware, Fairfield, Fayette, Franklin, Fulton, Geauga, Greene, Hancock, Knox, Lake, Licking, Lorain, Lucas, Madison, Marion, Medina, Miami, Montgomery, Morrow, Ottawa, Pickaway, Portage, Preble, Ross, Sandusky, Seneca, Summit, Union, and Wood.

(c) Each nursing facility located in any of the following counties shall

be placed in peer group three: Adams, Allen, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Mahoning, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Stark, Trumbull, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(2) Beginning with the first rebasing, the peer groups shall be composed as they are under division (C)(1) of this section except that each nursing facility located in Allen, Mahoning or Stark, or Trumbull county shall be placed in peer group two rather than peer group three.

(D)(1) The department shall determine a cost per case-mix unit for each peer group established under division (C) of this section. The department is not required to conduct a rebasing more than once every ten years. Except as necessary to implement the amendments made to this section by Am. Sub. H.B. 153 and Sub. H.B. 303, both of the 129th general assembly, and H.B. 59 of the 130th general assembly, the cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do all of the following:

(a) Determine the cost per case-mix unit for each nursing facility in the peer group for the applicable calendar year by dividing each facility's desk-reviewed, actual, allowable, per diem direct care costs for the applicable calendar year by the facility's annual average case-mix score determined under section 5165.192 of the Revised Code for the applicable calendar year;

(b) Subject to division (D)(2) of this section, identify which nursing facility in the peer group is at the twenty-fifth percentile of the cost per case-mix units determined under division (D)(1)(a) of this section;

(c) Calculate the amount that is two per cent above the cost per case-mix unit determined under division (D)(1)(a) of this section for the nursing facility identified under division (D)(1)(b) of this section;

(d) Using the index specified in division (D)(3) of this section, multiply the rate of inflation for the eighteen-month period beginning on the first day of July of the applicable calendar year and ending the last day of December of the calendar year immediately following the applicable calendar year by the amount calculated under division (D)(1)(c) of this section;

(e) Add the following to the amount calculated under division (D)(1)(d) of this section:

(i) Until the earlier of January 1, 2014, or when the first rebasing occurs,

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one dollar and eighty-eight cents;

(ii) Unless the first rebasing occurs before January 1, 2014, beginning January 1, 2014, and until the first rebasing occurs, eighty-six cents.

(f) Until the first rebasing occurs, increase the amount calculated under division (D)(1)(e) of this section by five and eight hundredths per cent.

(2) In making the identification under division (D)(1)(b) of this section, the department shall exclude both of the following:

(a) Nursing facilities that participated in the medicaid program under the same provider for less than twelve months in the applicable calendar year;

(b) Nursing facilities whose cost per case-mix unit is more than one standard deviation from the mean cost per case-mix unit for all nursing facilities in the nursing facility's peer group for the applicable calendar year.

(3) The following index shall be used for the purpose of the calculation made under division (D)(1)(d) of this section:

(a) Until the first rebasing occurs, the employment cost index for total compensation, health services component, published by the United States bureau of labor statistics, as the index existed on July 1, 2005;

(b) Effective with the first rebasing and except as provided in division (D)(3)(c) of this section, the employment cost index for total compensation, nursing and residential care facilities occupational group, published by the United States bureau of labor statistics;

(c) If the United States bureau of labor statistics ceases to publish the index specified in division (D)(3)(b) of this section, the index the bureau subsequently publishes that covers nursing facilities' staff costs.

(4) The department shall not redetermine a peer group's cost per case-mix unit under this division based on additional information that it receives after the peer group's per case-mix unit is determined. The department shall redetermine a peer group's cost per case-mix unit only if it made an error in determining the peer group's cost per case-mix unit based on information available to the department at the time of the original determination.

Sec. 5165.192. (A)(1) Except as provided in division (B) of this section and in accordance with the process specified in rules authorized by this section, the department of medicaid shall do all of the following:

(a) Every quarter, determine the following two case-mix scores for each nursing facility:

(i) A quarterly case-mix score that includes each resident who is a medicaid recipient and is not a low resource utilization resident;

(ii) A quarterly case-mix score that includes each resident regardless of payment source.

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(b) Every six months, determine a semiannual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(i) of this section;

(c) After the end of each calendar year, determine an annual average case-mix score for each nursing facility by using the quarterly case-mix scores determined for the nursing facility pursuant to division (A)(1)(a)(ii) of this section.

(2) When determining case-mix scores under division (A)(1) of this section, the department shall use all of the following:

(a) Data from a resident assessment instrument specified in rules authorized by section 5165.191 of the Revised Code;

(b) Except as provided in rules authorized by this section, the case-mix values established by the United States department of health and human services;

(c) Except as modified in rules authorized by this section, the grouper methodology ~~used on June 30, 1999, designated~~ by the United States department of health and human services ~~for prospective payment of skilled nursing facilities under the medicare program as the resource utilization group (RUG)-IV, 48 group model.~~

(B)(1) Subject to division (B)(2) of this section, the department, for one or more months of a calendar quarter, may assign to a nursing facility a case-mix score that is five per cent less than the nursing facility's case-mix score for the immediately preceding calendar quarter if any of the following apply:

(a) The provider does not timely submit complete and accurate resident assessment data necessary to determine the nursing facility's case-mix score for the calendar quarter;

(b) The nursing facility was subject to an exception review under section 5165.193 of the Revised Code for the immediately preceding calendar quarter;

(c) The nursing facility was assigned a case-mix score for the immediately preceding calendar quarter.

(2) Before assigning a case-mix score to a nursing facility due to the submission of incorrect resident assessment data, the department shall permit the provider to correct the data. The department may assign the case-mix score if the provider fails to submit the corrected resident assessment data not later than the earlier of the forty-fifth day after the end of the calendar quarter to which the data pertains or the deadline for submission of such corrections established by regulations adopted by the United States department of health and human services under Title XVIII

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and Title XIX.

(3) If, for more than six months in a calendar year, a provider is paid a rate determined for a nursing facility using a case-mix score assigned to the nursing facility under division (B)(1) of this section, the department may assign the nursing facility a cost per case-mix unit that is five per cent less than the nursing facility's actual or assigned cost per case-mix unit for the immediately preceding calendar year. The department may use the assigned cost per case-mix unit, instead of determining the nursing facility's actual cost per case-mix unit in accordance with section 5165.19 of the Revised Code, to establish the nursing facility's rate for direct care costs for the fiscal year immediately following the calendar year for which the cost per case-mix unit is assigned.

(4) The department shall take action under division (B)(1), (2), or (3) of this section only in accordance with rules authorized by this section. The department shall not take an action that affects rates for prior payment periods except in accordance with sections 5165.41 and 5165.42 of the Revised Code.

(C) The medicaid director shall adopt rules under section 5165.02 of the Revised Code as necessary to implement this section.

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

(a) Specify the process for determining the semiannual and annual average case-mix scores for nursing facilities;

(b) Adjust the case-mix values specified in division (A)(2)(b) of this section to reflect changes in relative wage differentials that are specific to this state;

(c) Express all of those case-mix values in numeric terms that are different from the terms specified by the United States department of health and human services but that do not alter the relationship of the case-mix values to one another;

(d) Modify the grouper methodology specified in division (A)(2)(c) of this section as follows:

(i) Establish a different hierarchy for assigning residents to case-mix categories under the methodology;

(ii) Prohibit the use of the index maximizer element of the methodology;

(iii) Incorporate changes to the methodology the United States department of health and human services makes after June 30, 1999;

(iv) Make other changes the department determines are necessary.

(e) Establish procedures under which resident assessment data shall be reviewed for accuracy and providers shall be notified of any data that requires correction;

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(f) Establish procedures for providers to correct resident assessment data and specify a reasonable period of time by which providers shall submit the corrections. The procedures may limit the content of corrections in the manner required by regulations adopted by the United States department of health and human services under Title XVIII and Title XIX.

(g) Specify when and how the department will assign case-mix scores or costs per case-mix unit to a nursing facility under division (B) of this section if information necessary to calculate the nursing facility's case-mix score is not provided or corrected in accordance with the procedures established by the rules.

(2) Notwithstanding any other provision of this chapter, the rules may provide for the exclusion of case-mix scores assigned to a nursing facility under division (B) of this section from the determination of the nursing facility's semiannual or annual average case-mix score and the cost per case-mix unit for the nursing facility's peer group.

Sec. 5165.23. (A) Each fiscal year, the department of medicaid shall determine the critical access incentive payment for each nursing facility that qualifies as a critical access nursing facility. To qualify as a critical access nursing facility for a fiscal year, a nursing facility must meet all of the following requirements:

(1) The nursing facility must be located in an area that, on December 31, 2011, was designated an empowerment zone under the "Internal Revenue Code of 1986," section 1391, 26 U.S.C. 1391.

(2) The nursing facility must have an occupancy rate of at least eighty-five per cent as of the last day of the calendar year immediately preceding the fiscal year.

(3) The nursing facility must have a medicaid utilization rate of at least sixty-five per cent as of the last day of the calendar year immediately preceding the fiscal year.

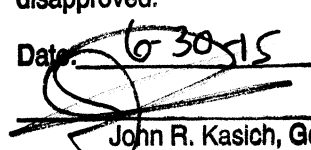
~~(4) The nursing facility must have been awarded at least five points for meeting accountability measures under section 5165.25 of the Revised Code for the fiscal year and at least one of the five points must have been awarded for meeting the accountability measures identified in divisions (C)(9), (10), (11), (12), and (14) of section 5165.25 of the Revised Code.~~

(B) A critical access nursing facility's critical access incentive payment for a fiscal year shall equal five per cent of the portion of the nursing facility's total per medicaid day payment rate for the fiscal year that is the sum of the rates ~~and payment~~ identified in divisions (A)(1) to (4) ~~and (6)~~ of section 5165.15 of the Revised Code.

Sec. 5165.25. (A) As used in this section:

The above boxed and initialed text was disapproved.

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(1) "Long-stay resident" means an individual who has resided in a nursing facility for at least one hundred one days.

(2) "Measurement period" means the following:

(a) For fiscal year 2017, the period beginning July 1, 2015, and ending December 31, 2015;

(b) For each subsequent fiscal year, the calendar year immediately preceding the fiscal year.

(3) "Nurse aide" has the same meaning as in section 3721.21 of the Revised Code.

(4) "Short-stay resident" means a nursing facility resident who is not a long-stay resident.

(B)(1) Using all of the funds made available for a fiscal year by the rate reductions under division (B) of section 5165.15 of the Revised Code, the department of medicaid shall determine a per medicaid day quality payment rate to be paid for that fiscal year to each nursing facility that meets at least one of the quality indicators specified in division (B)(2) of this section for the measurement period. The largest quality payment rate for a fiscal year shall be paid to nursing facilities that meet all of the quality indicators for the measurement period.

(2) The following are the quality indicators to be used for the purpose of division (B)(1) of this section:

(a) Not more than the target percentage of the nursing facility's short-stay residents had new or worsened pressure ulcers and not more than the target percentage of long-stay residents at high risk for pressure ulcers had pressure ulcers.

(b) Not more than the target percentage of the nursing facility's short-stay residents newly received an antipsychotic medication and not more than the target percentage of the nursing facility's long-stay residents received an antipsychotic medication.

(c) The number of the nursing facility's residents who had avoidable inpatient hospital admissions did not exceed the target rate.

(d) The nursing facility's employee retention rate is at least the target rate.

(e) The nursing facility utilized the nursing home version of the preferences for everyday living inventory for all of its residents.

(3) The department shall specify the target percentage for the purpose of divisions (B)(2)(a) and (b) of this section. The amount specified for division (B)(2)(a) of this section may differ from the amount specified for division (B)(2)(b) of this section and the amount specified for short-stay residents may differ from the amount specified for long-stay residents. The

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department also shall specify the target rate for the purpose of division (B)(2)(c) of this section and the target rate for the purpose of division (B)(2)(d) of this section.

(C) If a nursing facility undergoes a change of operator during a fiscal year, the per medicaid day quality payment rate to be paid to the entering operator for nursing facility services that the nursing facility provides during the period beginning on the effective date of the change of operator and ending on the last day of the fiscal year shall be the same amount as the per medicaid day quality payment rate that was in effect on the day immediately preceding the effective date of the change of operator and paid to the nursing facility's exiting operator. For the immediately following fiscal year, the per medicaid day quality payment rate shall be the following:

(1) If the effective date of the change of operator is on or before the first day of October of the calendar year immediately preceding the fiscal year, the amount determined for the nursing facility in accordance with division (B) of this section for the fiscal year;

(2) If the effective date of the change of operator is after the first day of October of the calendar year immediately preceding the fiscal year, the mean per medicaid day quality payment rate for all nursing facilities for the fiscal year.

Sec. 5166.01. As used in this chapter:

"209(b) option" means the option described in section 1902(f) of the "Social Security Act," 42 U.S.C. 1396a(f), under which the medicaid program's eligibility requirements for aged, blind, and disabled individuals are more restrictive than the eligibility requirements for the supplemental security income program.

"Administrative agency" means, with respect to a home and community-based services medicaid waiver component, the department of medicaid or, if a state agency or political subdivision contracts with the department under section 5162.35 of the Revised Code to administer the component, that state agency or political subdivision.

"Care management system" means the system established under section 5167.03 of the Revised Code.

"Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

"Federal poverty line" has the same meaning as in section 5162.01 of the Revised Code.

"Home and community-based services medicaid waiver component" means a medicaid waiver component under which home and community-based services are provided as an alternative to hospital

services, nursing facility services, or ICF/IID services.

"Hospital" has the same meaning as in section 3727.01 of the Revised Code.

"Hospital long-term care unit" has the same meaning as in section 5168.40 of the Revised Code.

"ICDS participant" has the same meaning as in section 5164.01 of the Revised Code.

"ICF/IID" and "ICF/IID services" have the same meanings as in section 5124.01 of the Revised Code.

"Integrated care delivery system" and "ICDS" have the same meanings as in section 5164.01 of the Revised Code.

"Level of care determination" means a determination of whether an individual needs the level of care provided by a hospital, nursing facility, or ICF/IID and whether the individual, if determined to need that level of care, would receive hospital services, nursing facility services, or ICF/IID services if not for a home and community-based services medicaid waiver component.

"Medicaid buy-in for workers with disabilities program" has the same meaning as in section 5163.01 of the Revised Code.

"Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

"Medicaid waiver component" means a component of the medicaid program authorized by a waiver granted by the United States department of health and human services under the "Social Security Act," section 1115 or 1915, 42 U.S.C. 1315 or 1396n. "Medicaid waiver component" does not include a care management system established under section 5167.03 of the Revised Code.

"Nursing facility" and "nursing facility services" have the same meanings as in section 5165.01 of the Revised Code.

"Ohio home care waiver program" means the home and community-based services medicaid waiver component that is known as Ohio home care and was created pursuant to section 5166.11 of the Revised Code.

"Ohio transitions II aging carve-out program" means the home and community-based services medicaid waiver component that is known as Ohio transitions II aging carve-out and was created pursuant to section 5166.11 of the Revised Code.

"Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

"Residential treatment facility" means a residential facility licensed by

the department of mental health and addiction services under section 5119.34 of the Revised Code, or an institution certified by the department of job and family services under section 5103.03 of the Revised Code, that serves children and either has more than sixteen beds or is part of a campus of multiple facilities or institutions that, combined, have a total of more than sixteen beds.

"Skilled nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

"Unified long-term services and support medicaid waiver component" means the medicaid waiver component authorized by section 5166.14 of the Revised Code.

Sec. 5166.16. (A) As used in this section and section 5166.161 of the Revised Code, "ODA or MCD medicaid waiver component" means all of the following:

(1) The medicaid-funded component of the PASSPORT program, unless it is terminated pursuant to division (C) of section 173.52 of the Revised Code;

(2) The choices program, unless it is terminated pursuant to division (B) of section 173.53 of the Revised Code;

(3) The medicaid-funded component of the assisted living program, unless it is terminated pursuant to division (C) of section 173.54 of the Revised Code;

(4) The Ohio home care waiver program, unless it is terminated pursuant to section 5166.12 of the Revised Code;

(5) The Ohio transitions II aging carve-out program, unless it is terminated pursuant to section 5166.13 of the Revised Code.

(B) The medicaid director may create a home and community-based services medicaid waiver component as part of the integrated care delivery system. If the ICDS medicaid waiver component is created, both of the following apply:

(1) The department of medicaid shall administer it;

(2) When it begins to accept enrollments, no ICDS participant who is eligible for the ICDS medicaid waiver component shall be enrolled in an ODA or MCD medicaid waiver component regardless of whether the participant prefers to remain or be enrolled in an ODA or MCD medicaid waiver component.

(C) A dual eligible individual who is eligible for an ODA or MCD medicaid waiver component may enroll in the component before the individual becomes an ICDS participant. The dual eligible individual shall disenroll from the ODA or MCD medicaid waiver component and enroll in

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the ICDS medicaid waiver component once the individual becomes an ICDS participant and it is possible to enroll the individual in the ICDS medicaid waiver component. The disenrollment from the ODA or MCD medicaid waiver component and enrollment into the ICDS medicaid waiver component shall occur regardless of whether the individual prefers to remain enrolled in the ODA or MCD medicaid waiver component.

(D) An ICDS participant's disenrollment from an ODA or MCD medicaid waiver component and enrollment in the ICDS medicaid waiver component resulting from division (B)(2) or (C) of this section shall be accomplished without a disruption in the participant's services under the components.

Sec. 5166.161. The department of medicaid shall ensure that each ICDS participant who is a survivor of the Holocaust that occurred in Europe during World War II receives, while enrolled in the ICDS medicaid waiver component, home and community-based services of the type and in at least the amount, duration, and scope that the participant is assessed to need and would have received if the participant were enrolled in an ODA or MCD medicaid waiver component.

Sec. 5166.24. A medicaid waiver component that the department of developmental disabilities administers under section 5166.21 of the Revised Code shall continue to cover adult day services provided by sheltered workshops if the component covers those services on the effective date of this section.

A sheltered workshop with a provider agreement to provide adult day services available under a medicaid waiver component administered by the department of developmental disabilities shall not decrease the number of medicaid recipients it is willing and able to serve.

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Sec. 5166.32. If the department of medicaid terminates the 209(b) option, the department shall establish a medicaid waiver component under which an individual who has cystic fibrosis and is enrolled in the program for medically handicapped children administered by the department of health under section 3701.023 of the Revised Code or the program the department of health administers pursuant to division (G) of that section may qualify for medicaid under the same type of spenddown process that is part of the 209(b) option.

Sec. 5166.33. The department of medicaid shall establish a medicaid waiver component under which medicaid recipients who are married to each other retain eligibility for medicaid despite one of the recipients having earnings from employment that causes the recipients to have countable family income exceeding the income eligibility threshold for the eligibility

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group, or groups, under which the recipients qualify for medicaid if both of the following apply:

(A) One of the recipients would qualify to participate in the medicaid buy-in for workers with disabilities program if not for a disability that, according to a physician's written evaluation, is too severe for the recipient to have earnings from employment or be an employed individual with a medically improved disability;

(B) The other recipient's earnings from employment do not cause the recipients to have countable family income, determined in the same manner as income is determined for the medicaid buy-in for workers with disabilities program under section 5163.093 of the Revised Code, exceeding two hundred fifty per cent of the federal poverty line.

Sec. 5166.40. (A) As used in sections 5166.40 to 5166.409 of the Revised Code:

(1) "Adult" means an individual who is at least eighteen years of age.

(2) "Buckeye account" means a modified health savings account established under section 5166.402 of the Revised Code.

(3) "Contribution" means the amounts that an individual contributes to the individual's buckeye account and are contributed to the account on the individual's behalf under divisions (C) and (D) of section 5166.402 of the Revised Code. "Contribution" does not mean the portion of an individual's buckeye account that consists of medicaid funds deposited under division (B) of section 5166.402 of the Revised Code or section 5166.404 of the Revised Code.

(4) "Core portion" means the portion of a healthy Ohio program participant's buckeye account that consists of the following:

(a) The amount of contributions to the account;

(b) The amounts awarded to the account under divisions (C) and (D) of section 5166.404 of the Revised Code.

(5) "Eligible employer-sponsored health plan" has the same meaning as in section 5000A(f)(2) of the "Internal Revenue Code of 1986," 26 U.S.C. 5000A(f)(2).

(6) "Healthy Ohio program" means the medicaid waiver component established under sections 5166.40 to 5166.409 of the Revised Code under which medicaid recipients specified in division (B) of this section enroll in comprehensive health plans and contribute to buckeye accounts.

(7) "Healthy Ohio program debit swipe card" means a debit swipe card issued by a managed care organization to a healthy Ohio program participant under section 5166.403 of the Revised Code.

(8) "Not-for-profit organization" means an organization that is exempt

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from federal income taxation under section 501(a) and (c)(3) of the "Internal Revenue Code of 1986," 26 U.S.C. 501(a) and (c)(3).

(9) "Ward of the state" means both of the following: an individual who is a ward, as defined in section 2111.01 of the Revised Code.

(10) "Workforce development activity" and "workforce development agency" have the same meanings as in section 6301.01 of the Revised Code.

(B) The medicaid director shall establish a medicaid waiver component to be known as the healthy Ohio program. Each adult medicaid recipient, other than a ward of the state, determined to be eligible for medicaid on the basis of either of the following shall participate in the healthy Ohio program:

(1) On the basis of being included in the category identified by the department of medicaid as covered families and children;

(2) On the basis of being included in the eligibility group described in section 1902(a)(10)(A)(i)(VIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(C) Except as provided in section 5166.406 of the Revised Code, a healthy Ohio program participant shall not receive medicaid services under the fee-for-service component of medicaid or participate in the care management system.

Sec. 5166.401. A healthy Ohio program participant shall enroll in a comprehensive health plan offered by a managed care organization under contract with the department of medicaid. All of the following apply to the health plan:

(A) It shall cover physician, hospital inpatient, hospital outpatient, pregnancy-related, mental health, pharmaceutical, laboratory, and other health care services the medicaid director determines necessary.

(B) It shall not begin to pay for any services it covers until the amount of the noncore portion of the participant's buckeye account is zero.

(C) It shall require copayments for services covered by the health plan, except that a participant's copayments shall be waived whenever the amount of the core portion of the participant's buckeye account is zero.

(D) It shall have the following payout limits:

(1) Three hundred thousand dollars per year;

(2) One million dollars for a participant's lifetime.

Sec. 5166.402. (A)(1) A buckeye account shall be established for each healthy Ohio program participant. Subject to division (A)(2) of this section, a participant's buckeye account shall consist of both of the following:

(a) The medicaid funds deposited into the account under division (B) of this section and division (A) of section 5166.404 of the Revised Code;

(b) Contributions made by the participant and on the participant's behalf under divisions (C) and (D) of this section.

(2) A buckeye account shall not have more than ten thousand dollars in it at one time.

(B) Subject to division (A)(2) of this section, one thousand dollars of medicaid funds shall be deposited each year into the buckeye account of a healthy Ohio program participant. Except in the case of a participant who is not required to make contributions to the participant's buckeye account, the initial deposit of medicaid funds into a participant's buckeye account shall not occur until the initial contribution to the participant's account is made under division (C) or (D) of this section.

(C)(1) Subject to divisions (A)(2), (D), and (F) of this section, a healthy Ohio program participant shall contribute each year to the participant's buckeye account the lesser of the following:

(a) Two per cent of the participant's annual countable family income;

(b) Ninety-nine dollars.

(2) A participant's contributions to the participant's buckeye account may be made in monthly installments. A monthly installment payment shall be considered an initial contribution.

(D)(1) Subject to division (D)(2) of this section, the following may make contributions to a healthy Ohio program participant's buckeye account on the participant's behalf:

(a) The participant's employer, but only up to fifty per cent of the contributions the participant is required to make;

(b) A not-for-profit organization, but only up to seventy-five per cent of the contributions the participant is required to make;

(c) The managed care organization that offers the health plan in which the participant enrolls under the healthy Ohio program, but both of the following apply to such contributions:

(i) They shall be used only to pay the costs for the participant to participate in a health-related incentive available under the health plan, such as completion of a risk assessment or participation in a smoking cessation program.

(ii) They cannot reduce the amount the participant is required to contribute.

(2) Contributions made on a participant's behalf under divisions (D)(1)(a) and (b) of this section shall be coordinated in a manner so that the participant makes at least twenty-five per cent of the contributions the participant is required to make.

(E) Except in the case of a healthy Ohio program participant who is not

required to make contributions to the participant's buckeye account, a participant shall not begin to receive benefits under the healthy Ohio program until the initial contribution to the participant's buckeye account is made under division (C) or (D) of this section.

(F)(1) The following portion of the amount that remains in a healthy Ohio program participant's buckeye account at the end of a year shall carry forward in the account for the next year:

(a) If the participant satisfies requirements regarding preventative health services established in rules authorized by section 5166.409 of the Revised Code, the entire amount;

(b) If division (F)(1)(a) of this section does not apply, the amount representing the contributions to the account.

(2) The amount of contributions that must be made to a participant's buckeye account for a year shall be reduced by the amount that is carried forward under division (F)(1) of this section. If the amount carried forward is at least the amount of contributions that division (C) of this section requires for that year, no contributions are required to be made for the participant that year.

(G) A buckeye account shall be used only for the following:

(1) To pay for the expenses for which a healthy Ohio program debit swipe card may be used as specified in division (A) of section 5166.403 of the Revised Code;

(2) Other purposes authorized by rules adopted under section 5166.409 of the Revised Code.

(H) The department of medicaid shall provide for a healthy Ohio program participant to receive monthly statements showing the current amount in the participant's buckeye account and the previous month's expenditures from the account. The statement shall specify how much of the amount in the participant's buckeye account is the core portion and how much is the noncore portion. The department may arrange for the statements to be provided in an electronic format.

Sec. 5166.403. (A) A managed care organization that offers the health plan in which a healthy Ohio program participant enrolls shall issue a debit swipe card to be used to pay only for the following:

(1) Until the amount of the noncore portion of the participant's buckeye account is zero, the costs of health care services that are covered by the health plan and provided to the participant by a provider participating in the health plan;

(2) The participant's copayments under division (C) of section 5166.401 of the Revised Code;

(3) Subject to rules authorized by section 5166.409 of the Revised Code, the costs of health care services that are medically necessary for the participant but not covered by the health plan.

(B)(1) A healthy Ohio program participant's debit swipe card shall be credited with one point for each of the following:

(a) Each dollar of medicaid funds deposited into the participant's buckeye account under division (B) of section 5166.402 of the Revised Code;

(b) Each dollar contributed to the participant's buckeye account under divisions (C) and (D) of section 5166.402 of the Revised Code;

(c) Each point awarded to the participant under section 5166.404 of the Revised Code.

(2) Each time a healthy Ohio program participant uses the participant's debit swipe card, the amount for which the card is used shall be deducted from the number of points on the card as follows:

(a) If the card is used for the purpose specified in division (A)(1) of this section, the deduction shall come from the points representing the noncore portion of the participant's buckeye account.

(b) If the card is used for the purpose specified in division (A)(2) or (3) of this section, the deduction shall come from the points representing the core portion of the participant's buckeye account.

(C) A healthy Ohio program participant's debit swipe card shall do all of the following:

(1) Verify the participant's eligibility for the healthy Ohio program;

(2) Determine whether the service the participant seeks is covered under the health plan;

(3) Determine whether the provider from which the participant seeks the service is a participating provider under the health plan;

(4) Be linked to the participant's buckeye account in a manner that enables the participant to know at the point of service what will be deducted from the noncore portion and core portion of the participant's buckeye account for the service and how much will remain in each portion of the account after the deduction.

Sec. 5166.404. (A) The medicaid director shall establish a system under which points are awarded in accordance with this section to healthy Ohio program debit swipe cards. One dollar of medicaid funds shall be deposited into a healthy Ohio program participant's buckeye account for each point awarded to the participant under this section.

(B) The director shall provide a one-time award of twenty points to a healthy Ohio program participant who provides for the participant's

contributions under division (C) of section 5166.402 of the Revised Code to be made by electronic funds transfers from the participant's checking or savings account. Twenty points shall be deducted from the participant's card if the participant terminates the electronic funds transfers.

(C) The director may award up to two hundred points annually to a healthy Ohio program participant who achieves health care goals. The points shall be awarded in accordance with the rules authorized by section 5166.409 of the Revised Code. A participant shall not be awarded more than two hundred points per year under this division regardless of the number of health care goals the participant achieves that year.

(D) Up to one hundred points may be awarded annually to a healthy Ohio program participant by one or more primary care physicians who verify that the participant has satisfied health care benchmarks set by the physicians. A participant shall not be awarded more than one hundred points per year under this division regardless of how many primary care physicians award points to the participant that year and the number of points the primary care physicians award the participant that year.

Sec. 5166.405. (A) A healthy Ohio program participant's participation in the program shall cease if any of the following applies:

(1) Unless the participant is pregnant, a monthly installment payment to the participant's buckeye account is sixty days late.

(2) The participant fails to submit documentation needed for a redetermination of the participant's eligibility for medicaid before the sixty-first day after the documentation is requested.

(3) The participant becomes eligible for medicaid on a basis other than being included in the category identified by the department of medicaid as covered families and children or being included in the eligibility group described in section 1902(a)(10)(A)(i)(VIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(i)(VIII).

(4) The participant becomes a ward of the state.

(5) The participant ceases to be eligible for medicaid.

(6) The participant exhausts the annual or lifetime payout limit specified in division (D) of section 5166.401 of the Revised Code.

(7) The participant requests that the participant's participation be terminated.

(B) A healthy Ohio program participant who ceases to participate in the program under division (A)(1) or (2) of this section may not resume participation until the former participant pays the full amount of the monthly installment payment or submits the documentation needed for the former participant's medicaid eligibility redetermination. The former participant

shall not be transferred to the fee-for-service component of medicaid or the care management system as a result of ceasing to participate in the healthy Ohio program under division (A)(1) or (2) of this section.

(C) Except as provided in section 5166.407 of the Revised Code, a healthy Ohio program participant who ceases to participate in the program shall be provided the contributions that are in the participant's buckeye account at the time the participant ceases participation.

Sec. 5166.406. If a healthy Ohio program participant exhausts the annual or lifetime payout limits specified in division (D) of section 5166.401 of the Revised Code, the participant shall be transferred to the fee-for-service component of medicaid or the care management system. A participant who exhausts the annual payout limit for a year shall resume participation in the healthy Ohio program at the beginning of the immediately following year if division (B) of section 5166.40 of the Revised Code continues to apply to the participant.

Sec. 5166.407. (A) If a healthy Ohio program participant ceases to qualify for medicaid due to increased family countable income and purchases a health insurance policy or obtains health care coverage under an eligible employer-sponsored health plan, the amount remaining in the former participant's buckeye account shall be transferred to an account to be known as a bridge account. The amount so transferred may be used only to pay for the following:

(1) If the former participant has purchased a health insurance policy, the former participant's costs in purchasing the policy and paying for the former participant's out-of-pocket expenses under the policy for health care services and prescription drugs covered by the policy;

(2) If the former participant has obtained health care coverage under an eligible employer-sponsored health plan, the former participant's out-of-pocket expenses under the plan for health care services and prescription drugs covered by the plan.

(B) Only the amount remaining in a former healthy Ohio program participant's buckeye account at the time the former participant ceased to participate in the healthy Ohio program shall be deposited into the bridge account. The bridge account shall be closed once the amount transferred to it under division (A) of this section is exhausted.

(C) The medicaid director shall notify a former healthy Ohio program participant when a bridge account is established for the former participant under this section.

Sec. 5166.408. Each county department of job and family services shall offer to refer to a workforce development agency each healthy Ohio

program participant who resides in the county served by the county department and is either unemployed or employed for less than an average of twenty hours per week. The referral shall include information about the workforce development activities available from the workforce development agency. A participant may refuse to accept the referral and to participate in the workforce development activities without any affect on the participant's eligibility for, or participation in, the healthy Ohio program.

Sec. 5166.409. The medicaid director shall adopt rules under section 5166.02 of the Revised Code to do all of the following:

(A) For the purpose of division (F)(1)(a) of section 5166.402 of the Revised Code, establish requirements regarding preventative health services for healthy Ohio program participants. The requirements may differ for participants of different ages and genders.

(B) For the purpose of division (G)(2) of section 5166.402 of the Revised Code, authorize additional uses of a buckeye account and establish the means for using the account for those purposes.

(C) For the purpose of division (A)(3) of section 5166.403 of the Revised Code, establish requirements for the use of a healthy Ohio program debit swipe card to pay for the costs of medically necessary health care services not covered by the health plan in which a healthy Ohio program participant enrolls.

(D) For the purpose of division (C) of section 5166.404 of the Revised Code, establish a system under which the director may award points to healthy Ohio program participants who achieve health care goals. The rules shall specify the goals that qualify for points and the number of points each goal is worth. The number of points may vary for different goals.

(E) For the purpose of section 5166.407 of the Revised Code, establish procedures and requirements for the transfer of the amounts remaining in former healthy Ohio program participants' buckeye accounts to bridge accounts.

Sec. 5167.03. (A) As part of the medicaid program, the department of medicaid shall establish a care management system. The

(B) The department shall implement the ~~care management~~ system in some or all counties and.

The department shall designate the medicaid recipients who are required or permitted to participate in the system. Those who shall be required to participate in the system include medicaid recipients who receive cognitive behavioral therapy as described in division (A)(2) of section 5167.16 of the Revised Code. Except as provided in section 5166.406 of the Revised Code, no medicaid recipient participating in the healthy Ohio program established

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under section 5166.40 of the Revised Code shall participate in the care management system. In the department's implementation of the system and designation of participants, all of the following apply:

~~(1) In the case of individuals who receive medicaid on the basis of being included in the category identified by the department as covered families and children, the department shall implement the care management system in all counties. All individuals included in the category shall be designated for participation, except for individuals included in one or more of the medicaid recipient groups specified in 42 C.F.R. 438.50(d). The department shall ensure that all participants are enrolled in medicaid managed care organizations that are health insuring corporations.~~

~~(2) In the case of individuals who receive medicaid on the basis of being aged, blind, or disabled, the department shall implement the care management system in all counties. Except as provided in division (C) of this section, all individuals included in the category shall be designated for participation. The department shall ensure that all participants are enrolled in medicaid managed care organizations that are health insuring corporations.~~

~~(3) Alcohol, drug addiction, and mental health services covered by medicaid shall not be included in any component of the care management system when the nonfederal share of the cost of those services is provided by a board of alcohol, drug addiction, and mental health services or a state agency other than the department of medicaid, but the recipients of those services may otherwise be designated for participation in the system.~~

~~(C)(1) In designating participants who receive medicaid on the basis of being aged, blind, or disabled, the department shall not include any of the following, except as provided under division (C)(2) of this section:~~

~~(a) Individuals who are under twenty-one years of age;~~

~~(b) Individuals who are institutionalized;~~

~~(c) Individuals who become eligible for medicaid by spending down their income or resources to a level that meets the medicaid program's financial eligibility requirements;~~

~~(d) Dual eligible individuals;~~

~~(e) Individuals to the extent that they are receiving medicaid services through a medicaid waiver component.~~

~~(2) The department may designate any of the following individuals who receive medicaid on the basis of being aged, blind, or disabled as individuals who are permitted or required to participate in the care management system:~~

~~(a) Individuals who are under twenty-one years of age;~~

~~(b) Individuals who reside in a nursing facility;~~

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~~(e) Individuals who, as an alternative to receiving nursing facility services, are participating in a home and community-based services medicaid waiver component;~~

~~(d) Dual eligible individuals.~~

~~(D) Subject to division (B) of this section, the~~

~~The department may do both of the following under the care management system:~~

~~(1) Require require or permit participants in the system to obtain health care services from providers designated by the department;~~

~~(2) Require. The department may require or permit participants in the system to obtain health care services through medicaid managed care organizations.~~

Sec. 5167.04. (A) Subject to division (B) of this section, the department of medicaid shall include alcohol, drug addiction, and mental health services covered by medicaid in the care management system established under section 5167.03 of the Revised Code.

(B) All of the following apply to the manner in which division (A) of this section is implemented:

(1) The department shall begin to include the services in the system not later than January 1, 2018.

(2) Before January 1, 2018, any proposal by the department to include all or part of the services in all or part of the system is subject to review by the joint medicaid oversight committee under division (B) of section 103.42 of the Revised Code. The department may implement the proposal only if the committee approves the proposal.

(3) On and after January 1, 2018, any proposal by the department to include all or part of the services in all or part of the system is subject to monitoring by the committee under division (A) or (C) of section 103.42 of the Revised Code, but approval by the committee is no longer required before the proposal may be implemented.

Sec. 5167.15. (A) As used in this section:

(1) "Certified community health worker" has the same meaning as in section 4723.01 of the Revised Code.

(2) "Community health worker services" means the services described in section 4723.81 of the Revised Code.

(3) "Qualified community hub" means a community-based agency that meets both of the following criteria:

(a) Uses the pathways community HUB model developed by the community health access project in this state for the purposes of coordinating two or more care coordination agencies and ensuring that the

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agencies use pathways to connect at-risk individuals to physical health, behavioral health, social, and employment services:

(b) Demonstrates to the medicaid director that it fully or substantially complies with the pathways community HUB certification standards developed by the rockville institute by submitting to the director a copy of a document from that institute stating that the community hub satisfies the standards or has shown substantial progress toward satisfying the standards.

(B)(1) Subject to divisions (B)(3) and (C) of this section, a medicaid managed care organization shall provide to a medicaid recipient who meets the criteria in division (B)(2) of this section, or arrange for such recipient to receive, both of the following types of services provided by a certified community health worker:

(a) Community health worker services;

(b) Other services that are not community health worker services but are performed for the purpose of ensuring that the medicaid recipient is linked to employment services, housing, educational services, social services, or medically necessary physical and behavioral health services.

(2) A medicaid recipient qualifies to receive the services specified in division (B)(1) of this section if the medicaid recipient is pregnant or capable of becoming pregnant, resides in a community specified in rules adopted under section 3701.142 of the Revised Code, has been recommended to receive the services by a physician or another licensed health professional specified in rules adopted under that section, and is enrolled in the medicaid managed care organization providing or arranging for the services.

(3) The services described in division (B)(1) of this section must promote and facilitate healthy behaviors specified in rules adopted under section 3701.142 of the Revised Code across the following life course stages: preconception, prenatal, postpartum, and interconception.

(C) A medicaid recipient who is to receive the services described in division (B)(1) of this section and who resides in a region served by a qualified community hub shall receive the services only from that community hub.

Sec. 5167.16. (A) As used in this section:

(1) "Help me grow program" means the program established by the department of health pursuant to section 3701.61 of the Revised Code.

(2) "Targeted case management" has the same meaning as in 42 C.F.R. 440.169(b).

(B) A medicaid managed care organization shall provide to a medicaid recipient who meets the criteria in division (C) of this section, or arrange for

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such recipient to receive, both of the following types of services:

(1) Home visits, which shall include depression screenings, for which federal financial participation is available under the targeted care management benefit;

(2) Cognitive behavioral therapy, provided by a community mental health services provider, that is determined to be medically necessary through a depression screening conducted as part of a home visit.

(C) A medicaid recipient qualifies to receive the services specified in division (B) of this section if the medicaid recipient is enrolled in the help me grow program, enrolled in the medicaid managed care organization providing or arranging for the services, and is either pregnant or the birth mother of an infant or toddler under three years of age.

(D) If requested by a medicaid recipient eligible for the cognitive behavioral therapy covered under division (B)(2) of this section, the therapy shall be provided in the recipient's home. The medicaid managed care organization shall inform the medicaid recipient of the right to make the request and how to make it.

Sec. 5167.17. When contracting under section 5167.10 of the Revised Code with a managed care organization that is a health insuring corporation, the department of medicaid shall require the health insuring corporation to provide enhanced care management services for pregnant women and women capable of becoming pregnant in the communities specified in rules adopted under section 3701.142 of the Revised Code. The contract shall specify that the services are to be provided in a manner intended to decrease the incidence of prematurity, low birth weight, and infant mortality, as well as improve the overall health status of women capable of becoming pregnant for the purpose of ensuring optimal future birth outcomes.

Sec. 5167.32. Not later than July 1, 2016, the department of medicaid shall implement strategies to improve the integrity of the care management system, including strategies to do both of the following:

(A) Increase the department's oversight of medicaid managed care organizations;

(B) Provide incentives for identifying fraud, waste, and abuse in the care management system.

Sec. 5167.33. (A) Not later than July 1, 2018, each medicaid managed care organization shall implement strategies that base payments to providers on the value received from the providers' services, including their success in reducing waste in the provision of the services. Not later than July 1, 2020, each medicaid managed care organization shall ensure that at least fifty per cent of the aggregate net payments it makes to providers are based on the

value received from the providers' services.

The department of medicaid may measure a medicaid managed care organization's compliance with this section based on the actions of the organization, the providers in the organization's provider panel, the organization's subcontractors, or any combination of the organization, providers, and subcontractors.

(B) The medicaid director shall adopt rules under section 5167.02 of the Revised Code as necessary to implement this section, including rules that specify how all of the following are to be determined:

(1) The value received from a provider's services;

(2) A provider's success in reducing waste in the provision of services;

(3) The percentage of a medicaid managed care organization's aggregate net payments to providers that are based on the value received from the providers' services.

Sec. 5168.01. As used in sections 5168.01 to 5168.14 of the Revised Code:

(A) "Bad debt," "charity care," "courtesy care," and "contractual allowances" have the same meanings given these terms in regulations adopted under Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(B) "Cost reporting period" means the twelve-month period used by a hospital in reporting costs for purposes of Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

(C) "Disproportionate share hospital" means a hospital that meets the definition of a disproportionate share hospital in rules adopted under section 5168.02 of the Revised Code.

(D) "Federal poverty line" means the official poverty line defined by the United States office of management and budget based on the most recent data available from the United States bureau of the census and revised by the United States secretary of health and human services pursuant to the "Omnibus Budget Reconciliation Act of 1981," section 673(2), 42 U.S.C. 9902(2).

(E) "Governmental hospital" means a county hospital with more than five hundred registered beds or a state-owned and -operated hospital with more than five hundred registered beds.

(F)(1) "Hospital" means a nonfederal hospital to which either of the following applies:

(a) The hospital is registered under section 3701.07 of the Revised Code as a general medical and surgical hospital or a pediatric general hospital, and provides inpatient hospital services, as defined in 42 C.F.R. 440.10;

(b) The hospital is recognized under the medicare program as a cancer hospital and is exempt from the medicare prospective payment system.

(2) "Hospital" does not include a hospital operated by a health insuring corporation that has been issued a certificate of authority under section 1751.05 of the Revised Code or a hospital that does not charge patients for services.

(G) "Indigent care pool" means the sum of the following:

(1) The total of assessments to be paid in a program year by all hospitals under section 5168.06 of the Revised Code, less the assessments deposited ~~into the legislative budget services fund under section 5168.12 of the Revised Code and~~ into the health care services administration fund created under section 5162.54 of the Revised Code;

(2) The total amount of intergovernmental transfers required to be made in the same program year by governmental hospitals under section 5168.07 of the Revised Code, less the amount of transfers deposited ~~into the legislative budget services fund under section 5168.12 of the Revised Code and~~ into the health care services administration fund created under section 5162.54 of the Revised Code;

(3) The total amount of federal matching funds that will be made available in the same program year as a result of funds distributed by the department of medicaid to hospitals under section 5168.09 of the Revised Code.

(H) "Intergovernmental transfer" means any transfer of money by a governmental hospital under section 5168.07 of the Revised Code.

(I) "Medicaid services" has the same meaning as in section 5164.01 of the Revised Code.

(J) "Program year" means a period beginning the first day of October, or a later date designated in rules adopted under section 5168.02 of the Revised Code, and ending the thirtieth day of September, or an earlier date designated in rules adopted under that section.

(K) "Registered beds" means the total number of hospital beds registered with the department of health, as reported in the most recent "directory of registered hospitals" published by the department of health.

(L) "Third-party payer" means any person or government entity that may be liable by law or contract to make payment to or on behalf of an individual for health care services. "Third-party payer" does not include a hospital.

(M) "Total facility costs" means the total costs for all services rendered to all patients, including the direct, indirect, and overhead cost to the hospital of all services, supplies, equipment, and capital related to the care

of patients, regardless of whether patients are enrolled in a health insuring corporation, excluding costs associated with providing skilled nursing services in distinct-part nursing facility units, as shown on the hospital's cost report filed under section 5168.05 of the Revised Code. Effective October 1, 1993, if rules adopted under section 5168.02 of the Revised Code so provide, "total facility costs" may exclude costs associated with providing care to recipients of any of the governmental programs listed in division (B) of that section.

(N) "Uncompensated care" means bad debt and charity care.

Sec. 5168.06. (A) For the purpose of distributing funds to hospitals under the medicaid program pursuant to sections 5168.01 to 5168.14 of the Revised Code and depositing funds ~~into the legislative budget services fund under section 5168.12 of the Revised Code and~~ into the health care services administration fund created under section 5162.54 of the Revised Code, there is hereby imposed an assessment on all hospitals. Each hospital's assessment shall be based on total facility costs. All hospitals shall be assessed according to the rate or rates established each program year in rules adopted under section 5168.02 of the Revised Code. The department shall assess all hospitals uniformly and in a manner consistent with federal statutes and regulations. During any program year, the department shall not assess any hospital more than two per cent of the hospital's total facility costs.

The department shall establish an assessment rate or rates each program year that will do both of the following:

(1) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce a program of sufficient size to pay a substantial portion of the indigent care provided by hospitals;

(2) Yield funds that, when combined with intergovernmental transfers and federal matching funds, will produce amounts for distribution to disproportionate share hospitals that do not exceed, in the aggregate, the limits prescribed by the United States health care financing administration under the "Social Security Act," section 1923(f), 42 U.S.C. 1396r-4(f).

(B)(1) Except as provided in division (B)(3) of this section, each hospital shall pay its assessment in periodic installments in accordance with a schedule established in rules adopted under section 5168.02 of the Revised Code.

(2) The installments shall be equal in amount, unless either of the following applies:

(a) The department makes adjustments during a program year under division (D) of section 5168.08 of the Revised Code in the total amount of

hospitals' assessments;

(b) The medicaid director determines that adjustments in the amounts of installments are necessary for the administration of sections 5168.01 to 5168.14 of the Revised Code and that unequal installments will not create cash flow difficulties for hospitals.

(3) The director may adopt rules under section 5168.02 of the Revised Code establishing alternate schedules for hospitals to pay assessments under this section in order to reduce hospitals' cash flow difficulties.

Sec. 5168.07. (A) The department of medicaid may require governmental hospitals to make intergovernmental transfers each program year for the purpose of distributing funds to hospitals under the medicaid program pursuant to sections 5168.01 to 5168.14 of the Revised Code and depositing funds ~~into the legislative budget services fund under section 5168.12 of the Revised Code and~~ into the health care services administration fund created under section 5162.54 of the Revised Code. The department shall not require transfers in an amount that, when combined with hospital assessments paid under section 5168.06 of the Revised Code and federal matching funds, produce amounts for distribution to disproportionate share hospitals that, in the aggregate, exceed limits prescribed by the United States health care financing administration under the "Social Security Act," section 1923(f), 42 U.S.C. 1396r-4(f).

(B) Before or during each program year, the department shall notify each governmental hospital of the amount of the intergovernmental transfer it is required to make during the program year. Each governmental hospital shall make intergovernmental transfers as required by the department under this section in periodic installments, executed by electronic fund transfer, in accordance with a schedule established in rules adopted under section 5168.02 of the Revised Code.

Sec. 5168.10. Except for moneys deposited into ~~the legislative budget services fund under section 5168.12 of the Revised Code and~~ the health care services administration fund created under section 5162.54 of the Revised Code, the department of medicaid shall not use money paid to the department under sections 5168.06 and 5168.07 of the Revised Code or money that the department pays to hospitals under section 5168.09 of the Revised Code to replace any funds appropriated by the general assembly for the medicaid program.

Sec. 5168.11. (A) Except as provided in section ~~5168.12~~ 5162.54 of the Revised Code, all payments of assessments by hospitals under section 5168.06 of the Revised Code and all intergovernmental transfers under section 5168.07 of the Revised Code shall be deposited in the state treasury

to the credit of the hospital care assurance program fund, hereby created. All investment earnings of the hospital care assurance program fund shall be credited to the fund. The department of medicaid shall maintain records that show the amount of money in the hospital care assurance program fund at any time that has been paid by each hospital and the amount of any investment earnings on that amount. All moneys credited to the hospital care assurance program fund shall be used solely to make payments to hospitals under division (D) of this section and section 5168.09 of the Revised Code.

(B) All federal matching funds received as a result of the department distributing funds from the hospital care assurance program fund to hospitals under section 5168.09 of the Revised Code shall be credited to the health care - federal fund created under section 5162.50 of the Revised Code.

(C) All distributions of funds to hospitals under section 5168.09 of the Revised Code are conditional on:

(1) Expiration of the time for appeals under section 5168.08 of the Revised Code without the filing of an appeal, or on court determinations, in the event of appeals, that the hospital is entitled to the funds;

(2) The sum of the following being sufficient to distribute the funds after the final determination of any appeals:

(a) The available money in the hospital care assurance program fund;

(b) The available portion of the money in the health care - federal fund that is credited to that fund pursuant to division (B) of this section.

(3) The hospital's compliance with section 5168.14 of the Revised Code.

(D) If an audit conducted by the department of the amounts of payments made and funds received by hospitals under sections 5168.06, 5168.07, and 5168.09 of the Revised Code identifies amounts that, due to errors by the department, a hospital should not have been required to pay but did pay, should have been required to pay but did not pay, should not have received but did receive, or should have received but did not receive, the department shall:

(1) Make payments to any hospital that the audit reveals paid amounts it should not have been required to pay or did not receive amounts it should have received;

(2) Take action to recover from a hospital any amounts that the audit reveals it should have been required to pay but did not pay or that it should not have received but did receive.

Payments made under division (D)(1) of this section shall be made from the hospital care assurance program fund. Amounts recovered under division (D)(2) of this section shall be deposited to the credit of that fund.

Any hospital may appeal the amount the hospital is to be paid under division (D)(1) or the amount that is to be recovered from the hospital under division (D)(2) of this section to the court of common pleas of Franklin county.

Sec. 5168.23. ~~Unless rules adopted under section 5168.26 of the Revised Code establish a different payment schedule, each~~ Each hospital shall pay the amount it is assessed under section 5168.21 of the Revised Code in accordance with the following a payment schedule:

~~(A) Twenty-eight per cent of a hospital's assessment is due on the last business day of October of each assessment program year.~~

~~(B) Thirty-one per cent of a hospital's assessment is due on the last business day of February of each assessment program year.~~

~~(C) Forty-one per cent of a hospital's assessment is due on the last business day of May of each assessment program year~~ the department of medicaid shall establish for each assessment program year. The department shall consult with the Ohio hospital association before establishing the payment schedule for any assessment program year. The department shall include the payment schedule in each preliminary determination notice the department mails to hospitals under division (A) of section 5168.22 of the Revised Code.

Sec. 5168.26. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code as necessary to implement sections 5168.20 to 5168.28 of the Revised Code, including rules that specify the percentage of hospitals' total facility costs to be used in calculating hospitals' assessments under section 5168.21 of the Revised Code.

(B) The rules adopted under this section may do the following:

(1) Provide that a hospital's total facility costs for the purpose of the assessment under section 5168.21 of the Revised Code exclude any of the following:

(a) A hospital's costs associated with providing care to recipients of any of the following:

(i) The medicaid program;

(ii) The medicare program;

(iii) The disability financial assistance program established under Chapter 5115. of the Revised Code;

(iv) The program for medically handicapped children established under section 3701.023 of the Revised Code;

(v) Services provided under the maternal and child health services block grant established under Title V of the "Social Security Act," 42 U.S.C. 701 et seq.

(b) Any other category of hospital costs the director deems appropriate

under federal law and regulations governing the medicaid program.

(2) Subject to division (C) of this section, provide for the percentage of hospitals' total facility costs used in calculating hospitals' assessments to vary for different hospitals;

~~(3) To reduce hospitals' cash flow difficulties, establish a schedule for hospitals to pay their assessments that is different from the schedule established under section 5168.23 of the Revised Code.~~

(C) Before adopting rules authorized by division (B)(2) of this section that establish varied percentages to be used in calculating hospitals' assessments, the director shall obtain a waiver from the United States secretary of health and human services under the "Social Security Act," section 1903(w)(3)(E), 42 U.S.C. 1396b(w)(3)(E), if the varied percentages would cause the assessments to not be imposed uniformly.

Sec. 5168.40. As used in sections 5168.40 to 5168.56 of the Revised Code:

(A) "Bed surrender" means the following:

(1) In the case of a nursing home, the removal of a bed from a nursing home's licensed capacity in a manner that reduces the total licensed capacity of all nursing homes and makes it impossible for the bed to ever be a part of any nursing home's licensed capacity;

(2) In the case of a hospital, the removal of a hospital bed from registration under section 3701.07 of the Revised Code as a skilled nursing facility bed or long-term care bed in a manner that reduces the total number of hospital beds registered under that section as skilled nursing facility beds or long-term care beds and makes it impossible for the bed to ever be registered as a skilled nursing facility bed or long-term care bed.

(B) "Change of operator" means an entering operator becoming the operator of a nursing home or hospital in the place of the exiting operator.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) A transfer of all the exiting operator's ownership interest in the operation of the nursing home or hospital to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the nursing home or hospital is also transferred;

(c) A lease of the nursing home or hospital to the entering operator or the exiting operator's termination of the exiting operator's lease;

(d) If the exiting operator is a partnership, dissolution of the partnership;

(e) If the exiting operator is a partnership, a change in composition of

the partnership unless both of the following apply:

(i) The change in composition does not cause the partnership's dissolution under state law.

(ii) The partners agree that the change in composition does not constitute a change in operator.

(f) If the operator is a corporation, dissolution of the corporation, a merger of the corporation into another corporation that is the survivor of the merger, or a consolidation of one or more other corporations to form a new corporation.

(2) The following, alone, do not constitute a change of operator:

(a) A contract for an entity to manage a nursing home or hospital as the operator's agent, subject to the operator's approval of daily operating and management decisions;

(b) A change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing home or hospital if an entering operator does not become the operator in place of an exiting operator;

(c) If the operator is a corporation, a change of one or more members of the corporation's governing body or transfer of ownership of one or more shares of the corporation's stock, if the same corporation continues to be the operator.

(C) "Effective date of a change of operator" means the day an entering operator becomes the operator of a nursing home or hospital.

(D) "Entering operator" means the person or government entity that will become the operator of a nursing home or hospital on the effective date of a change of operator.

(E) "Exiting operator" means an operator that will cease to be the operator of a nursing home or hospital on the effective date of a change of operator.

(F) "Franchise permit fee rate" means the rate determined in accordance with section 5168.41 of the Revised Code.

(G) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(H) "Hospital long-term care unit" means any distinct part of a hospital in which any of the following beds are located:

(1) Beds registered pursuant to section 3701.07 of the Revised Code as skilled nursing facility beds or long-term care beds;

(2) Beds licensed as nursing home beds under section 3721.02 or 3721.09 of the Revised Code.

(I) "Indirect guarantee percentage" means the percentage specified in

the "Social Security Act," section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(J) "Medicaid days" and "nursing facility" have the same meanings as in section 5165.01 of the Revised Code.

(K)(1) "Nursing home" means all of the following:

(a) A nursing home licensed under section 3721.02 or 3721.09 of the Revised Code, including any part of a home for the aging licensed as a nursing home;

(b) A facility or part of a facility, other than a hospital, that is certified as a skilled nursing facility under Title XVIII;

(c) A nursing facility, other than a portion of a hospital certified as a nursing facility.

(2) "Nursing home" does not include either of the following:

(a) A county home, county nursing home, or district home operated pursuant to Chapter 5155. of the Revised Code;

(b) A nursing home maintained and operated by the department of veterans services under section 5907.01 of the Revised Code.

(L) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing home or hospital.

(M) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.

(N) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

Sec. 5168.44. If the United States secretary of health and human services approves the waiver sought under section 5168.43 of the Revised Code, the department of medicaid shall, for each nursing home and hospital that qualifies for a reduction of its franchise permit fee rate under the waiver, reduce the franchise permit fee rate in accordance with the terms of the waiver. For purposes of the first fiscal year during which the waiver takes effect, the department shall determine the amount of the reduction not later than the effective date of the waiver and shall mail to each nursing

home and hospital qualifying for the reduction notice of the reduction not later than the last day of the first month of the quarter that begins after the United States secretary approves the waiver. For purposes of subsequent fiscal years, the department shall make such determinations and ~~mail such notices~~ notify the nursing homes and hospitals in accordance with section 5168.47 of the Revised Code.

Sec. 5168.45. (A) If the United States secretary of health and human services approves the waiver sought under section 5168.43 of the Revised Code, the department of medicaid may do both of the following regarding the franchise permit fee assessed under section 5168.42 of the Revised Code:

(1) Determine how much money the franchise permit fee would have raised in a fiscal year if not for the waiver;

(2) For each nursing home and hospital subject to the franchise permit fee, other than a nursing home or hospital that has its franchise permit fee rate reduced under section 5168.44 of the Revised Code, uniformly increase the amount of the franchise permit fee rate for a fiscal year to an amount that will have the franchise permit fee raise an amount of money that does not exceed the amount determined under division (A)(1) of this section for that fiscal year.

(B) If the department increases the franchise permit fee rate in accordance with division (A) of this section for the first fiscal year during which the waiver takes effect, the department shall determine the amount of the increase not later than the effective date of the waiver and shall mail to each nursing home and hospital subject to the increase notice of the increase not later than the last day of the first month of the quarter that begins after the United States secretary approves the waiver. If the department increases the franchise permit fee rate in accordance with division (A) of this section for a subsequent fiscal year, the department shall make such determinations and ~~mail such notices~~ notify the nursing homes and hospitals in accordance with section 5168.47 of the Revised Code.

Sec. 5168.47. (A) Not later than the fifteenth day of September of each year, the department of medicaid shall determine the annual franchise permit fee for each nursing home and hospital in accordance with section 5168.42 of the Revised Code and any adjustments made in accordance with sections 5168.44 and 5168.45 of the Revised Code.

(B) Not later than the first day of October of each year, the department shall ~~mail to~~ notify, electronically or by United States postal service, each nursing home and hospital ~~notice~~ of the amount of the franchise permit fee that has been determined for the nursing home or hospital.

(C) Subject to section 5168.48 of the Revised Code, each nursing home and hospital shall pay its fee under section 5168.42 of the Revised Code, as adjusted in accordance with sections 5168.44 and 5168.45 of the Revised Code, to the department in four installment payments not later than forty-five days after the last day of each October, December, March, and June.

Sec. 5168.48. (A) Not later than the last day of February of each year, the department of medicaid shall redetermine each nursing home's and hospital's franchise permit fee if one or more bed surrenders occur during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made.

(B) In redetermining nursing homes' and hospitals' franchise permit fees under this section, the department shall do both of the following:

(1) Provide for the redetermination to be conducted in a manner consistent with the terms of the waiver sought under section 5168.43 of the Revised Code;

(2) Recalculate each nursing home's and hospital's franchise permit fee in accordance with division (A) or (B) of section 5168.42 of the Revised Code with the following changes:

(a) In the case of a nursing home or hospital for which one or more bed surrenders occurred during the period beginning on the first day of May of the preceding calendar year and ending on the first day of January of the calendar year in which the redetermination is made, the number of beds included in the calculation for the purpose of division (A)(1) or (B)(1) of section 5168.42 of the Revised Code shall exclude the beds for which bed surrenders occurred during that period.

(b) The number of days used in the calculation under division (A)(2) or (B)(2) of section 5168.42 of the Revised Code shall be the number of days in the first half of the calendar year in which the redetermination is made.

(c) The franchise permit fee rate shall reflect adjustments made under sections 5168.44 and 5168.45 of the Revised Code.

(C) Not later than the first day of March of each year, the department shall ~~mail to~~ notify, electronically or by United States postal service, each nursing home and hospital ~~notice~~ of the amount of its redetermined franchise permit fee.

(D) Each nursing home and hospital shall pay its redetermined fee to the department in two installment payments not later than forty-five days after the last day of March and June of the calendar year in which the redetermination is made.

Sec. 5168.49. If a nursing home or hospital undergoes a change of operator during a fiscal year, the responsibility for paying the franchise permit fee that was determined for the nursing home or hospital under section 5168.47 of the Revised Code, or redetermined for the nursing home or hospital under section 5168.48 of the Revised Code, for that fiscal year shall be divided proportionally. The exiting operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that ends on the day before the effective date of the change of operator. The entering operator shall be responsible for paying the amount of the fee that is for the part of the fiscal year that begins on the effective date of the change of operator. The department of medicaid is not required to ~~mail a notice to~~ notify the entering operator regarding the amount of that fiscal year's fee for which the entering operator is responsible.

Sec. 5168.53. (A) A nursing home or hospital may appeal the fee assessed under section 5168.42 of the Revised Code, as adjusted under section 5168.44 or 5168.45 of the Revised Code, and redetermined under section 5168.48 of the Revised Code solely on the grounds that the department of medicaid committed a material error in determining or redetermining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department ~~mails~~ notifies the ~~notice nursing home or hospital~~ of the fee and must include written materials setting forth the basis for the appeal.

(B) If a nursing home or hospital submits a request for an appeal within the time required under division (A) of this section, the department shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, ~~mail a notice~~ notify, electronically or by United States postal service, the nursing home or hospital of the date, time, and place of the hearing ~~to the nursing home or hospital~~. The department may hear all the requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the nursing home or hospital, the department may adjust a fee. The department's decision is final.

Sec. 5168.60. As used in sections 5168.60 to 5168.71 of the Revised Code:

(A) "Franchise permit fee rate" means the following:

(1) For fiscal year ~~2014~~ 2016, eighteen dollars and ~~twenty-four~~ seven cents;

(2) For fiscal year ~~2015~~ 2017 and each fiscal year thereafter, eighteen

dollars and ~~seventeen~~ two cents.

(B) "Indirect guarantee percentage" means the percentage specified in the "Social Security Act," section 1903(w)(4)(C)(ii), 42 U.S.C. 1396b(w)(4)(C)(ii), that is to be used in determining whether a class of providers is indirectly held harmless for any portion of the costs of a broad-based health-care-related tax. If the indirect guarantee percentage changes during a fiscal year, the indirect guarantee percentage is the following:

(1) For the part of the fiscal year before the change takes effect, the percentage in effect before the change;

(2) For the part of the fiscal year beginning with the date the indirect guarantee percentage changes, the new percentage.

(C) "ICF/IID" has the same meaning as in section 5124.01 of the Revised Code.

(D) "Medicaid-certified capacity" has the same meaning as in section 5124.01 of the Revised Code.

(E) "Provider agreement" has the same meaning as in section 5124.01 of the Revised Code.

Sec. 5168.63. (A) Not later than the fifteenth day of August of each year, the department of developmental disabilities shall determine the annual franchise permit fee for each ICF/IID in accordance with section 5168.61 of the Revised Code.

(B) Not later than the first day of September of each year, the department shall ~~mail to notify, electronically or by United States postal service,~~ each ICF/IID ~~notice~~ of the amount of the franchise permit fee the ICF/IID has been assessed under section 5168.61 of the Revised Code.

(C) Subject to section 5168.64 of the Revised Code, each ICF/IID shall pay its fee under section 5168.61 of the Revised Code to the department in quarterly installment payments not later than forty-five days after the last day of each September, December, March, and June.

Sec. 5168.64. (A) If the operator of an ICF/IID converts, pursuant to section 5124.60 or 5124.61 of the Revised Code, all of the ICF/IID's beds to providing home and community-based services and the operator's provider agreement for the ICF/IID is terminated as a consequence, the department of developmental disabilities shall terminate the ICF/IID's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the conversion takes place.

(B)(1) If, during the period beginning on the first day of May of a calendar year and ending on the first day of January of the immediately following calendar year, the operator of an ICF/IID converts, pursuant to

section 5124.60 or 5164.61 of the Revised Code, ~~one or more~~ some but not all of the ICF/IID's beds to providing home and community-based services and the ICF/IID's medicaid-certified capacity is reduced as a consequence, the department of developmental disabilities shall do the following:

~~(1) If the ICF/IID's medicaid certification is terminated because of the conversion, terminate the ICF/IID's franchise permit fee effective on the first day of the quarter immediately following the quarter in which the department receives the notice of the conversion from the director of health;~~

~~(2) If the ICF/IID's medicaid-certified capacity is reduced because of the conversion, redetermine the ICF/IID's franchise permit fee in accordance with division (B) of this section for the second half of the fiscal year for which the fee is assessed.~~

~~(B)(1) assessed.~~ To redetermine ~~an~~ the ICF/IID's franchise permit fee, the department shall multiply the franchise permit fee rate by the product of the following:

(a) The ICF/IID's medicaid-certified capacity as of the date the conversion takes effect;

(b) The number of days in the second half of the fiscal year for which the redetermination is made.

(2) The ICF/IID shall pay its franchise permit fee as redetermined under division (B)(1) of this section in installment payments not later than forty-five days after the last day of March and June of the fiscal year for which the redetermination is made.

Sec. 5168.67. (A) An ICF/IID may appeal the franchise permit fee imposed under section 5168.61 of the Revised Code solely on the grounds that the department of developmental disabilities committed a material error in determining the amount of the fee. A request for an appeal must be received by the department not later than fifteen days after the date the department ~~mails~~ notifies the ~~notice~~ ICF/IID of the fee and must include written materials setting forth the basis for the appeal.

(B) If an ICF/IID submits a request for an appeal within the time required under division (A) of this section, the department shall hold a public hearing in Columbus not later than thirty days after the date the department receives the request for an appeal. The department shall, not later than ten days before the date of the hearing, ~~mail a notice~~ notify, electronically or by United States postal service, the ICF/IID of the date, time, and place of the hearing ~~to the ICF/IID~~. The department may hear all requested appeals in one public hearing.

(C) On the basis of the evidence presented at the hearing or any other evidence submitted by the ICF/IID, the department may adjust a fee. The

department's decision is final.

Sec. 5301.68. An owner of land may grant a conservation easement to the department of natural resources, a park district created under Chapter 1545. of the Revised Code, a township park district created under section 511.18 of the Revised Code, a conservancy district created under Chapter 6101. of the Revised Code, a soil and water conservation district created under Chapter ~~1515.~~ 940. of the Revised Code, a regional water and sewer district created under Chapter 6119. of the Revised Code, a county, a township, a municipal corporation, or a charitable organization that is authorized to hold conservation easements by division (B) of section 5301.69 of the Revised Code, in the form of articles of dedication, easement, covenant, restriction, or condition. An owner of land also may grant an agricultural easement to the director of agriculture; to a municipal corporation, county, township, or soil and water conservation district; or to a charitable organization described in division (B) of section 5301.69 of the Revised Code. An owner of land may grant an agricultural easement only on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is granted.

All conservation easements and agricultural easements shall be executed and recorded in the same manner as other instruments conveying interests in land.

Sec. 5301.69. (A) The director of natural resources, the board of park commissioners of a park district created under Chapter 1545. of the Revised Code, the board of park commissioners of a township park district created under section 511.18 of the Revised Code, the board of directors of a conservancy district created under Chapter 6101. of the Revised Code, the board of supervisors of a soil and water conservation district created under Chapter ~~1515.~~ 940. of the Revised Code, the board of trustees of a regional water and sewer district created under Chapter 6119. of the Revised Code, the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation may acquire conservation easements in the name of the state, the district, or the county, township, or municipal corporation in the same manner as other interests in land may be acquired under section 307.02, 307.18, 505.10, 505.261, 511.23, 717.01, 940.06, 1501.01, ~~1515.08~~, 1545.11, 6101.15, or 6119.111 of the Revised Code. Each officer, board, or authority acquiring a conservation easement shall name an appropriate administrative officer, department, or division to supervise and enforce the easement.

(B) A charitable organization may acquire and hold conservation

easements if it is exempt from federal taxation under subsection 501(a) and is described in subsection 501(c) of the "Internal Revenue Code of 1954," 68A Stat. 3, 26 U.S.C. 1, as amended, and organized for any of the following purposes: the preservation of land areas for public outdoor recreation or education, or scenic enjoyment; the preservation of historically important land areas or structures; or the protection of natural environmental systems. Such a charitable organization also may acquire and hold agricultural easements subject to the limitation that it may do so only on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is granted.

Sec. 5501.73. (A) After selecting a solicited or unsolicited proposal for a public-private initiative, the department of transportation shall enter into a public-private agreement for a transportation facility with the selected private entity or any configuration of private entities. An affected jurisdiction may be a party to a public-private agreement entered into by the department and a selected private entity or combination of private entities.

(B)(1) A public-private agreement under this section shall provide for all of the following:

(1)(a) Planning, acquisition, financing, development, design, construction, reconstruction, replacement, improvement, maintenance, management, repair, leasing, or operation of a transportation facility;

(2)(b) Term of the public-private agreement;

(3)(c) Type of property interest, if any, the private entity will have in the transportation facility;

(4)(d) A specific plan to ensure proper maintenance of the transportation facility throughout the term of the agreement and a return of the facility to the department, if applicable, in good condition and repair;

(5)(e) Whether user fees, administrative fees, or other charges will be collected for use of the transportation facility in accordance with sections 5531.11 to 5531.18 of the Revised Code and the basis by which such user fees, administrative fees, or other charges shall be determined and modified;

(6)(f) Compliance with applicable federal, state, and local laws;

(7)(g) Grounds for termination of the public-private agreement by the department or operator;

(8)(h) Disposition of the facility upon completion of the agreement;

(9)(i) Procedures for amendment of the agreement;

(10) A (j) If the agreement contains a construction services component, a contract performance bond executed by a surety authorized by the department of insurance to write surety bonds in an amount specified by the

director of transportation, conditioned upon the private entity or contractor performing the construction services portion of the work in accordance with the agreed upon terms, within the time prescribed, ~~and in conformance with any other such terms and conditions as are specified by the director;~~

~~(11) A~~ (k) If the agreement contains a construction services component, a payment bond executed by a surety authorized by the department of insurance to write surety bonds in an amount specified by the director, conditioned upon the payment for all labor, work performed, and materials furnished in connection with the agreement and any other such terms and conditions as are specified by the director construction services portion of the work.

(2) As used in divisions (B)(1)(j) and (k), "construction services" means design-build, construction, reconstruction, replacement, improvement, or repair services.

(C) A public-private agreement under this section may provide for any of the following:

(1) Review and approval by the department of the operator's plans for the development and operation of the transportation facility;

(2) Inspection by the department of construction of or improvements to the transportation facility;

(3) Maintenance by the operator of a policy of liability insurance or self-insurance;

(4) Filing by the operator, on a periodic basis, of appropriate financial statements in a form acceptable to the department;

(5) Filing by the operator, on a periodic basis, of traffic reports in a form acceptable to the department;

(6) Financing obligations of the operator and the department;

(7) Apportionment of expenses between the operator and the department;

(8) Rights and duties of the operator, the department, and other state and local governmental entities with respect to use of the transportation facility;

(9) Rights and remedies available in the event of default or delay;

(10) Terms and conditions of indemnification of the operator by the department;

(11) Assignment, subcontracting, or other delegation of responsibilities of the operator or the department under the agreement to third parties, including other private entities and other state agencies;

(12) Sale or lease to the operator of private property related to the transportation facility;

(13) Traffic enforcement and other policing issues, including any

reimbursement by the private entity for such services.

(D)(1) The director of transportation may include in any public-private agreement under sections 5501.70 to 5501.83 of the Revised Code a provision authorizing a binding dispute resolution method for any controversy subsequently arising out of the contract. The binding dispute resolution method may proceed only upon agreement of all parties to the controversy. If all parties do not agree to proceed to a binding dispute resolution, a party having a claim against the department shall exhaust its administrative remedies specified in the public-private agreement prior to filing any action against the department in the court of claims.

No appeal from the determination of a technical expert lies to any court, except that the court of common pleas of Franklin County may issue an order vacating such a determination upon the application of any party to the binding dispute resolution if any of the following applies:

(a) The determination was procured by corruption, fraud, or undue means.

(b) There was evidence of partiality or corruption on the part of the technical expert.

(c) The technical expert was guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence pertinent and material to the controversy, or of any other misbehavior by which the rights of any party have been prejudiced.

(2) As used in this division, "binding dispute resolution" means a binding determination after review by a technical expert of all relevant items, which may include documents, and by interviewing appropriate personnel and visiting the project site involved in the controversy. "Binding dispute resolution" does not involve representation by legal counsel or advocacy by any person on behalf of any party to the controversy.

(E) No public-private agreement entered into under this section shall be construed to transfer to a private entity the director's authority to appropriate property under Chapters 163., 5501., and 5519. of the Revised Code.

(F) Money collected by the department pursuant to an agreement entered into under this section shall be deposited into the state treasury to the credit of the highway operating fund unless the agreement is related to a toll project under sections 5531.11 to 5531.18 of the Revised Code, in which case the money shall be deposited as specified in the agreement.

(G) Chapter 5525. of the Revised Code does not apply to public-private agreements under sections 5501.70 to 5501.83 of the Revised Code.

Sec. 5502.132. There is hereby created in the state treasury the Ohio investigative unit fund. The fund shall consist of any nonfederal money

received by the investigative unit of the department of public safety that is not otherwise required to be deposited into another fund under any provision of the Revised Code. The director of public safety shall use the money in the fund to pay the expenses of administering the law relative to the powers and duties of the investigative unit. All investment earnings shall be retained by the fund.

Sec. 5505.068. (A) As used in this section and in section 5505.0610 of the Revised Code:

(1) "Agent" means a dealer, as defined in section 1707.01 of the Revised Code, who is licensed under sections 1707.01 to 1707.45 of the Revised Code or under comparable laws of another state or of the United States.

(2) "Minority business enterprise" has the same meaning as in section 122.71 of the Revised Code.

(3) "Ohio-qualified agent" means an agent designated as such by the state highway patrol retirement board.

(4) "Ohio-qualified investment manager" means an investment manager designated as such by the state highway patrol retirement board.

(5) "Principal place of business" means an office in which the agent regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

(B) The state highway patrol retirement board shall, for the purposes of this section, designate an agent as an Ohio-qualified agent if the agent meets all of the following requirements:

(1) The agent is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The agent is authorized to conduct business in this state;

(3) The agent maintains a principal place of business in this state and employs at least five residents of this state.

(C) The state highway patrol retirement board shall adopt and implement a written policy to establish criteria and procedures used to select agents to execute securities transactions on behalf of the retirement system. The policy shall address each of the following:

(1) Commissions charged by the agent, both in the aggregate and on a per share basis;

(2) The execution speed and trade settlement capabilities of the agent;

(3) The responsiveness, reliability, and integrity of the agent;

(4) The nature and value of research provided by the agent;

(5) Any special capabilities of the agent.

(D)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified agents for the

execution of domestic equity and fixed income trades on behalf of the retirement system, when an Ohio-qualified agent offers quality, services, and safety comparable to other agents otherwise available to the board and meets the criteria established under division (C) of this section.

(2) The board shall review, at least annually, the performance of the agents that execute securities transactions on behalf of the board.

(3) The board shall determine whether an agent is an Ohio-qualified agent, meets the criteria established by the board pursuant to division (C) of this section, and offers quality, services, and safety comparable to other agents otherwise available to the board. The board's determination shall be final.

~~(E) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:~~

~~(1) The name of each agent designated as an Ohio-qualified agent under this section;~~

~~(2) The name of each agent that executes securities transactions on behalf of the board;~~

~~(3) The amount of equity and fixed-income trades that are executed by Ohio-qualified agents, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;~~

~~(4) The compensation paid to Ohio-qualified agents, expressed as a percentage of total compensation paid to all agents that execute securities transactions on behalf of the board;~~

~~(5) The amount of equity and fixed-income trades that are executed by agents that are minority business enterprises, expressed as a percentage of all equity and fixed-income trades that are executed by agents on behalf of the board;~~

~~(6) Any other information requested by the Ohio retirement study council regarding the board's use of agents.~~

Sec. 5505.0610. (A) The state highway patrol retirement board shall, for the purposes of this section, designate an investment manager as an Ohio-qualified investment manager if the investment manager meets all of the following requirements:

(1) The investment manager is subject to taxation under Chapter 5725., 5726., 5733., 5747., or 5751. of the Revised Code.

(2) The investment manager meets one of the following requirements:

(a) Has its corporate headquarters or principal place of business in this state;

(b) Employs at least five hundred individuals in this state;

(c) Has a principal place of business in this state and employs at least

twenty residents of this state.

(B)(1) The board shall, at least annually, establish a policy with the goal to increase utilization by the board of Ohio-qualified investment managers, when an Ohio-qualified investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The policy shall also provide for the following:

(a) A process whereby the board can develop a list of Ohio-qualified investment managers and their investment products;

(b) A process whereby the board can give public notice to Ohio-qualified investment managers of the board's search for an investment manager that includes the board's search criteria.

(2) The board shall determine whether an investment manager is an Ohio-qualified investment manager and whether the investment manager offers quality, services, and safety comparable to other investment managers otherwise available to the board. The board's determination shall be final.

~~(C) The board shall, at least annually, submit to the Ohio retirement study council a report containing the following information:~~

~~(1) The name of each investment manager designated as an Ohio-qualified investment manager under this section;~~

~~(2) The name of each investment manager with which the board contracts;~~

~~(3) The amount of assets managed by Ohio-qualified investment managers, expressed as a percentage of the total assets held by the retirement system and as a percentage of assets managed by investment managers with which the board has contracted;~~

~~(4) The compensation paid to Ohio-qualified investment managers, expressed as a percentage of total compensation paid to all investment managers with which the board has contracted;~~

~~(5) Any other information requested by the Ohio retirement study council regarding the board's use of investment managers.~~

Sec. 5505.22. The right of any individual to a pension, or to the return of accumulated contributions, payable as provided under this chapter, and all moneys and investments of the state highway patrol retirement system and income from moneys or investments are exempt from any state tax, except the tax imposed by section 5747.02 of the Revised Code, and are exempt from any county, municipal, or other local tax, except income taxes imposed pursuant to section 5748.02, 5748.08, or 5748.09 of the Revised Code, and, except as provided in sections 3105.171, 3105.65, ~~3115.32~~ 3115.501, 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 5505.26, 5505.262, and 5505.263 of the Revised Code, shall not be subject to execution,

garnishment, attachment, the operation of bankruptcy or insolvency laws, or any other process of law whatsoever, and shall be unassignable except as specifically provided in this chapter.

Sec. 5505.261. (A) As used in this section, "alternate payee," "benefit," "lump sum payment," "participant," and "public retirement program" have the same meanings as in section 3105.80 of the Revised Code.

(B) On receipt of an order issued under section 3105.171 or 3105.65 of the Revised Code, the state highway patrol retirement system shall determine whether the order meets the requirements of sections 3105.80 to 3105.90 of the Revised Code. The system shall retain in the participant's record an order the system determines meets the requirements. Not later than sixty days after receipt, the system shall return to the court that issued the order any order the system determines does not meet the requirements.

(C) The system shall comply with an order retained under division (B) of this section at either of the following times as appropriate:

(1) If the participant has applied for or is receiving a benefit or has applied for but not yet received a lump sum payment, as soon as practicable;

(2) If the participant has not applied for a benefit or lump sum payment, on application by the participant for a benefit or lump sum payment.

(D) If the system transfers a participant's service credit or contributions made by or on behalf of a participant to a public retirement program that is not named in the order, the system shall do both of the following:

(1) Notify the court that issued the order by sending the court a copy of the order and the name and address of the public retirement program to which the transfer was made.

(2) Send a copy of the order to the public retirement program to which the transfer was made.

(E) If it receives a participant's service credit or contributions and a copy of an order as provided in division (D) of this section, the system shall administer the order as if it were the public retirement program named in the order.

(F) If a participant's benefit or lump sum payment is or will be subject to more than one order described in section 3105.81 of the Revised Code or to an order described in section 3105.81 of the Revised Code and a withholding order under section 3111.23 or 3113.21 of the Revised Code, the system shall, after determining that the amounts that are or will be withheld will cause the benefit or lump sum payment to fall below the limits described in section 3105.85 of the Revised Code, do all of the following:

(1) Establish, in accordance with division (G) of this section and subject to the limits described in section 3105.85 of the Revised Code, the priority

in which the orders are or will be paid by the retirement system in accordance with division (G) of this section;

(2) Reduce the amount paid to an alternate payee based on the priority established under division (F)(1) of this section;

(3) Notify, by regular mail, a participant and alternate payee of any action taken under this division.

(G) A withholding or deduction notice issued under section 3111.23 or 3113.21 of the Revised Code or an order described in section ~~3115.32~~ 3115.501 of the Revised Code has priority over all other orders and shall be complied with in accordance with child support enforcement laws. All other orders are entitled to priority in order of earliest retention by the system. The system is not to retain an order that provides for the division of property unless the order is filed in a court with jurisdiction in this state.

(H) The system is not liable in civil damages for loss resulting from any action or failure to act in compliance with this section.

Sec. 5513.01. (A) The director of transportation shall make all purchases of machinery, materials, supplies, or other articles in the manner provided in this section. In all cases except those in which the director provides written authorization for purchases by district deputy directors of transportation, the director shall make all such purchases at the central office of the department of transportation in Columbus. Before making any purchase at that office, the director, as provided in this section, shall give notice to bidders of the director's intention to purchase. Where the expenditure does not exceed the amount applicable to the purchase of supplies specified in division (B)(A) of section 125.05 of the Revised Code, ~~as adjusted pursuant to division (D) of that section,~~ the director shall give such notice as the director considers proper, or the director may make the purchase without notice. Where the expenditure exceeds the amount applicable to the purchase of supplies specified in division (B)(A) of section 125.05 of the Revised Code, ~~as adjusted pursuant to division (D) of that section,~~ the director shall give notice by posting for not less than ten days a written, typed, or printed invitation to bidders on a bulletin board. The director shall locate the notice in a place in the offices assigned to the department and open to the public during business hours.

Producers or distributors of any product may notify the director, in writing, of the class of articles for the furnishing of which they desire to bid and their post-office addresses. In that circumstance, the director shall mail copies of all invitations to bidders relating to the purchase of such articles to such persons by regular first class mail at least ten days prior to the time fixed for taking bids. The director also may mail copies of all invitations to

bidders to news agencies or other agencies or organizations distributing information of this character. Requests for invitations are not valid and do not require action by the director unless renewed by the director, either annually or after such shorter period as the director may prescribe by a general rule.

The director shall include in an invitation to bidders a brief statement of the general character of the article that it is intended to purchase, the approximate quantity desired, and a statement of the time and place where bids will be received, and may relate to and describe as many different articles as the director thinks proper, it being the intent and purpose of this section to authorize the inclusion in a single invitation of as many different articles as the director desires to invite bids upon at any given time. The director shall give invitations issued during each calendar year consecutive numbers, and ensure that the number assigned to each invitation appears on all copies thereof. In all cases where notice is required by this section, the director shall require sealed bids, on forms prescribed and furnished by the director. The director shall not permit the modification of bids after they have been opened.

(B) The director may permit a state agency, the Ohio turnpike and infrastructure commission, any political subdivision, and any state university or college to participate in contracts into which the director has entered for the purchase of machinery, materials, supplies, or other articles. The turnpike and infrastructure commission and any political subdivision or state university or college desiring to participate in such purchase contracts shall file with the director a certified copy of the bylaws or rules of the turnpike and infrastructure commission or the ordinance or resolution of the legislative authority, board of trustees, or other governing board requesting authorization to participate in such contracts and agreeing to be bound by such terms and conditions as the director prescribes. Purchases made by a state agency, the turnpike and infrastructure commission, political subdivisions, or state universities or colleges under this division are exempt from any competitive bidding required by law for the purchase of machinery, materials, supplies, or other articles.

(C) As used in this section:

(1) "Political subdivision" means any county, township, municipal corporation, conservancy district, township park district, park district created under Chapter 1545. of the Revised Code, port authority, regional transit authority, regional airport authority, regional water and sewer district, county transit board, school district as defined in section 5513.04 of the Revised Code, regional planning commission formed under section 713.21

of the Revised Code, regional council of government formed under section 167.01 of the Revised Code, or other association of local governments established pursuant to an agreement under sections 307.14 to 307.19 of the Revised Code.

(2) "State university or college" has the same meaning as in division (A)(1) of section 3345.32 of the Revised Code.

(3) "Ohio turnpike and infrastructure commission" means the commission created by section 5537.02 of the Revised Code.

(4) "State agency" means every organized body, office, board, authority, commission, or agency established by the laws of the state for the exercise of any governmental or quasi-governmental function of state government, regardless of the funding source for that entity, other than any state institution of higher education, the office of the governor, lieutenant governor, auditor of state, treasurer of state, secretary of state, or attorney general, the general assembly, the courts or any judicial agency, or any state retirement system or retirement program established by or referenced in the Revised Code.

Sec. 5537.05. (A) The Ohio turnpike and infrastructure commission may construct grade separations at intersections of any turnpike project with public roads and railroads, and change and adjust the lines and grades of those roads and railroads, and of public utility facilities, which change and adjustment of lines and grades of those roads shall be subject to the approval of the governmental agency having jurisdiction over the road, so as to accommodate them to the design of the grade separation. The cost of the grade separation and any damage incurred in changing and adjusting the lines and grades of roads, railroads, and public utility facilities shall be ascertained and paid by the commission as a part of the cost of the turnpike project or from revenues or state taxes.

(1) If the commission finds it necessary to change the location of any portion of any public road, railroad, or public utility facility, it shall cause the same to be reconstructed at the location the governmental agency having jurisdiction over such road, railroad, or public utility facility considers most favorable. The construction shall be of substantially the same type and in as good condition as the original road, railroad, or public utility facility. The cost of the reconstruction, relocation, or removal and any damage incurred in changing the location shall be ascertained and paid by the commission as a part of the cost of the turnpike project or from revenues or state taxes.

(2) The commission may petition the board of county commissioners of the county in which is situated any public road or part thereof affected by the location therein of any turnpike project, for the vacation or relocation of

the road or any part thereof, in the same manner and with the same force and effect as is given to the director of transportation pursuant to sections 5553.04 to 5553.11 of the Revised Code.

(B) The commission and its authorized agents and employees, after proper notice, may enter upon any lands, waters, and premises in the state for the purpose of making surveys, soundings, drillings, and examinations that are necessary or proper for the purposes of this chapter, and the entry shall not be deemed a trespass, nor shall an entry for those purposes be deemed an entry under any appropriation proceedings which may then be pending, provided that before entering upon the premises of any railroad notice shall be given to the superintendent of the railroad involved at least five days in advance of entry, and provided that no survey, sounding, drilling, and examination shall be made between the rails or so close to a railroad track as would render the track unusable. The commission shall make reimbursement for any actual damage resulting to such lands, waters, and premises and to private property located in, on, along, over, or under such lands, waters, and premises, as a result of such activities. The state, subject to the approval of the governor, hereby consents to the use of all lands owned by it, including lands lying under water, that are necessary or proper for the construction, maintenance, or operation of any turnpike project, provided adequate consideration is provided for the use.

(C) The commission may make reasonable provisions or rules for the installation, construction, maintenance, repair, renewal, relocation, and removal of public utility facilities in, on, along, over, or under any turnpike project. Whenever the commission determines that it is necessary that any public utility facilities located in, on, along, over, or under any turnpike project should be relocated in or removed from the turnpike project, the public utility owning or operating the facilities shall relocate or remove them in accordance with the order of the commission. Except as otherwise provided in any license or other agreement with the commission, the cost and expenses of such relocation or removal, including the cost of installing the facilities in a new location, the cost of any lands, or any rights or interests in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the commission as part of the cost of the turnpike project or from revenues of the Ohio turnpike system. In case of any such relocation or removal of facilities, the public utility owning or operating them and its successors or assigns may maintain and operate the facilities, with the necessary appurtenances, in the new location, for as long a period, and upon the same terms, as it had the right to maintain and operate the facilities in their former location.

(D) The commission is subject to Chapters ~~4545~~, 940, 6131., 6133., 6135., and 6137. of the Revised Code and shall pay any assessments levied under those chapters for an improvement or maintenance of an improvement on land under the control or ownership of the commission.

Sec. 5575.01. (A) In the maintenance and repair of roads, the board of township trustees may proceed either by contract or force account, but, unless the exemption specified in division (C) of this section applies, if the board wishes to proceed by force account, it first shall cause the county engineer to complete the force account assessment form developed by the auditor of state under section 117.16 of the Revised Code. Except as otherwise provided in sections 505.08 and 505.101 of the Revised Code, when the board proceeds by contract, the contract shall, if the amount involved exceeds ~~forty-five~~ ninety thousand dollars, be let by the board to the lowest responsible bidder after advertisement for bids once, not later than two weeks, prior to the date fixed for the letting of the contract, in a newspaper of general circulation within the township. If the amount involved is ~~forty-five~~ ninety thousand dollars or less, a contract may be let without competitive bidding, or the work may be done by force account. Such a contract shall be performed under the supervision of a member of the board or the township road superintendent.

(B) Before undertaking the construction or reconstruction of a township road, the board shall cause to be made by the county engineer an estimate of the cost of the work, which estimate shall include labor, material, freight, fuel, hauling, use of machinery and equipment, and all other items of cost. If the board finds it in the best interest of the public, it may, in lieu of constructing the road by contract, proceed to construct the road by force account. Except as otherwise provided under sections 505.08 and 505.101 of the Revised Code, where the total estimated cost of the work exceeds ~~fifteen~~ thirty thousand dollars per mile, the board shall invite and receive competitive bids for furnishing all the labor, materials, and equipment and doing the work, as provided in section 5575.02 of the Revised Code, and shall consider and reject them before ordering the work done by force account. When such bids are received, considered, and rejected, and the work is done by force account, the work shall be performed in compliance with the plans and specifications upon which the bids were based.

(C) Force account assessment forms are not required under division (A) of this section for road maintenance or repair projects of less than ~~fifteen~~ forty-five thousand dollars, or under division (B) of this section for road construction or reconstruction projects of less than ~~five~~ fifteen thousand dollars per mile.

The above boxed and initialed text was disapproved.

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(D) All force account work under this section shall be done under the direction of a member of the board or the township road superintendent. JRK

Sec. 5703.057. (A) For the efficient administration of the taxes and fees administered by the tax commissioner, the commissioner may require that any person filing a tax document with the department of taxation provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the commissioner, subject to section 5703.361 of the Revised Code. A person required by the commissioner to provide identifying information who has experienced any change with respect to that information shall notify the commissioner of the change prior to, or upon, filing the next tax document requiring such identifying information.

(B) When transmitting or otherwise making use of a tax document that contains a person's social security number, the commissioner shall take all reasonable measures necessary to ensure that the number is not capable of being viewed by the general public, including, when necessary, masking the number so that it is not readily discernible by the general public.

(C)(1) If the commissioner makes a request for identifying information and the commissioner does not receive valid identifying information within thirty days of making the request, the commissioner may impose a penalty upon the person to whom the request was directed of up to one hundred dollars. If, after the expiration of this thirty day period, the commissioner makes one or more subsequent requests for identifying information and the person to whom the subsequent request is directed fails to provide valid identifying information within thirty days of the commissioner's subsequent request, the commissioner may impose an additional penalty of up to two hundred dollars for each subsequent request not complied with in a timely fashion.

(2) If a person required by the commissioner to provide identifying information does not notify the commissioner of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, the commissioner may impose a penalty of up to fifty dollars. JRK

(3) The penalties provided for under divisions (C)(1) and (2) of this section may be billed and assessed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in division (D) of this section and any other penalties that may be imposed by the commissioner by law.

(D) Section 5703.26 of the Revised Code applies with respect to false or fraudulent identifying information provided by a person to the commissioner

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under this section.

JRK

Sec. 5703.21. (A) Except as provided in divisions (B) and (C) of this section, no agent of the department of taxation, except in the agent's report to the department or when called on to testify in any court or proceeding, shall divulge any information acquired by the agent as to the transactions, property, or business of any person while acting or claiming to act under orders of the department. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the department.

(B)(1) For purposes of an audit pursuant to section 117.15 of the Revised Code, or an audit of the department pursuant to Chapter 117. of the Revised Code, or an audit, pursuant to that chapter, the objective of which is to express an opinion on a financial report or statement prepared or issued pursuant to division (A)(7) or (9) of section 126.21 of the Revised Code, the officers and employees of the auditor of state charged with conducting the audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the auditor of state.

(2) For purposes of an internal audit pursuant to section 126.45 of the Revised Code, the officers and employees of the office of internal audit in the office of budget and management charged with directing the internal audit shall have access to and the right to examine any state tax returns and state tax return information in the possession of the department to the extent that the access and examination are necessary for purposes of the internal audit. Any information acquired as the result of that access and examination shall not be divulged for any purpose other than as required for the internal audit or unless the officers and employees are required to testify in a court or proceeding under compulsion of legal process. Whoever violates this provision shall thereafter be disqualified from acting as an officer or employee or in any other capacity under appointment or employment of the office of internal audit.

(3) As provided by section 6103(d)(2) of the Internal Revenue Code, any federal tax returns or federal tax information that the department has acquired from the internal revenue service, through federal and state

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statutory authority, may be disclosed to the auditor of state or the office of internal audit solely for purposes of an audit of the department.

(4) For purposes of Chapter 3739. of the Revised Code, an agent of the department of taxation may share information with the division of state fire marshal that the agent finds during the course of an investigation.

(C) Division (A) of this section does not prohibit any of the following:

(1) Divulging information contained in applications, complaints, and related documents filed with the department under section 5715.27 of the Revised Code or in applications filed with the department under section 5715.39 of the Revised Code;

(2) Providing information to the office of child support within the department of job and family services pursuant to section 3125.43 of the Revised Code;

(3) Disclosing to the motor vehicle repair board any information in the possession of the department that is necessary for the board to verify the existence of an applicant's valid vendor's license and current state tax identification number under section 4775.07 of the Revised Code;

(4) Providing information to the administrator of workers' compensation pursuant to sections 4123.271 and 4123.591 of the Revised Code;

(5) Providing to the attorney general information the department obtains under division (J) of section 1346.01 of the Revised Code;

(6) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to rules adopted under section 5745.16 of the Revised Code;

(7) Providing information regarding the name, account number, or business address of a holder of a vendor's license issued pursuant to section 5739.17 of the Revised Code, a holder of a direct payment permit issued pursuant to section 5739.031 of the Revised Code, or a seller having a use tax account maintained pursuant to section 5741.17 of the Revised Code, or information regarding the active or inactive status of a vendor's license, direct payment permit, or seller's use tax account;

(8) Releasing invoices or invoice information furnished under section 4301.433 of the Revised Code pursuant to that section;

(9) Providing to a county auditor notices or documents concerning or affecting the taxable value of property in the county auditor's county. Unless authorized by law to disclose documents so provided, the county auditor shall not disclose such documents;

(10) Providing to a county auditor sales or use tax return or audit information under section 333.06 of the Revised Code;

(11) Subject to section 4301.441 of the Revised Code, disclosing to the

appropriate state agency information in the possession of the department of taxation that is necessary to verify a permit holder's gallonage or noncompliance with taxes levied under Chapter 4301. or 4305. of the Revised Code;

(12) Disclosing to the department of natural resources information in the possession of the department of taxation that is necessary for the department of taxation to verify the taxpayer's compliance with section 5749.02 of the Revised Code or to allow the department of natural resources to enforce Chapter 1509. of the Revised Code;

(13) Disclosing to the department of job and family services, industrial commission, and bureau of workers' compensation information in the possession of the department of taxation solely for the purpose of identifying employers that misclassify employees as independent contractors or that fail to properly report and pay employer tax liabilities. The department of taxation shall disclose only such information that is necessary to verify employer compliance with law administered by those agencies.

(14) Disclosing to the Ohio casino control commission information in the possession of the department of taxation that is necessary to verify a casino operator's compliance with section 5747.063 or 5753.02 of the Revised Code and sections related thereto;

(15) Disclosing to the state lottery commission information in the possession of the department of taxation that is necessary to verify a lottery sales agent's compliance with section 5747.064 of the Revised Code.

(16) Disclosing to the development services agency information in the possession of the department of taxation that is necessary to ensure compliance with the laws of this state governing taxation and to verify information reported to the development services agency for the purpose of evaluating potential tax credits, grants, or loans. Such information shall not include information received from the internal revenue service the disclosure of which is prohibited by section 6103 of the Internal Revenue Code. No officer, employee, or agent of the development services agency shall disclose any information provided to the development services agency by the department of taxation under division (C)(16) of this section except when disclosure of the information is necessary for, and made solely for the purpose of facilitating, the evaluation of potential tax credits, grants, or loans.

(17) Disclosing to the department of insurance information in the possession of the department of taxation that is necessary to ensure a taxpayer's compliance with the requirements with any tax credit administered by the development services agency and claimed by the

taxpayer against any tax administered by the superintendent of insurance. No officer, employee, or agent of the department of insurance shall disclose any information provided to the department of insurance by the department of taxation under division (C)(17) of this section.

Sec. 5703.36. If any company, firm, corporation, person, association, partnership, or public utility fails to make out and deliver to the tax commissioner any statement required by law, or to furnish the commissioner with any information requested, the commissioner shall ~~inform himself~~ become informed as best ~~he~~ the commissioner can on the matters necessary to be known in order to discharge ~~his~~ the commissioner's duties, subject to section 5703.361 of the Revised Code

Sec. 5703.361. If the tax commissioner uses measures to reduce fraud by requiring a person to verify information about the person for the purpose of verifying the person's identity, the tax commissioner may not require a person to verify any information created or compiled more than five years preceding the current calendar year.

Sec. 5703.85. On or before September 1, 2015, and on or before the first day of every third month thereafter, the tax commissioner shall prepare a report that includes all of the following information:

(A) The number of inspections and investigations conducted during the preceding four months in relation to the enforcement of sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code;

(B) The number of violations of sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code found during the preceding four months, organized by the type of violation;

(C) The number of prosecutions brought during the preceding four months in relation to violations of sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code;

(D) The number of agents designated for enforcement of sections 1333.11 to 1333.21 and Chapter 5743. of the Revised Code during the preceding four months.

The commissioner shall submit the report to the chairperson of the standing committee of each house of the general assembly which normally considers tax legislation.

Sec. 5705.19. This section does not apply to school districts, county school financing districts, or lake facilities authorities.

The taxing authority of any subdivision at any time and in any year, by vote of two-thirds of all the members of the taxing authority, may declare by resolution and certify the resolution to the board of elections not less than ninety days before the election upon which it will be voted that the amount

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of taxes that may be raised within the ten-mill limitation will be insufficient to provide for the necessary requirements of the subdivision and that it is necessary to levy a tax in excess of that limitation for any of the following purposes:

(A) For current expenses of the subdivision, except that the total levy for current expenses of a detention facility district or district organized under section 2151.65 of the Revised Code shall not exceed two mills and that the total levy for current expenses of a combined district organized under sections 2151.65 and 2152.41 of the Revised Code shall not exceed four mills;

(B) For the payment of debt charges on certain described bonds, notes, or certificates of indebtedness of the subdivision issued subsequent to January 1, 1925;

(C) For the debt charges on all bonds, notes, and certificates of indebtedness issued and authorized to be issued prior to January 1, 1925;

(D) For a public library of, or supported by, the subdivision under whatever law organized or authorized to be supported;

(E) For a municipal university, not to exceed two mills over the limitation of one mill prescribed in section 3349.13 of the Revised Code;

(F) For the construction or acquisition of any specific permanent improvement or class of improvements that the taxing authority of the subdivision may include in a single bond issue;

(G) For the general construction, reconstruction, resurfacing, and repair of streets, roads, and bridges in municipal corporations, counties, or townships;

(H) For parks and recreational purposes;

(I) For the purpose of providing and maintaining fire apparatus, appliances, buildings, or sites therefor, or sources of water supply and materials therefor, or the establishment and maintenance of lines of fire alarm telegraph, or the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.34 of the Revised Code, or the purchase of ambulance equipment, or the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company;

(J) For the purpose of providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, or the payment of

salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section 145.48 or 742.33 of the Revised Code, or the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, or the provision of ambulance or emergency medical services operated by a police department;

(K) For the maintenance and operation of a county home or detention facility;

(L) For community mental retardation and developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code, except that the procedure for such levies shall be as provided in section 5705.222 of the Revised Code;

(M) For regional planning;

(N) For a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(O) For providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods;

(P) For maintaining and operating sewage disposal plants and facilities;

(Q) For the purpose of purchasing, acquiring, constructing, enlarging, improving, equipping, repairing, maintaining, or operating, or any combination of the foregoing, a county transit system pursuant to sections 306.01 to 306.13 of the Revised Code, or of making any payment to a board of county commissioners operating a transit system or a county transit board pursuant to section 306.06 of the Revised Code;

(R) For the subdivision's share of the cost of acquiring or constructing any schools, forestry camps, detention facilities, or other facilities, or any combination thereof, under section 2151.65 or 2152.41 of the Revised Code or both of those sections;

(S) For the prevention, control, and abatement of air pollution;

(T) For maintaining and operating cemeteries;

(U) For providing ambulance service, emergency medical service, or both;

(V) For providing for the collection and disposal of garbage or refuse, including yard waste;

(W) For the payment of the police officer employers' contribution or the firefighter employers' contribution required under sections 742.33 and 742.34 of the Revised Code;

(X) For the construction and maintenance of a drainage improvement pursuant to section 6131.52 of the Revised Code;

(Y) For providing or maintaining senior citizens services or facilities as authorized by section 307.694, 307.85, 505.70, or 505.706 or division (EE) of section 717.01 of the Revised Code;

(Z) For the provision and maintenance of zoological park services and facilities as authorized under section 307.76 of the Revised Code;

(AA) For the maintenance and operation of a free public museum of art, science, or history;

(BB) For the establishment and operation of a 9-1-1 system, as defined in section 128.01 of the Revised Code;

(CC) For the purpose of acquiring, rehabilitating, or developing rail property or rail service. As used in this division, "rail property" and "rail service" have the same meanings as in section 4981.01 of the Revised Code. This division applies only to a county, township, or municipal corporation.

(DD) For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in section 755.16 of the Revised Code;

(EE) For the creation and operation of an office or joint office of economic development, for any economic development purpose of the office, and to otherwise provide for the establishment and operation of a program of economic development pursuant to sections 307.07 and 307.64 of the Revised Code, or to the extent that the expenses of a county land reutilization corporation organized under Chapter 1724. of the Revised Code are found by the board of county commissioners to constitute the promotion of economic development, for the payment of such operations and expenses;

(FF) For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing, a township airport, landing field, or other air navigation facility pursuant to section 505.15 of the Revised Code;

(GG) For the payment of costs incurred by a township as a result of a contract made with a county pursuant to section 505.263 of the Revised Code in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement;

(HH) For a board of township trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from

occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the board of township trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than thirty-eight thousand within a county that had a population, at that time, of at least eight hundred sixty thousand.

(II) For the support by a county of a crime victim assistance program that is provided and maintained by a county agency or a private, nonprofit corporation or association under section 307.62 of the Revised Code;

(JJ) For any or all of the purposes set forth in divisions (I) and (J) of this section. This division applies only to a township.

(KK) For a countywide public safety communications system under section 307.63 of the Revised Code. This division applies only to counties.

(LL) For the support by a county of criminal justice services under section 307.45 of the Revised Code;

(MM) For the purpose of maintaining and operating a jail or other detention facility as defined in section 2921.01 of the Revised Code;

(NN) For purchasing, maintaining, or improving, or any combination of the foregoing, real estate on which to hold, and the operating expenses of, agricultural fairs operated by a county agricultural society or independent agricultural society under Chapter 1711. of the Revised Code. This division applies only to a county.

(OO) For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements;

(PP) For both of the purposes set forth in divisions (G) and (OO) of this section.

(QQ) For both of the purposes set forth in divisions (H) and (HH) of this section. This division applies only to a township.

(RR) For the legislative authority of a municipal corporation, board of

county commissioners of a county, or board of township trustees of a township to acquire agricultural easements, as defined in section 5301.67 of the Revised Code, and to supervise and enforce the easements.

(SS) For both of the purposes set forth in divisions (BB) and (KK) of this section. This division applies only to a county.

(TT) For the maintenance and operation of a facility that is organized in whole or in part to promote the sciences and natural history under section 307.761 of the Revised Code.

(UU) For the creation and operation of a county land reutilization corporation and for any programs or activities of the corporation found by the board of directors of the corporation to be consistent with the purposes for which the corporation is organized;

(VV) For construction and maintenance of improvements and expenses of soil and water conservation district programs under Chapter 1515. of the Revised Code;

(WW) For the OSU extension fund created under section 3335.35 of the Revised Code for the purposes prescribed under section 3335.36 of the Revised Code for the benefit of the citizens of a county. This division applies only to a county.

(XX) For a municipal corporation that withdraws or proposes by resolution to withdraw from a regional transit authority under section 306.55 of the Revised Code to provide transportation services for the movement of persons within, from, or to the municipal corporation;

(YY) For any combination of the purposes specified in divisions (NN), (VV), and (WW) of this section. This division applies only to a county.

The resolution shall be confined to the purpose or purposes described in one division of this section, to which the revenue derived therefrom shall be applied. The existence in any other division of this section of authority to levy a tax for any part or all of the same purpose or purposes does not preclude the use of such revenues for any part of the purpose or purposes of the division under which the resolution is adopted.

The resolution shall specify the amount of the increase in rate that it is necessary to levy, the purpose of that increase in rate, and the number of years during which the increase in rate shall be in effect, which may or may not include a levy upon the duplicate of the current year. The number of years may be any number not exceeding five, except as follows:

(1) When the additional rate is for the payment of debt charges, the increased rate shall be for the life of the indebtedness.

(2) When the additional rate is for any of the following, the increased rate shall be for a continuing period of time:

(a) For the current expenses for a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2151.65 and 2152.41 of the Revised Code;

(b) For providing a county's share of the cost of maintaining and operating schools, district detention facilities, forestry camps, or other facilities, or any combination thereof, established under section 2151.65 or 2152.41 of the Revised Code or under both of those sections.

(3) When the additional rate is for either of the following, the increased rate may be for a continuing period of time:

(a) For the purposes set forth in division (I), (J), (U), or (KK) of this section;

(b) For the maintenance and operation of a joint recreation district.

(4) When the increase is for the purpose or purposes set forth in division (D), (G), (H), (T), (Z), (CC), or (PP) of this section, the tax levy may be for any specified number of years or for a continuing period of time, as set forth in the resolution.

A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may be reduced pursuant to section 5705.261 or 5705.31 of the Revised Code. A levy for one of the purposes set forth in division (G), (I), (J), or (U) of this section may also be terminated or permanently reduced by the taxing authority if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.

A resolution of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under both sections 2151.65 and 2152.41 of the Revised Code may include both current expenses and other purposes, provided that the resolution shall apportion the annual rate of levy between the current expenses and the other purpose or purposes. The apportionment need not be the same for each year of the levy, but the respective portions of the rate actually levied each year for the current expenses and the other purpose or purposes shall be limited by the apportionment.

Whenever a board of county commissioners, acting either as the taxing authority of its county or as the taxing authority of a sewer district or subdistrict created under Chapter 6117. of the Revised Code, by resolution declares it necessary to levy a tax in excess of the ten-mill limitation for the purpose of constructing, improving, or extending sewage disposal plants or sewage systems, the tax may be in effect for any number of years not exceeding twenty, and the proceeds of the tax, notwithstanding the general provisions of this section, may be used to pay debt charges on any

obligations issued and outstanding on behalf of the subdivision for the purposes enumerated in this paragraph, provided that any such obligations have been specifically described in the resolution.

A resolution adopted by the legislative authority of a municipal corporation that is for the purpose in division (XX) of this section may be combined with the purpose provided in section 306.55 of the Revised Code, by vote of two-thirds of all members of the legislative authority. The legislative authority may certify the resolution to the board of elections as a combined question. The question appearing on the ballot shall be as provided in section 5705.252 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution is necessary other than that provided for in the notice of election

When the electors of a subdivision or, in the case of a qualifying library levy for the support of a library association or private corporation, the electors of the association library district, have approved a tax levy under this section, the taxing authority of the subdivision may anticipate a fraction of the proceeds of the levy and issue anticipation notes in accordance with section 5705.191 or 5705.193 of the Revised Code.

Sec. 5705.194. The board of education of any city, local, exempted village, cooperative education, or joint vocational school district at any time may declare by resolution that the revenue that will be raised by all tax levies which the district is authorized to impose, when combined with state and federal revenues, will be insufficient to provide for the emergency requirements of the school district or to avoid an operating deficit, and that it is therefore necessary to levy an additional tax in excess of the ten-mill limitation. The resolution shall be confined to a single purpose and shall specify that purpose. If the levy is proposed to renew all or a portion of the proceeds derived from one or more existing levies imposed pursuant to this section, it shall be called a renewal levy and shall be so designated on the ballot. If two or more existing levies are to be included in a single renewal levy but are not scheduled to expire in the same year, the resolution shall specify that the existing levies to be renewed shall not be levied after the year preceding the year in which the renewal levy is first imposed. Notwithstanding the original purpose of any one or more existing levies that are to be in any single renewal levy, the purpose of the renewal levy may be either to avoid an operating deficit or to provide for the emergency requirements of the school district. The resolution shall further specify the amount of money it is necessary to raise for the specified purpose for each calendar year the millage is to be imposed; if a renewal levy, whether the

levy is to renew all, or a portion of, the proceeds derived from one or more existing levies; and the number of years in which the millage is to be in effect, which may include a levy upon the current year's tax list. The number of years may be any number not exceeding ten.

The question shall be submitted at a special election on a date specified in the resolution. The date shall not be earlier than eighty days after the adoption and certification of the resolution to the county auditor and shall be consistent with the requirements of section 3501.01 of the Revised Code. A resolution for a renewal levy shall not be placed on the ballot unless the question is submitted on a date on which a special election may be held under division (D) of section 3501.01 of the Revised Code, except for the first Tuesday after the first Monday in ~~February and~~ August, during the last year the levy to be renewed may be extended on the real and public utility property tax list and duplicate, or at any election held in the ensuing year, except that if the resolution proposes renewing two or more existing levies, the question shall be submitted on the date of the general or primary election held during the last year at least one of the levies to be renewed may be extended on that list and duplicate, or at any election held during the ensuing year. For purposes of this section, a levy shall be considered to be an "existing levy" through the year following the last year it can be placed on the real and public utility property tax list and duplicate.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

The resolution shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the county auditor of the proper county. Section 5705.195 of the Revised Code shall govern the arrangements for the submission of questions to the electors under this section and other matters concerning the election. Publication of notice of the election shall be made in one newspaper of general circulation in the county once a week for two consecutive weeks, or as provided in section 7.16 of the Revised Code, prior to the election. If the board of elections operates and maintains a web site, the board of elections shall post notice of the election on its web site for thirty days prior to the election. If a majority of the electors voting on the question submitted in an election vote in favor of the levy, the board of education of the school district may make the additional levy necessary to raise the amount specified in the resolution for the purpose stated in the resolution. The tax levy shall be included in the next tax budget that is

certified to the county budget commission.

After the approval of the levy and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not exceeding the total estimated proceeds of the levy to be collected during the first year of the levy.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have principal payment in the year of their issuance.

Sec. 5705.21. (A) At any time, the board of education of any city, local, exempted village, cooperative education, or joint vocational school district, by a vote of two-thirds of all its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation by levies on the current tax duplicate will be insufficient to provide an adequate amount for the necessary requirements of the school district, that it is necessary to levy a tax in excess of such limitation for one of the purposes specified in division (A), (D), (F), (H), or (DD) of section 5705.19 of the Revised Code, for general permanent improvements, for the purpose of operating a cultural center, for the purpose of providing for school safety and security, or for the purpose of providing education technology, and that the question of such additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution. In the case of a qualifying library levy for the support of a library association or private corporation, the question shall be submitted to the electors of the association library district. If the resolution states that the levy is for the purpose of operating a cultural center, the ballot shall state that the levy is "for the purpose of operating the (name of cultural center)."

As used in this division, "cultural center" means a freestanding building, separate from a public school building, that is open to the public for educational, musical, artistic, and cultural purposes; "education technology" means, but is not limited to, computer hardware, equipment, materials, and accessories, equipment used for two-way audio or video, and software; and "general permanent improvements" means permanent improvements without regard to the limitation of division (F) of section 5705.19 of the Revised Code that the improvements be a specific improvement or a class of improvements that may be included in a single bond issue.

A resolution adopted under this division shall be confined to a single purpose and shall specify the amount of the increase in rate that it is

necessary to levy, the purpose of the levy, and the number of years during which the increase in rate shall be in effect. The number of years may be any number not exceeding five or, if the levy is for current expenses of the district or for general permanent improvements, for a continuing period of time.

(B)(1) The board of education of a qualifying school district, by resolution, may declare that it is necessary to levy a tax in excess of the ten-mill limitation for the purpose of paying the current expenses of ~~the district and of~~ partnering community schools and, if any of the levy proceeds are so allocated, of the district. A qualifying school district that is not a municipal school district may allocate all of the levy proceeds to partnering community schools. A municipal school district shall allocate a portion of the levy proceeds to the current expenses of the district. The resolution shall declare that the question of the additional tax levy shall be submitted to the electors of the school district at a special election on a day to be specified in the resolution. The resolution shall state the purpose of the levy, the rate of the tax expressed in mills per dollar of taxable value, the number of such mills to be levied for the current expenses of the partnering community schools and the number of such mills, if any, to be levied for the current expenses of the school district, the number of years the tax will be levied, and the first year the tax will be levied. The number of years the tax may be levied may be any number not exceeding ten years, or for a continuing period of time.

The levy of a tax for the current expenses of a partnering community school under this section and the distribution of proceeds from the tax by a qualifying school district to partnering community schools is hereby determined to be a proper public purpose.

(2) The (a) If any portion of the levy proceeds are to be allocated to the current expenses of the qualifying school district, the form of the ballot at an election held pursuant to division (B) of this section shall be as follows:

"Shall a levy be imposed by the (insert the name of the qualifying school district) for the purpose of current expenses of the school district and of partnering community schools at a rate not exceeding (insert the number of mills) mills for each one dollar of valuation, (of which (insert the number of mills to be allocated to partnering community schools) mills is to be allocated to partnering community schools), which amounts to (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), beginning (insert first year the tax is to be levied), which will first be payable in

calendar year (insert the first calendar year in which the tax would be payable)?

	FOR THE TAX LEVY	
	AGAINST THE TAX	"
	LEVY	

(b) If all of the levy proceeds are to be allocated to the current expenses of partnering community schools, the form of the ballot shall be as follows:

"Shall a levy be imposed by the (insert the name of the qualifying school district) for the purpose of current expenses of partnering community schools at a rate not exceeding (insert the number of mills) mills for each one dollar of valuation which amounts to (insert the rate expressed in dollars and cents) for each one hundred dollars of valuation, for (insert the number of years the levy is to be imposed, or that it will be levied for a continuing period of time), beginning (insert first year the tax is to be levied), which will first be payable in calendar year (insert the first calendar year in which the tax would be payable)?"

	FOR THE TAX LEVY	
	AGAINST THE TAX	"
	LEVY	

(3) Upon each receipt of a tax distribution by the qualifying school district, the board of education shall credit the portion allocated to partnering community schools to the partnering community schools fund. All income from the investment of money in the partnering community schools fund shall be credited to that fund.

(a) If the qualifying school district is a municipal school district, the board of education shall distribute the partnering community schools amount among the then qualifying community schools not more than forty-five days after the school district receives and deposits each tax distribution. From each tax distribution, each such partnering community school shall receive a portion of the partnering community schools amount in the proportion that the number of its resident students bears to the aggregate number of resident students of all such partnering community schools as of the date of receipt and deposit of the tax distribution.

(b) If the qualifying school district is not a municipal school district, the board of education may distribute all or a portion of the amount in the partnering community schools fund during a fiscal year to partnering community schools ~~that were either sponsored by the district or entered into an agreement pursuant to division (B)(6)(b) of this section~~ on or before the first day of June of the preceding fiscal year. Each such partnering community school shall receive a portion of the amount distributed by the

board from the partnering community schools fund during the fiscal year in the proportion that the number of its resident students bears to the aggregate number of resident students of all such partnering community schools as of the date the school district received and deposited the most recent tax distribution. On or before the fifteenth day of June of each fiscal year, the board of education shall announce an estimated allocation to partnering community schools for the ensuing fiscal year. The board is not required to allocate to partnering community schools the entire partnering community schools amount in the fiscal year in which a tax distribution is received and deposited in the partnering community schools fund. The estimated allocation shall be published on the web site of the school district and expressed as a dollar amount per resident student. The actual allocation to community schools in a fiscal year need not conform to the estimate published by the school district so long if the estimate was made in good faith.

Distributions by a school district under division (B)(3)(b) of this section shall be made in accordance with distribution agreements entered into by the board of education and each partnering community school eligible for distributions under this division. The distribution agreements shall be certified to the department of education each fiscal year before the thirtieth day of July. Each agreement shall provide for at least three distributions by the school district to the partnering community school during the fiscal year and shall require the initial distribution be made on or before the thirtieth day of July.

(c) For the purposes of division (B) of this section, the number of resident students shall be the number of such students reported under section 3317.03 of the Revised Code and established by the department of education as of the date of receipt and deposit of the tax distribution.

(4) To the extent an agreement whereby the qualifying school district and a community school endorse each other's programs is necessary for the community school to qualify as a partnering community school under division (B)(6)(b) of this section, the board of education of the school district shall certify to the department of education the agreement along with the determination that such agreement satisfies the requirements of that division. The board's determination is conclusive.

(5) For the purposes of Chapter 3317. of the Revised Code or other laws referring to the "taxes charged and payable" for a school district, the taxes charged and payable for a qualifying school district that levies a tax under division (B) of this section includes only the taxes charged and payable under that levy for the current expenses of the school district, and does not

include the taxes charged and payable for the current expenses of partnering community schools. The taxes charged and payable for the current expenses of partnering community schools shall not affect the calculation of "state education aid" as defined in section 5751.20 of the Revised Code.

(6) As used in division (B) of this section:

(a) "Qualifying school district" means a municipal school district, as defined in section 3311.71 of the Revised Code or a school district that ~~has an average daily membership, as reported under division (A) of section 3317.03 of the Revised Code, greater than sixty thousand and the majority of the territory of which district is located in a city with a population greater than seven hundred thousand according to the most recent federal decennial census~~ contains within its territory a partnering community school.

(b) "Partnering community school" means a community school established under Chapter 3314. of the Revised Code that is located within the territory of the qualifying school district and ~~that either~~ meets one of the following criteria:

(i) If the qualifying school district is a municipal school district, the community school is sponsored by the district or is a party to an agreement with the district whereby the district and the community school endorse each other's programs;

(ii) If the qualifying school district is not a municipal school district, the community school is sponsored by a sponsor that was rated as "exemplary" in the ratings most recently published under section 3314.016 of the Revised Code before the resolution proposing the levy is certified to the board of elections.

(c) "Partnering community schools amount" means the product obtained, as of the receipt and deposit of the tax distribution, by multiplying the amount of a tax distribution by a fraction, the numerator of which is the number of mills per dollar of taxable value of the property tax to be allocated to partnering community schools, and the denominator of which is the total number of mills per dollar of taxable value authorized by the electors in the election held under division (B) of this section, each as set forth in the resolution levying the tax. If the resolution allocates all of the levy proceeds to partnering community schools, the "partnering schools amount" equals the amount of the tax distribution.

(d) "Partnering community schools fund" means a separate fund established by the board of education of a qualifying school district for the deposit of partnering community school amounts under this section.

(e) "Resident student" means a student enrolled in a partnering community school who is entitled to attend school in the qualifying school

district under section 3313.64 or 3313.65 of the Revised Code.

(f) "Tax distribution" means a distribution of proceeds of the tax authorized by division (B) of this section under section 321.24 of the Revised Code and distributions that are attributable to that tax under sections 323.156 and 4503.068 of the Revised Code or other applicable law.

(C) A resolution adopted under this section shall specify the date of holding the election, which shall not be earlier than ninety days after the adoption and certification of the resolution and which shall be consistent with the requirements of section 3501.01 of the Revised Code.

A resolution adopted under this section may propose to renew one or more existing levies imposed under division (A) or (B) of this section or to increase or decrease a single levy imposed under either such division.

If the board of education imposes one or more existing levies for the purpose specified in division (F) of section 5705.19 of the Revised Code, the resolution may propose to renew one or more of those existing levies, or to increase or decrease a single such existing levy, for the purpose of general permanent improvements.

If the resolution proposes to renew two or more existing levies, the levies shall be levied for the same purpose. The resolution shall identify those levies and the rates at which they are levied. The resolution also shall specify that the existing levies shall not be extended on the tax lists after the year preceding the year in which the renewal levy is first imposed, regardless of the years for which those levies originally were authorized to be levied.

If the resolution proposes to renew an existing levy imposed under division (B) of this section, the rates allocated to the qualifying school district and to partnering community schools each may be increased or decreased or remain the same, and the total rate may be increased, decreased, or remain the same. The resolution and notice of election shall specify the number of the mills to be levied for the current expenses of the partnering community schools and the number of the mills, if any, to be levied for the current expenses of the qualifying school district.

A resolution adopted under this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. A copy of the resolution shall immediately after its passing be certified to the board of elections of the proper county in the manner provided by section 5705.25 of the Revised Code. That section shall govern the arrangements for the submission of such question and other matters concerning the election to which that section refers, including publication of notice of the election,

except that the election shall be held on the date specified in the resolution. In the case of a resolution adopted under division (B) of this section, the publication of notice of that election shall state the number of the mills, if any, to be levied for the current expenses of partnering community schools and the number of the mills to be levied for the current expenses of the qualifying school district. If a majority of the electors voting on the question so submitted in an election vote in favor of the levy, the board of education may make the necessary levy within the school district or, in the case of a qualifying library levy for the support of a library association or private corporation, within the association library district, at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolution. A levy for a continuing period of time may be reduced pursuant to section 5705.261 of the Revised Code. The tax levy shall be included in the next tax budget that is certified to the county budget commission.

(D)(1) After the approval of a levy on the current tax list and duplicate for current expenses, for recreational purposes, for community centers provided for in section 755.16 of the Revised Code, or for a public library of the district under division (A) of this section, and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy.

(2) After the approval of a levy for general permanent improvements for a specified number of years or for permanent improvements having the purpose specified in division (F) of section 5705.19 of the Revised Code, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(3) After approval of a levy for general permanent improvements for a continuing period of time, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy to be collected in each year over a specified period of years, not exceeding ten, after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed ten years, and may have a principal payment in the year of their issuance.

(4) After the approval of a levy on the current tax list and duplicate under division (B) of this section, and prior to the time when the first tax collection from the levy can be made, the board of education may anticipate a fraction of the proceeds of the levy for the current expenses of the school district and issue anticipation notes in a principal amount not exceeding fifty per cent of the estimated proceeds of the levy to be collected during the first year of the levy and allocated to the school district. The portion of the levy proceeds to be allocated to partnering community schools under that division shall not be included in the estimated proceeds anticipated under this division and shall not be used to pay debt charges on any anticipation notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(E) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(F) The board of education of any school district that levies a tax under this section for the purpose of providing for school safety and security may report to the department of education how the district is using revenue from that tax.

Sec. 5705.212. (A)(1) The board of education of any school district, at any time and by a vote of two-thirds of all of its members, may declare by resolution that the amount of taxes that may be raised within the ten-mill limitation will be insufficient to provide an adequate amount for the present and future requirements of the school district, that it is necessary to levy not more than five taxes in excess of that limitation for current expenses, and that each of the proposed taxes first will be levied in a different year, over a specified period of time. The board shall identify the taxes proposed under this section as follows: the first tax to be levied shall be called the "original tax." Each tax subsequently levied shall be called an "incremental tax." The rate of each incremental tax shall be identical, but the rates of such incremental taxes need not be the same as the rate of the original tax. The resolution also shall state that the question of these additional taxes shall be submitted to the electors of the school district at a special election. The

resolution shall specify separately for each tax proposed: the amount of the increase in rate that it is necessary to levy, expressed separately for the original tax and each incremental tax; that the purpose of the levy is for current expenses; the number of years during which the original tax shall be in effect; a specification that the last year in which the original tax is in effect shall also be the last year in which each incremental tax shall be in effect; and the year in which each tax first is proposed to be levied. The original tax may be levied for any number of years not exceeding ten, or for a continuing period of time. The resolution shall specify the date of holding the special election, which shall not be earlier than ninety days after the adoption and certification of the resolution and shall be consistent with the requirements of section 3501.01 of the Revised Code.

(2) The board of education, by a vote of two-thirds of all of its members, may adopt a resolution proposing to renew taxes levied other than for a continuing period of time under division (A)(1) of this section. Such a resolution shall provide for levying a tax and specify all of the following:

(a) That the tax shall be called and designated on the ballot as a renewal levy;

(b) The rate of the renewal tax, which shall be a single rate that combines the rate of the original tax and each incremental tax into a single rate. The rate of the renewal tax shall not exceed the aggregate rate of the original and incremental taxes.

(c) The number of years, not to exceed ten, that the renewal tax will be levied, or that it will be levied for a continuing period of time;

(d) That the purpose of the renewal levy is for current expenses;

(e) Subject to the certification and notification requirements of section 5705.251 of the Revised Code, that the question of the renewal levy shall be submitted to the electors of the school district at the general election held during the last year the original tax may be extended on the real and public utility property tax list and duplicate or at a special election held during the ensuing year.

(3) A resolution adopted under division (A)(1) or (2) of this section shall go into immediate effect upon its adoption and no publication of the resolution is necessary other than that provided for in the notice of election. Immediately after its adoption, a copy of the resolution shall be certified to the board of elections of the proper county in the manner provided by division (A) of section 5705.251 of the Revised Code, and that division shall govern the arrangements for the submission of the question and other matters concerning the election to which that section refers. The election shall be held on the date specified in the resolution. If a majority of the

electors voting on the question so submitted in an election vote in favor of the taxes or a renewal tax, the board of education, if the original or a renewal tax is authorized to be levied for the current year, immediately may make the necessary levy within the school district at the authorized rate, or at any lesser rate in excess of the ten-mill limitation, for the purpose stated in the resolution. No tax shall be imposed prior to the year specified in the resolution as the year in which it is first proposed to be levied. The rate of the original tax and the rate of each incremental tax shall be cumulative, so that the aggregate rate levied in any year is the sum of the rates of both the original tax and all incremental taxes levied in or prior to that year under the same proposal. A tax levied for a continuing period of time under this section may be reduced pursuant to section 5705.261 of the Revised Code.

(B) Notwithstanding section 133.30 of the Revised Code, after the approval of a tax to be levied in the current or the succeeding year and prior to the time when the first tax collection from that levy can be made, the board of education may anticipate a fraction of the proceeds of the levy and issue anticipation notes in an amount not to exceed fifty per cent of the total estimated proceeds of the levy to be collected during the first year of the levy. The notes shall be sold as provided in Chapter 133. of the Revised Code. If anticipation notes are issued, they shall mature serially and in substantially equal amounts during each year over a period not to exceed five years; and the amount necessary to pay the interest and principal as the anticipation notes mature shall be deemed appropriated for those purposes from the levy, and appropriations from the levy by the board of education shall be limited each fiscal year to the balance available in excess of that amount.

If the auditor of state has certified a deficit pursuant to section 3313.483 of the Revised Code, the notes authorized under this section may be sold in accordance with Chapter 133. of the Revised Code, except that the board may sell the notes after providing a reasonable opportunity for competitive bidding.

(C)(1) The board of education of a qualifying school district, at any time and by a vote of two-thirds of all its members, may declare by resolution that it is necessary to levy not more than five taxes in excess of the ten-mill limitation for the current expenses of ~~the school district and of~~ partnering community schools and, if any of the levy proceeds are so allocated, of the school district, and that each of the proposed taxes first will be levied in a different year, over a specified period of time. A qualifying school district that is not a municipal school district may allocate all of the levy proceeds to partnering community schools. A municipal school district shall allocate a

portion of the levy proceeds to the current expenses of the district. The board shall identify the taxes proposed under this division in the same manner as in division (A)(1) of this section. The rate of each incremental tax shall be identical, but the rates of such incremental taxes need not be the same as the rate of the original tax. In addition to the specifications required of the resolution in division (A) of this section, the resolution shall state the number of the mills to be levied each year for the current expenses of the partnering community schools and the number of the mills, if any, to be levied each year for the current expenses of the school district. The number of mills for the current expenses of partnering community schools shall be the same for each of the incremental taxes, and the number of mills for the current expenses of the qualifying school district shall be the same for each of the incremental taxes.

The levy of taxes for the current expenses of a partnering community school under division (C) of this section and the distribution of proceeds from the tax by a qualifying school district to partnering community schools is hereby determined to be a proper public purpose.

(2) The board of education, by a vote of two-thirds of all of its members, may adopt a resolution proposing to renew taxes levied other than for a continuing period of time under division (C)(1) of this section. In such a renewal levy, the rates allocated to the qualifying school district and to partnering community schools each may be increased or decreased or remain the same, and the total rate may be increased, decreased, or remain the same. In addition to the requirements of division (A)(2) of this section, the resolution shall state the number of the mills to be levied for the current expenses of the partnering community schools and the number of the mills to be levied for the current expenses of the school district.

(3) A resolution adopted under division (C)(1) or (2) of this section is subject to the rules and procedures prescribed by division (A)(3) of this section.

(4) The proceeds of each tax levied under division (C)(1) or (2) of this section shall be credited and distributed in the manner prescribed by division (B)(3) of section 5705.21 of the Revised Code, and divisions (B)(4), (5), and (6) of that section apply to taxes levied under division (C) of this section.

(5) Notwithstanding section 133.30 of the Revised Code, after the approval of a tax to be levied under division (C)(1) or (2) of this section, in the current or succeeding year and prior to the time when the first tax collection from that levy can be made, the board of education may anticipate a fraction of the proceeds of the levy for the current expenses of the qualifying school district and issue anticipation notes in a principal amount

not exceeding fifty per cent of the estimated proceeds of the levy to be collected during the first year of the levy and allocated to the school district. The portion of levy proceeds to be allocated to partnering community schools shall not be included in the estimated proceeds anticipated under this division and shall not be used to pay debt charges on any anticipation notes.

The notes shall be sold as provided in Chapter 133. of the Revised Code. If anticipation notes are issued, they shall mature serially and in substantially equal amounts during each year over a period not to exceed five years. The amount necessary to pay the interest and principal as the anticipation notes mature shall be deemed appropriated for those purposes from the levy, and appropriations from the levy by the board of education shall be limited each fiscal year to the balance available in excess of that amount.

If the auditor of state has certified a deficit pursuant to section 3313.483 of the Revised Code, the notes authorized under this section may be sold in accordance with Chapter 133. of the Revised Code, except that the board may sell the notes after providing a reasonable opportunity for competitive bidding.

As used in division (C) of this section, "qualifying school district" and "partnering community schools" have the same meanings as in section 5705.21 of the Revised Code.

(D) The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

Sec. 5705.214. Not more than three elections during any calendar year shall include the questions by a school district of tax levies proposed under any one or any combination of the following sections: sections 5705.194, 5705.199, 5705.21, 5705.212, 5705.213, 5705.217, 5705.218, 5705.219, 5705.2112, and 5748.09 of the Revised Code.

Sec. 5705.2112. (A) As used in this section:

(1) "Qualifying partnership" has the same meaning as in section 3318.71 of the Revised Code.

(2) "Fiscal board" means the board of education of the school district that is selected as the fiscal agent of a qualifying partnership under division (D) of section 3318.71 of the Revised Code.

(3) "Participating school district" means a city, local, exempted village, cooperative education, or joint vocational school district that is a party to the qualifying partnership agreement described in section 3318.71 of the Revised Code.

(4) "Tax distribution" means a distribution of proceeds of the tax authorized by this section under section 321.24 of the Revised Code and distributions that are attributable to that tax under sections 323.156 and 4503.068 of the Revised Code or other applicable law.

(5) "Acquisition of classroom facilities" has the same meaning as in section 3318.01 of the Revised Code.

(B) The fiscal board of a qualifying partnership may levy a tax under this section in excess of the ten-mill limitation for the purpose of funding the acquisition of classroom facilities that benefit the qualifying partnership. The tax is subject to the approval of the electors of all participating school districts. Before proposing the tax to such electors, the fiscal board shall obtain identical resolutions adopted by two-thirds of the members of the board of education of each participating school district. The resolutions shall specify all of the following:

(1) The rate of the levy;

(2) The purpose of the levy, which shall be confined to the acquisition of classroom facilities;

(3) The number of years during which the levy shall be in effect, which shall be for any number of years not exceeding ten;

(4) That the question of the levy shall be submitted to the electors of each participating school district at a special election;

(5) The date that such special election shall be held, which shall not be earlier than ninety days after the resolutions are certified to the board or boards of elections under division (C) of this section and which shall be consistent with the requirements of section 3501.01 of the Revised Code.

(C) A resolution adopted under division (B) of this section shall go into immediate effect upon its passage, and no publication of the resolution shall be necessary other than that provided for in the notice of election. Upon passing such a resolution, the board of education of a participating school district shall certify a copy of the resolution to the fiscal board of the qualifying partnership. Once the fiscal board receives an identical resolution from each participating school district, the fiscal board shall certify copies of such resolutions to the board of elections of the proper county or counties in the manner provided by section 5705.25 of the Revised Code. That section shall govern the arrangements for the submission of the levy to the electors of each participating school district and other matters concerning the election to which that section refers, including publication of notice of the election, except that the election shall be held on the date specified in the resolutions and the notice shall be published in newspapers of general circulation in all the participating school districts.

The question of the levy shall be submitted as a single ballot issue to the electors of all the participating school districts. If a majority of all such electors voting on the question so submitted in the election vote in favor of the levy, the fiscal board may make the necessary levy within the territory of the participating school districts at the additional rate, or at any lesser rate in excess of the ten-mill limitation on the tax list, for the purpose stated in the resolutions.

The submission of questions to the electors under this section is subject to the limitation on the number of election dates established by section 5705.214 of the Revised Code.

(D) Each tax distribution shall be deposited to a special fund, established for the purposes described in the resolutions proposing the tax levy, in the county treasury of the county in which the fiscal board of the qualifying partnership is located. The fiscal board shall be the custodian of the amounts deposited to such fund and shall have the same rights and responsibilities with respect to the fund as boards of education do with respect to other levy revenues.

(E) The levy of a tax under this section for the purpose of funding the acquisition of classroom facilities benefiting a qualifying partnership is hereby determined to be a proper public purpose. For the purposes of Chapter 3317. of the Revised Code or other laws referring to the "taxes charged and payable" for a school district, the taxes charged and payable for a levy authorized under this section are not included in the taxes charged and payable for any participating school district. The taxes charged and payable for a levy authorized under this section shall not affect the calculation of "state education aid," as defined in section 5751.20 of the Revised Code, for any participating school district.

(F)(1) After the approval of a levy under this section for a specified number of years, the fiscal board of a qualifying partnership may anticipate a fraction of the proceeds of the levy and issue anticipation notes in a principal amount not exceeding fifty per cent of the total estimated proceeds of the levy remaining to be collected in each year over a period of five years after the issuance of the notes.

The notes shall be issued as provided in section 133.24 of the Revised Code, shall have principal payments during each year after the year of their issuance over a period not to exceed five years, and may have a principal payment in the year of their issuance.

(2) The fiscal board of a qualifying partnership is a "taxing authority" for the purposes of Chapter 133. of the Revised Code with respect to the tax and securities authorized under this section, and the treasurer of the school

district serving as the fiscal board is the fiscal officer for the purposes of that chapter.

Sec. 5705.34. When the budget commission has completed its work with respect to a tax budget or other information required to be provided under section 5705.281 of the Revised Code, it shall certify its action to the taxing authority, together with an estimate by the county auditor of the rate of each tax necessary to be levied by the taxing authority within its subdivision, taxing unit, or, in the case of a qualifying library levy, within the library district or association library district, and what part thereof is in excess of, and what part within, the ten-mill tax limitation. The certification shall also indicate the date on which each tax levied by the taxing authority will expire.

If a taxing authority levies a tax for a fixed sum of money or to pay debt charges for the tax year for which the tax budget is prepared, and a payment on account of that tax is payable to the taxing authority for the tax year under section ~~5727.85, 5727.86, 5751.21, or 5751.22~~ 5709.92 or 5709.93, or

for the preceding tax year under section 5709.94 of the Revised Code, the county auditor, when estimating the rate at which the tax shall be levied in the current year, shall estimate the rate necessary to raise the required sum less the estimated amount of any such payments made for the tax year to a

taxing unit for fixed-sum levies under those sections. If the tax commissioner certified a net fixed-sum levy gain under division (G) of section 5709.94 of the Revised Code for any taxing unit in the county, the county auditor, when estimating the rates at which the taxing unit's fixed-sum levies shall be levied in the current tax year, shall estimate the rates necessary to raise the required sums plus the amount of the net fixed-sum levy gain certified by the commissioner, and shall apportion that additional sum among all the fixed-sum levies in proportion to the sums to be raised by each levy. The estimated rate shall be the rate of the levy that

the budget commission certifies with its action under this section.

Each taxing authority, by ordinance or resolution, shall authorize the necessary tax levies and certify them to the county auditor before the first day of October in each year, or at such later date as is approved by the tax commissioner, except that the certification by the legislative authority of the city of Cincinnati or by a board of education shall be made by the first day of April or at such later date as is approved by the commissioner, and except that a township board of park commissioners that is appointed by the board of township trustees and oversees a township park district that contains only unincorporated territory shall authorize only those taxes approved by, and only at the rate approved by, the board of township trustees as required by

The above boxed and initialed text was disapproved.

Date: 6-30-15

John R. Kasich, Governor

division (C) of section 511.27 of the Revised Code. If the levying of a tax to be placed on the duplicate of the current year is approved by electors under sections 5705.01 to 5705.47 of the Revised Code; if the rate of a school district tax is increased due to the repeal of a school district income tax and property tax rate reduction at an election held pursuant to section 5748.04 of the Revised Code; or if refunding bonds to refund all or a part of the principal of bonds payable from a tax levy for the ensuing fiscal year are issued or sold and in the process of delivery, the budget commission shall reconsider and revise its action on the budget of the subdivision or school library district for whose benefit the tax is to be levied after the returns of such election are fully canvassed, or after the issuance or sale of such refunding bonds is certified to it.

Sec. 5709.17. The following property shall be exempted from taxation:

(A) Real estate held or occupied by an association or corporation, organized or incorporated under the laws of this state relative to soldiers' memorial associations, monumental building associations, or cemetery associations or corporations, which in the opinion of the trustees, directors, or managers thereof is necessary and proper to carry out the object intended for such association or corporation;

(B) Real estate and tangible personal property held or occupied by a veterans' organization that qualifies for exemption from taxation under section 501(c)(19) or 501(c)(23) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 1, as amended, and is incorporated under the laws of this state or the United States, except real estate held by such an organization for the production of rental income in excess of thirty-six thousand dollars in a tax year, before accounting for any cost or expense incurred in the production of such income. For the purposes of this division, rental income includes only income arising directly from renting the real estate to others for consideration.

(C) Tangible personal property held by a corporation chartered under 112 Stat. 1335, 36 U.S.C.A. 40701, described in section 501(c)(3) of the Internal Revenue Code, and exempt from taxation under section 501(a) of the Internal Revenue Code shall be exempt from taxation if it is property obtained as described in 112 Stat. 1335-1341, 36 U.S.C.A. Chapter 407.

(D) Real estate held or occupied by a fraternal organization and used primarily for meetings of and the administration of the fraternal organization, ~~except or for providing, on a not-for-profit basis, educational or health services~~ real estate held by such an organization for the production of rental income in excess of thirty-six thousand dollars in a tax year, before accounting for any cost or expense incurred in the production of such

income. As used in this division, "rental income" has the same meaning as in division (B) of this section, and "fraternal organization" means a domestic fraternal society, order, or association operating under the lodge, council, or grange system that qualifies for exemption from taxation under section 501(c)(5), 501(c)(8), or 501(c)(10) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended; that provides financial support for charitable purposes, as defined in division (B)(12) of section 5739.02 of the Revised Code; and that has been operating in this state with a state governing body for at least eighty-five years.

Sec. 5709.62. (A) In any municipal corporation that is defined by the United States office of management and budget as a principal city of a metropolitan statistical area, the legislative authority of the municipal corporation may designate one or more areas within its municipal corporation as proposed enterprise zones. Upon designating an area, the legislative authority shall petition the director of development services for certification of the area as having the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (E) of this section, on and after July 1, 1994, legislative authorities shall not enter into agreements under this section unless the legislative authority has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in division (A)(1) of section 5709.61 of the Revised Code, and shall forward the findings to the legislative authority of the municipal corporation. If the director certifies the area as having those characteristics, and thereby certifies it as a zone, the legislative authority may enter into an agreement with an enterprise under division (C) of this section.

(B) Any enterprise that wishes to enter into an agreement with a municipal corporation under division (C) of this section shall submit a proposal to the legislative authority of the municipal corporation on a form prescribed by the director of development services, together with the application fee established under section 5709.68 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends

to retain, within the zone at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (C) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(C) Upon receipt and investigation of a proposal under division (B) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and improve the economic climate of the municipal corporation, the legislative authority, on or before October 15, ~~2015~~ 2017, may do one of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to seventy-five per cent, of the increase in the

assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the legislative authority;

(c) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance that the municipal corporation is authorized to provide with regard to the project site.

(2) Enter into an agreement under which the enterprise agrees to remediate an environmentally contaminated facility, to spend an amount equal to at least two hundred fifty per cent of the true value in money of the real property of the facility prior to remediation as determined for the purposes of property taxation to establish, expand, renovate, or occupy the remediated facility, and to hire new employees or preserve employment opportunities for existing employees at the remediated facility, in return for one or more of the following incentives:

(a) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed fifty per cent, of the assessed valuation of the real property of the facility prior to remediation;

(b) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, not to exceed one hundred per cent, of the increase in the assessed valuation of the real property of the facility during or after remediation;

(c) The incentive under division (C)(1)(a) of this section, except that the percentage of the assessed value of such property exempted from taxation shall not exceed one hundred per cent;

(d) The incentive under division (C)(1)(c) of this section.

(3) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property used in business at the project site as a result of the agreement, or of the assessed valuation of real property constituting the project site, or both.

(D)(1) Notwithstanding divisions (C)(1)(a) and (b) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed seventy-five per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed sixty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of seventy-five per cent.

(2) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (C)(1)(a), (b), and (c), (C)(2)(a), (b), and (c), and (C)(3) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(3) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (D)(1) or (2) of this section, the legislative authority shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the legislative authority not later than fourteen days prior to the date stipulated by the legislative authority as the date upon which approval of the agreement is to be formally considered by the legislative authority. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The legislative authority may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the legislative authority, or, if the board approves the agreement conditionally, at any time after the conditions are agreed to by the board and the legislative authority.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board is not required under this division. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under this division fewer than forty-five business days prior to the legislative authority's approval of the agreement, the legislative authority shall deliver the notice to the board not later than the number of days prior to such approval as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(4) The legislative authority shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(E) This division applies to zones certified by the director of development services under this section prior to July 22, 1994.

On or before October 15, ~~2015~~ 2017, the legislative authority that designated a zone to which this division applies may enter into an agreement with an enterprise if the legislative authority finds that the enterprise satisfies one of the criteria described in divisions (E)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (C) of this section.

(F) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement is entered into under this section, if the legislative authority revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(G) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee

shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code.

(H) When an agreement is entered into pursuant to this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (C)(1)(a) and (b), (C)(2)(a), (b), and (c), (C)(3), (D), and (I) of this section and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the legislative authority of a municipal corporation or the director of development services.

Sec. 5709.63. (A) With the consent of the legislative authority of each affected municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed enterprise zones. A board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed enterprise zone. The board shall petition the director of development services for certification of the area as having the characteristics set forth in division (A)(1) or (2) of section 5709.61 of the Revised Code as amended by Substitute Senate Bill No. 19 of the 120th general assembly. Except as otherwise provided in division (D) of this section, on and after July 1, 1994, boards of county commissioners shall not enter into agreements under this section unless the board has petitioned the director and the director has certified the zone under this section as amended by that act; however, all agreements entered into under this section as it existed prior to July 1, 1994, and the incentives granted under those agreements shall remain in effect for the period agreed to under those agreements. The director shall make the determination in the manner provided under section 5709.62 of the Revised Code.

Any enterprise wishing to enter into an agreement with the board under division (B) or (D) of this section shall submit a proposal to the board on the form and accompanied by the application fee prescribed under division (B) of section 5709.62 of the Revised Code. The enterprise shall review and update the estimates and listings required by the form in the manner required under that division. The board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) If the board of county commissioners finds that an enterprise submitting a proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal

corporations or the unincorporated areas in which the zone is located and to which the proposal applies, the board, on or before October 15, ~~2015~~ 2017, and with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees may do either of the following:

(1) Enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(a) When the facility is located in a municipal corporation, the board may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(b) When the facility is located in an unincorporated area, the board may enter into an agreement for one or more of the following incentives:

(i) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the assessed value of tangible personal property first used in business at a project site as a result of the agreement. If an exemption for inventory is specifically granted in the agreement pursuant to this division, the exemption applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the establishment of the zone, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(ii) Exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to sixty per cent, of the increase in the assessed valuation of real property constituting the project site subsequent to formal approval of the agreement by the board;

(iii) Provision for a specified number of years, not to exceed fifteen, of any optional services or assistance the board is authorized to provide with regard to the project site;

(iv) The incentive described in division (C)(2) of section 5709.62 of the Revised Code.

(2) Enter into an agreement with an enterprise that plans to purchase and operate a large manufacturing facility that has ceased operation or has announced its intention to cease operation, in return for exemption for a specified number of years, not to exceed fifteen, of a specified portion, up to

one hundred per cent, of tangible personal property used in business at the project site as a result of the agreement, or of real property constituting the project site, or both.

(C)(1)(a) Notwithstanding divisions (B)(1)(b)(i) and (ii) of this section, the portion of the assessed value of tangible personal property or of the increase in the assessed valuation of real property exempted from taxation under those divisions may exceed sixty per cent in any year for which that portion is exempted if the average percentage exempted for all years in which the agreement is in effect does not exceed fifty per cent, or if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a percentage in excess of sixty per cent.

(b) Notwithstanding any provision of the Revised Code to the contrary, the exemptions described in divisions (B)(1)(b)(i), (ii), (iii), and (iv) and (B)(2) of this section may be for up to fifteen years if the board of education of the city, local, or exempted village school district within the territory of which the property is or will be located approves a number of years in excess of ten.

(c) For the purpose of obtaining the approval of a city, local, or exempted village school district under division (C)(1)(a) or (b) of this section, the board of county commissioners shall deliver to the board of education a notice not later than forty-five days prior to approving the agreement, excluding Saturdays, Sundays, and legal holidays as defined in section 1.14 of the Revised Code. The notice shall state the percentage to be exempted, an estimate of the true value of the property to be exempted, and the number of years the property is to be exempted. The board of education, by resolution adopted by a majority of the board, shall approve or disapprove the agreement and certify a copy of the resolution to the board of county commissioners not later than fourteen days prior to the date stipulated by the board of county commissioners as the date upon which approval of the agreement is to be formally considered by the board of county commissioners. The board of education may include in the resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district under division (B) of section 5709.82 of the Revised Code. The board of county commissioners may approve the agreement at any time after the board of education certifies its resolution approving the agreement to the board of county commissioners, or, if the board of education approves the agreement conditionally, at any time after the conditions are agreed to by the board of education and the board of county commissioners.

If a board of education has adopted a resolution waiving its right to approve agreements and the resolution remains in effect, approval of an agreement by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under this division fewer than forty-five business days prior to approval of the agreement by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(2) The board of county commissioners shall comply with section 5709.83 of the Revised Code unless the board of education has adopted a resolution under that section waiving its right to receive such notice.

(D) This division applies to zones certified by the director of development services under this section prior to July 22, 1994.

On or before October 15, ~~2015~~ 2017, and with the consent of the legislative authority of each affected municipal corporation or board of township trustees of each affected township, the board of county commissioners that designated a zone to which this division applies may enter into an agreement with an enterprise if the board finds that the enterprise satisfies one of the criteria described in divisions (D)(1) to (5) of this section:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the

director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

The agreement shall require the enterprise to agree to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the incentives described in division (B) of this section.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the board of county commissioners revokes its designation of a zone, or if the director of development services revokes a zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the board of county commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the board and shall be used by the board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(G) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board of county commissioners to negotiate and administer agreements with regard to that zone under this section.

(H) When an agreement is entered into pursuant to this section, the board of county commissioners authorizing the agreement or the legislative authority or board of township trustees that negotiates and administers the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after

the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be foregone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(I) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed, or annual report that is required to be filed under section 5727.08 of the Revised Code, while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(J) Enterprises may agree to give preference to residents of the zone within which the agreement applies relative to residents of this state who do not reside in the zone when hiring new employees under the agreement.

(K) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

(L) The tax commissioner's authority in determining the accuracy of any exemption granted by an agreement entered into under this section is limited to divisions (B)(1)(b)(i) and (ii), (B)(2), (C), and (I) of this section, division (B)(1)(b)(iv) of this section as it pertains to divisions (C)(2)(a), (b), and (c) of section 5709.62 of the Revised Code, and divisions (B)(1) to (10) of section 5709.631 of the Revised Code and, as authorized by law, to enforcing any modification to, or revocation of, that agreement by the board of county commissioners or the director of development services or, if the board's powers and duties are delegated under division (G) of this section, by the legislative authority of a municipal corporation or board of township trustees.

Sec. 5709.632. (A)(1) The legislative authority of a municipal corporation defined by the United States office of management and budget as a principal city of a metropolitan statistical area may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in the municipal corporation as a proposed enterprise zone.

(2) With the consent of the legislative authority of each affected

municipal corporation or of a board of township trustees, a board of county commissioners may, in the manner set forth in section 5709.62 of the Revised Code, designate one or more areas in one or more municipal corporations or in unincorporated areas of the county as proposed urban jobs and enterprise zones, except that a board of county commissioners may designate no more than one area within a township, or within adjacent townships, as a proposed urban jobs and enterprise zone.

(3) The legislative authority or board of county commissioners may petition the director of development services for certification of the area as having the characteristics set forth in division (A)(3) of section 5709.61 of the Revised Code. Within sixty days after receiving such a petition, the director shall determine whether the area has the characteristics set forth in that division and forward the findings to the legislative authority or board of county commissioners. If the director certifies the area as having those characteristics and thereby certifies it as a zone, the legislative authority or board may enter into agreements with enterprises under division (B) of this section. Any enterprise wishing to enter into an agreement with a legislative authority or board of county commissioners under this section and satisfying one of the criteria described in divisions (B)(1) to (5) of this section shall submit a proposal to the legislative authority or board on the form prescribed under division (B) of section 5709.62 of the Revised Code and shall review and update the estimates and listings required by the form in the manner required under that division. The legislative authority or board may, on a separate form and at any time, require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.68 of the Revised Code.

(B) Prior to entering into an agreement with an enterprise, the legislative authority or board of county commissioners shall determine whether the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities in the zone and to improve the economic climate of the municipal corporation or municipal corporations or the unincorporated areas in which the zone is located and to which the proposal applies, and whether the enterprise satisfies one of the following criteria:

(1) The enterprise currently has no operations in this state and, subject to approval of the agreement, intends to establish operations in the zone;

(2) The enterprise currently has operations in this state and, subject to approval of the agreement, intends to establish operations at a new location in the zone that would not result in a reduction in the number of employee

positions at any of the enterprise's other locations in this state;

(3) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in another state, to the zone;

(4) The enterprise, subject to approval of the agreement, intends to expand operations at an existing site in the zone that the enterprise currently operates;

(5) The enterprise, subject to approval of the agreement, intends to relocate operations, currently located in this state, to the zone, and the director of development services has issued a waiver for the enterprise under division (B) of section 5709.633 of the Revised Code.

(C) If the legislative authority or board determines that the enterprise is so qualified and satisfies one of the criteria described in divisions (B)(1) to (5) of this section, the legislative authority or board may, after complying with section 5709.83 of the Revised Code and on or before October 15, ~~2015~~ 2017, and, in the case of a board of commissioners, with the consent of the legislative authority of each affected municipal corporation or of the board of township trustees, enter into an agreement with the enterprise under which the enterprise agrees to establish, expand, renovate, or occupy a facility in the zone and hire new employees, or preserve employment opportunities for existing employees, in return for the following incentives:

(1) When the facility is located in a municipal corporation, a legislative authority or board of commissioners may enter into an agreement for one or more of the incentives provided in division (C) of section 5709.62 of the Revised Code, subject to division (D) of that section;

(2) When the facility is located in an unincorporated area, a board of commissioners may enter into an agreement for one or more of the incentives provided in divisions (B)(1)(b), (B)(2), and (B)(3) of section 5709.63 of the Revised Code, subject to division (C) of that section.

(D) All agreements entered into under this section shall be in the form prescribed under section 5709.631 of the Revised Code. After an agreement under this section is entered into, if the legislative authority or board of county commissioners revokes its designation of the zone, or if the director of development services revokes the zone's certification, any entitlements granted under the agreement shall continue for the number of years specified in the agreement.

(E) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars; provided, however, that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee

shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority or board of commissioners once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for such purpose by the legislative authority or board and shall be used by the legislative authority or board exclusively for the purpose of complying with section 5709.68 of the Revised Code and by the tax incentive review council created under section 5709.85 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority or board may waive or reduce the amount of the fee charged against an enterprise, but such waiver or reduction does not affect the obligations of the legislative authority or board or the tax incentive review council to comply with section 5709.68 or 5709.85 of the Revised Code, respectively.

(F) With the approval of the legislative authority of a municipal corporation or the board of township trustees of a township in which a zone is designated under division (A)(2) of this section, the board of county commissioners may delegate to that legislative authority or board any powers and duties of the board to negotiate and administer agreements with regard to that zone under this section.

(G) When an agreement is entered into pursuant to this section, the legislative authority or board of commissioners authorizing the agreement shall forward a copy of the agreement to the director of development services and to the tax commissioner within fifteen days after the agreement is entered into. If any agreement includes terms not provided for in section 5709.631 of the Revised Code affecting the revenue of a city, local, or exempted village school district or causing revenue to be forgone by the district, including any compensation to be paid to the school district pursuant to section 5709.82 of the Revised Code, those terms also shall be forwarded in writing to the director of development services along with the copy of the agreement forwarded under this division.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) An agreement entered into under this section may include a provision requiring the enterprise to create one or more temporary internship positions for students enrolled in a course of study at a school or other educational institution in the vicinity, and to create a scholarship or provide another

form of educational financial assistance for students holding such a position in exchange for the student's commitment to work for the enterprise at the completion of the internship.

Sec. 5709.67. (A) Except as otherwise provided in sections 5709.61 to 5709.69 of the Revised Code, the director of development shall administer those sections and shall adopt rules necessary to implement and administer the enterprise zone program. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code and shall adopt rules necessary to carry out that duty. No tax incentive qualification certificate or employee tax credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules. The director of job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code and shall adopt rules necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules.

(B) Not later than the first day of August each year, the director of development shall report to the general assembly on all of the following for the preceding calendar year:

(1) The cost to the state of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued;

(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code;

(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code.

The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have been created without the incentives. The director shall send a copy of the

report to each member of the general assembly and to the director of the legislative service commission.

~~(C) All forms used in connection with the administration of sections 5709.61 to 5709.69 of the Revised Code, except forms administered directly by the tax commissioner, by the director of job and family services, or by a county or municipal corporation, are subject to review and approval by the state forms management control center under sections 125.91 to 125.98 of the Revised Code.~~

Sec. 5709.73. (A) As used in this section and section 5709.74 of the Revised Code:

(1) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Further improvements" or "improvements" means the increase in the assessed value of real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of a resolution adopted under this section were it not for the exemption granted by that resolution. For purposes of division (B) of this section, "improvements" do not include any property used or to be used for residential purposes. For this purpose, "property that is used or to be used for residential purposes" means property that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the property as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Incentive district" has the same meaning as in section 5709.40 of the Revised Code, except that a blighted area is in the unincorporated area of a township.

(5) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(B) A board of township trustees may, by unanimous vote, adopt a resolution that declares to be a public purpose any public infrastructure improvements made that are necessary for the development of certain parcels of land located in the unincorporated area of the township. Except with the approval under division (D) of this section of the board of education of each city, local, or exempted village school district within which the improvements are located, the resolution may exempt from real property taxation not more than seventy-five per cent of further improvements to a parcel of land that directly benefits from the public infrastructure improvements, for a period of not more than ten years. The

resolution shall specify the percentage of the further improvements to be exempted and the life of the exemption.

(C)(1) A board of township trustees may adopt, by unanimous vote, a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (F) of this section, exempt from taxation as provided in this section, but no board of township trustees of a township that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the township that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the township for the preceding tax year. The district shall be located within the unincorporated area of the township and shall not include any territory that is included within a district created under division (B) of section 5709.78 of the Revised Code. The resolution shall delineate the boundary of the district and specifically identify each parcel within the district. A district may not include any parcel that is or has been exempted from taxation under division (B) of this section or that is or has been within another district created under this division. A resolution may create more than one district, and more than one resolution may be adopted under division (C)(1) of this section.

(2) Not later than thirty days prior to adopting a resolution under division (C)(1) of this section, if the township intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution.

(3)(a) A resolution adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to

be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.74 of the Revised Code and received by the township under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.74 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (C) of this section, for up to ten years or, with the approval of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed

seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the board of township trustees shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The notice regarding improvements made under division (C) of this section to parcels within an incentive district shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of township trustees intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of township trustees and the board of education negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

The board of education shall certify its resolution to the board of township trustees not later than fourteen days prior to the date the board of township trustees intends to adopt the resolution as indicated in the notice. If the board of education and the board of township trustees negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for the number of years specified in the resolution or, in the case of exemption percentages in excess of seventy-five

per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of township trustees within the time prescribed by this section, the board of township trustees thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of township trustees may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of township trustees, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of township trustees. If a mutually acceptable compensation agreement is negotiated between the board of township trustees and the board of education, including agreements for payments in lieu of taxes under section 5709.74 of the Revised Code, the board of township trustees shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (D) of this section. If a board of education has adopted a resolution allowing a board of township trustees to deliver the notice required under division (D) of this section fewer than forty-five business days prior to adoption of the resolution by the board of township trustees, the board of township trustees shall deliver the notice to the board of education not later than the number of days prior to the adoption as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of township trustees. If the board of education rescinds the resolution, it shall certify notice of the rescission to the board of township trustees.

If the board of township trustees is not required by division (D) of this

section to notify the board of education of the board of township trustees' intent to declare improvements to be a public purpose, the board of township trustees shall comply with the notice requirements imposed under section 5709.83 of the Revised Code before taking formal action to adopt the resolution making that declaration, unless the board of education has adopted a resolution under that section waiving its right to receive the notice.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the