

a community mental health services provider or a community addiction services provider at any time based on cause, including complaints made by or on behalf of persons receiving mental health services or alcohol and drug addiction services and confirmed or alleged deficiencies brought to the attention of the director. This authority does not affect the director's duty to conduct the inspections required by section 5119.37 of the Revised Code.

In conducting an on-site review under this division, the director may do so in cooperation with a board of alcohol, drug addiction, and mental health services that seeks to contract or has a contract with the applicant under section 340.036 of the Revised Code. In conducting any other evaluation under this division, the director shall do so in cooperation with such a board.

(J) If the director determines that a community mental health services provider applicant's or a community addiction services provider applicant's certifiable services and supports do not satisfy the standards for certification proposes to take action under division (G) of this section, the director shall notify the board of alcohol, drug addiction, and mental health services serving the alcohol, drug addiction, and mental health service district in which the certifiable services and supports will be or were provided, and provide the board opportunity to respond as specified in division (A) of this section with respect to initial or renewal applications.

When a final order is issued by the director under division (G) of this section, the director may request that the appropriate board of alcohol, drug addiction, and mental health services reallocate any funds for the certifiable services and supports the applicant was to provide to another a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards. If the board does not reallocate such funds in a reasonable period of time, the director may withhold state and federal funds for the certifiable services and supports and allocate those funds directly to a community mental health services provider or community addiction services provider whose certifiable services and supports satisfy the standards.

(F)(K) Each community mental health services provider applicant or community addiction services provider applicant seeking initial or renewed certification of its certifiable services and supports under this section shall pay a fee for the certification required by this section, unless the applicant is exempt under rules adopted under this section. Fees shall be paid into the state treasury to the credit of the sale of goods and services fund created pursuant to section 5119.45 of the Revised Code.

(G)(L) The director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section. The rules shall do all of the

following:

(1) Subject to section 340.034 of the Revised Code, specify the types of recovery supports that are required to be certified under this section;

(2) Establish certification standards for certifiable services and supports that are consistent with nationally recognized applicable standards and facilitate participation in federal assistance programs. The rules shall include as certification standards only requirements that improve the quality of certifiable services and supports or the health and safety of persons receiving certifiable services and supports. The standards shall address at a minimum all of the following:

(a) Reporting major unusual incidents to the director;

(b) Procedures for applicants for and persons receiving certifiable services and supports to file grievances and complaints;

(c) Seclusion;

(d) Restraint;

(e) Requirements regarding the physical facilities in which certifiable services and supports are provided;

(f) Requirements with regard to health, safety, adequacy, and cultural specificity and sensitivity;

(g) Standards for evaluating certifiable services and supports;

(h) Standards and procedures for granting full, probationary, and interim certification of the certifiable services and supports of ~~a community mental health services provider applicant or community addiction services provider~~ an applicant;

(i) Standards and procedures for revoking the certification of a community mental health services provider's or community addiction services provider's certifiable services and supports that do not continue to meet the minimum standards established pursuant to this section;

(j) The limitations to be placed on a provider whose certifiable services and supports are granted probationary or interim certification;

(k) Development of written policies addressing the rights of persons receiving certifiable services and supports, including all of the following:

(i) The right to a copy of the written policies addressing the rights of persons receiving certifiable services and supports;

(ii) The right at all times to be treated with consideration and respect for the person's privacy and dignity;

(iii) The right to have access to the person's own psychiatric, medical, or other treatment records unless access is specifically restricted in the person's treatment plan for clear treatment reasons;

(iv) The right to have a client rights officer provided by the provider or

board of alcohol, drug addiction, and mental health services advise the person of the person's rights, including the person's rights under Chapter 5122. of the Revised Code if the person is committed to the provider or board.

(l) Documentation that must be submitted as evidence of holding appropriate accreditation;

(m) A process by which the director may review the accreditation standards and process used by the national accrediting organizations specified in division (B)(3) of this section.

(3) Establish the process for certification of certifiable services and supports;

(4) Set the amount of initial and renewal certification ~~review~~ fees and any reasons for which applicants may be exempt from the fees;

(5) Specify the type of notice and hearing to be provided prior to a decision on whether to reallocate funds;

(6) Establish a process by which the director, based on deficiencies identified as a result of conducting an on-site review or otherwise evaluating a community mental health services provider or community addiction services provider under division (I) of this section, may take any range of correction actions, including revocation of the provider's certification.

~~(H)(1)(M)(1)~~ The director may issue an order suspending admissions to a community addiction services provider that provides overnight accommodations if the director finds either of the following:

(a) The provider's certifiable services and supports are not in compliance with rules adopted under this section;

(b) The provider has been cited for more than one violation of statutes or rules during any previous certification period of the provider.

(2)(a) Except as provided in division ~~(H)(2)(b)(M)(2)(b)~~ of this section, proceedings initiated to suspend admissions to a community addiction services provider that provides overnight accommodations are governed by Chapter 119. of the Revised Code.

(b) If a suspension of admissions is proposed because the director has determined that the provider has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients, the director may issue an order suspending admissions before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift the order for the suspension of admissions if the director determines that the violation that formed the basis for the order has been corrected.

(3) Appeals from proceedings initiated to order the suspension of

admissions shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The provider may request a hearing not later than ten days after ~~receiving the notice specified~~ being served in section accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the provider's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations with the department not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) The hearing examiner shall send a written copy of the report and recommendations, by certified mail, to the provider, or the provider's attorney, if applicable, not later than five days after the report is filed with the department.

(f) Not later than five days after receiving the report and recommendations, the provider may file objections with the department.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the department shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the department shall lift the order for the suspension of admissions if the department determines the violation that formed the basis for the order has been corrected.

~~(1)(1)(N)(1)~~ In a proceeding initiated to suspend admissions to a community addiction services provider that provides overnight accommodations, to deny an application for certification of certifiable services and supports, to refuse to renew certification, or to revoke certification, the department may order the suspension, denial, refusal, or revocation regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(2) When the department issues an order suspending admissions to a

community addiction services provider that provides overnight accommodations, denies an application for certification of certifiable services and supports, refuses to renew certification, or revokes a certification, the department shall not grant an opportunity for submitting a plan of correction.

~~(H)~~(O) The department of mental health and addiction services shall maintain a current list of community addiction services providers and shall provide a copy of the list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code. The list shall identify each provider by its name, its address, and the county in which it is located.

~~(K)~~(P) No person shall represent in any manner that a community mental health services provider's or community addiction services provider's certifiable services and supports are certified by the director if the certifiable services and supports are not so certified at the time the representation is made.

(Q) If a board of alcohol, drug addiction, and mental health services requests the department of mental health and addiction services to investigate a community mental health services provider or community addiction services provider pursuant to this section, the department shall initiate the investigation not later than ten business days after receipt of the request. If the department initiates an investigation of a community mental health services provider or community addiction services provider under this section for any other reason, the department shall notify the board of alcohol, drug addiction, and mental health services serving the applicable alcohol, drug addiction, and mental health service district of the investigation and the reason for the investigation not later than three business days after the investigation begins. On the board's request, the department shall provide the board with information specifying the status of the investigation and the final disposition of the investigation.

(R) Nothing in this section shall be construed to require a federally qualified health center or federally qualified health center look-alike, as those terms are defined in section 3701.047 of the Revised Code, to seek or obtain certification under this section.

Sec. 5119.363. The director of mental health and addiction services shall adopt rules governing ~~the duties of boards of alcohol, drug addiction, and mental health services under section 340.20 of the Revised Code and the~~ duties of community addiction services providers under section 5119.362 of the Revised Code. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

The above boxed and initialed text was disapproved.

5047 3, 2-23
Date: _____


Mike DeWine, Governor

The director shall adopt rules under this section that authorize the department of mental health and addiction services to determine an advanced practice registered nurse's, physician assistant's, or physician's compliance with section 3719.064 of the Revised Code if such practitioner works for a community addiction services provider.

Sec. 5119.367. (A) As used in this section, "adverse action" means an action by a state, provincial, federal, or other licensing or regulatory authority to deny, revoke, suspend, place on probation, or otherwise restrict a license, certification, or other approval to provide certifiable services and supports or an equivalent to certifiable services and supports.

(B)(1) When submitting an application for initial or renewed certification of one or more certifiable services and supports, the applicant shall notify the department of mental health and addiction services of any adverse action taken against the applicant or any owner or principal of the applicant within the three-year period immediately preceding the date of application.

(2) Not later than seven days after receiving a notice of adverse action from a licensing or regulatory authority that is other than the department of mental health and addiction services, an applicant for initial or renewed certification or the holder of a certification issued under section 5119.36 of the Revised Code shall notify the department of the action.

(C) To notify the department as required by this section, a copy of the notice of adverse action shall be provided to the department.

Sec. 5119.37. (A)(1)(a) Except as provided in division (A)(1)(b) of this section, no person or government entity shall operate an opioid treatment program requiring certification, as certification is defined in 42 C.F.R. 8.2, unless the person or government entity is a community addiction services provider and the program is licensed under this section.

(b) Division (A)(1)(a) of this section does not apply to a program operated by the United States department of veterans affairs.

(2) No community addiction services provider licensed under this section shall operate an opioid treatment program in a manner inconsistent with this section and the rules adopted under it.

(B) A community addiction services provider seeking a license to operate an opioid treatment program shall apply to the department of mental health and addiction services. The department shall review all applications received.

(C) The department may issue a license to operate an opioid treatment program to a community addiction services provider only if all of the following apply:

(1) During the three-year period immediately preceding the date of application, the provider or any owner, sponsor, medical director, administrator, or principal of the provider has been in good standing to operate an opioid treatment program in all other locations where the provider or such other person has been operating a similar program, as evidenced by both of the following:

(a) Not having been denied a license, certificate, or similar approval to operate an opioid treatment program by this state or another jurisdiction;

(b) Not having been the subject of any of the following in this state or another jurisdiction:

(i) An action that resulted in the suspension or revocation of the license, certificate, or similar approval of the provider or other person;

(ii) A voluntary relinquishment, withdrawal, or other action taken by the provider or other person to avoid suspension or revocation of the license, certificate, or similar approval;

(iii) A disciplinary action that was based, in whole or in part, on the provider or other person engaging in the inappropriate prescribing, dispensing, administering, personally furnishing, diverting, storing, supplying, compounding, or selling of a controlled substance or other dangerous drug.

(2) It affirmatively appears to the department that the provider is adequately staffed and equipped to operate an opioid treatment program.

(3) It affirmatively appears to the department that the provider will operate an opioid treatment program in strict compliance with all laws relating to drug abuse and the rules adopted by the department.

(4) Except as provided in division (D) of this section and section 5119.371 of the Revised Code, if the provider is seeking an initial license for a particular location, the proposed opioid treatment program is not located on a parcel of real estate that is within a radius of five hundred linear feet of the boundaries of a parcel of real estate having situated on it a public or private school, child day-care center licensed under Chapter 5104. of the Revised Code, or child-serving agency regulated by the department under this chapter.

(5) The provider meets any additional requirements established by the department in rules adopted under division (F) of this section.

(D) The department may waive the requirement of division (C)(4) of this section if it receives, from each public or private school, child day-care center, or child-serving agency that is within the five hundred linear feet radius described in that division, a letter of support for the location. The department shall determine whether a letter of support is satisfactory for

purposes of waiving the requirement.

(E)(1) Except as provided in division (E)(2) of this section, a license to operate an opioid treatment program shall expire two years from the date of issuance. Licenses may be renewed.

(2) In circumstances in which the director of mental health and addiction services has concerns regarding compliance of a community addiction services provider licensed as an opioid treatment program, the department shall notify the provider of those concerns and stipulate that the provider's license expires annually on a date determined by the department.

(F) The department shall establish procedures and adopt rules for licensing, inspection, and supervision of community addiction services providers that operate an opioid treatment program. The rules shall establish standards for the control, storage, furnishing, use, dispensing, and administering of medications used in medication-assisted treatment; prescribe minimum standards for the operation of the opioid treatment program component of the provider's operations; and comply with federal laws and regulations.

All rules adopted under this division shall be adopted in accordance with Chapter 119. of the Revised Code. All actions taken by the department regarding the licensing of providers to operate opioid treatment programs shall be conducted in accordance with Chapter 119. of the Revised Code, except as provided in division (L) of this section.

(G)(1) The department shall inspect all community addiction services providers licensed to operate an opioid treatment program. Inspections shall be conducted at least biennially and may be conducted more frequently.

In addition, the department may inspect any provider or other person that it reasonably believes to be operating an opioid treatment program without a license issued under this section.

(2) When conducting an inspection, the department may do both of the following:

(a) Examine and copy all records, accounts, and other documents relating to the provider's or other person's operations, including records pertaining to patients or clients;

(b) Conduct interviews with any individual employed by or contracted or otherwise associated with the provider or person, including an administrator, staff person, patient, or client.

(3) No person or government entity shall interfere with a state or local government official acting on behalf of the department while conducting an inspection.

(H) A community addiction services provider shall not administer or

dispense methadone in a tablet, powder, or intravenous form. Methadone shall be administered or dispensed only in a liquid form intended for ingestion.

A community addiction services provider shall not administer or dispense a medication used in medication-assisted treatment for pain or other medical reasons.

(I) As used in this division, "program sponsor" means a person who assumes responsibility for the operation and employees of the opioid treatment program component of a community addiction services provider's operations.

A provider shall not permit an individual to act as a program sponsor, medical director, or director of the provider if the individual is receiving a medication used in medication-assisted treatment from any community addiction services provider.

(J) The department may issue orders to ensure compliance with all laws relating to drug abuse and the rules adopted under this section. Subject to section 5119.27 of the Revised Code, the department may hold hearings, require the production of relevant matter, compel testimony, issue subpoenas, and make adjudications. Upon failure of a person without lawful excuse to obey a subpoena or to produce relevant matter, the department may apply to a court of common pleas for an order compelling compliance.

(K) The department may refuse to issue, or may withdraw or revoke, a license to operate an opioid treatment program. A license may be refused if a community addiction services provider does not meet the requirements of division (C) of this section. A license may be withdrawn at any time the department determines that the provider no longer meets the requirements for receiving the license. A license may be revoked in accordance with division (L) of this section.

Once a license is issued under this section, the department shall not consider the requirement of division (C)(4) of this section in determining whether to renew, withdraw, or revoke the license or whether to reissue the license as a result of a change in ownership.

(L) If the department finds reasonable cause to believe that a community addiction services provider licensed under this section is in violation of any state or federal law or rule relating to drug abuse, the department may issue an order immediately revoking the license, subject to division (M) of this section. The department shall set a date not more than fifteen days later than the date of the order of revocation for a hearing on the continuation or cancellation of the revocation. For good cause, the department may continue the hearing on application of any interested party. In conducting hearings,

the department has all the authority and power set forth in division (J) of this section. Following the hearing, the department shall either confirm or cancel the revocation. The hearing shall be conducted in accordance with Chapter 119. of the Revised Code, except that the provider shall not be permitted to operate an opioid treatment program pending the hearing or pending any appeal from an adjudication made as a result of the hearing. Notwithstanding any provision of Chapter 119. of the Revised Code to the contrary, a court shall not stay or suspend any order of revocation issued by the department under this division pending judicial appeal.

(M) The department shall not revoke a license to operate an opioid treatment program unless all clients receiving medication used in medication-assisted treatment from the community addiction services provider are provided adequate substitute medication or treatment. For purposes of this division, the department may transfer the clients to other providers licensed to operate opioid treatment programs or replace any or all of the administrators and staff of the provider with representatives of the department who shall continue on a provisional basis the opioid treatment component of the provider's operations.

(N) Each time the department receives an application from a community addiction services provider for a license to operate an opioid treatment program, issues or refuses to issue a license, or withdraws or revokes a license, the department shall notify the board of alcohol, drug addiction, and mental health services of each alcohol, drug addiction, and mental health service district in which the provider operates.

(O) Whenever it appears to the department from files, upon complaint, or otherwise, that a community addiction services provider has engaged in any practice declared to be illegal or prohibited by section 3719.61 of the Revised Code, or any other state or federal laws or regulations relating to drug abuse, or when the department believes it to be in the best interest of the public and necessary for the protection of the citizens of the state, the department may request criminal proceedings by laying before the prosecuting attorney of the proper county any evidence of criminality which may come to its knowledge.

(P) The department shall maintain a current list of community addiction services providers licensed by the department under this section and shall provide a copy of the current list to a judge of a court of common pleas who requests a copy for the use of the judge under division (H) of section 2925.03 of the Revised Code and to a board of alcohol, drug addiction, and mental health services that requests a copy for purposes of division (I)(3) of section 340.08 of the Revised Code. The list of licensed community

addiction services providers shall identify each licensed provider by its name, its address, and the county in which it is located.

Sec. 5119.39. (A) The department of mental health and addiction services shall monitor the operation of recovery housing in this state by doing either of the following:

(1) Certifying recovery housing residences through a process established by the department;

(2) Accepting accreditation, or its equivalent for recovery housing, from one or more of the following:

(a) The Ohio affiliate of the national alliance for recovery residences;

(b) Oxford house, inc.;

(c) Any other organization that is designated by the department for purposes of this section.

(B) If the department certifies recovery housing residences, the department shall, in rules adopted under section 5119.397 of the Revised Code, establish requirements for initial certification and renewal certification, as well as grounds and procedures for disciplinary action against operators of recovery housing residences.

Sec. 5119.391. (A) The department of mental health and addiction services shall monitor the establishment of recovery housing residences in this state.

(B) For purposes of division (A) of this section, and within the timeframe specified in division (C) of this section, each person or government entity that will operate a recovery housing residence on or after the effective date of this section, including any recovery housing that was established and in operation prior to the effective date of this section, shall file with the department, on a form prescribed by the department, all of the following information:

(1) The name of the recovery housing residence and any other name under which the residence does business;

(2) The address of the recovery housing residence;

(3) The name of the person or government entity operating the residence;

(4) The primary telephone number and electronic mail address for the recovery housing operator;

(5) The date the recovery housing residence was first occupied, or will be occupied, by its first resident;

(6) Information related to any existing accreditation or its equivalent that the recovery housing residence has obtained or is in the process of obtaining;

(7) Any other information the department considers appropriate.

(C) The form required by division (B) of this section shall be filed with the department as follows:

(1) For a recovery housing residence that began operating before the effective date of this section, not later than thirty days after the effective date of this section;

(2) For a recovery housing residence that will begin operating on or after the effective date of this section, not later than thirty days after the first resident begins occupying the residence.

(D) If the department accepts accreditation or its equivalent from an organization specified in section 5119.39 of the Revised Code, the department may provide copies of forms filed in accordance with this section to any such organization.

Sec. 5119.392. (A) Beginning January 1, 2025, no person or government entity shall operate a recovery housing residence unless either of the following applies:

(1)(a) If the department of mental health and addiction services certifies recovery housing residences, the recovery housing residence is certified by the department.

(b) If the department accepts accreditation or its equivalent from an organization specified in section 5119.39 of the Revised Code, the residence is accredited by such an organization.

(2) The recovery housing residence has been operating for not more than eighteen months and is actively engaged in efforts to obtain certification or accreditation, as applicable. For purposes of identifying this eighteen-month timeframe, a recovery housing residence is considered to begin operating on the date that the first resident occupies the residence, as specified on the form filed in accordance with section 5119.391 of the Revised Code.

(B) If the director of mental health and addiction services determines that a recovery housing residence is operating in violation of this section, the director may request, in writing, that the attorney general petition the court of common pleas of the county in which the recovery housing residence is located for an order enjoining operation of the recovery housing residence.

Sec. 5119.393. (A) The department of mental health and addiction services shall establish a procedure to receive and investigate complaints from residents, staff, and the public regarding recovery housing residences. The department may contract with one or more of the organizations specified in section 5119.39 of the Revised Code to fulfill some or all of the functions associated with receiving and investigating complaints.

(B) Any organization under contract with the department to receive and investigate complaints shall make reports to the department as follows:

(1) Not less than monthly, the contractor shall report the status of each pending investigation and shall report the outcome of each investigation that has been completed since the last report was made;

(2) As soon as practicable, but not later than ten days after making an adverse decision, if a contractor's accreditation or its equivalent is accepted by the department for purposes of section 5119.39 of the Revised Code, the contractor shall report that decision to the department in a manner prescribed by the department.

Sec. 5119.394. (A) The department of mental health and addiction services shall establish and maintain a registry of recovery housing residences that meet the criteria described in division (A)(1) or (2) of section 5119.392 of the Revised Code. For each residence, the registry shall include all of the following:

(1) Any information from the form required by division (B) of section 5119.391 of the Revised Code that the department chooses to include in the registry;

(2) If a complaint received under section 5119.393 of the Revised Code has been investigated and substantiated, a description of the complaint, the date the complaint was submitted to the department or its contractor, and the outcome of the investigation;

(3) Any other information the department considers appropriate.

(B) The department shall immediately remove from the registry a recovery housing residence that ceases to meet the criteria described in division (A)(1) or (2) of section 5119.392 of the Revised Code, including if the criteria described in those divisions ceases to be met because the residence has had its certification or accreditation, as applicable, revoked or not renewed.

(C) The department shall make the registry available to the public on the department's web site.

Sec. 5119.395. (A) Beginning January 1, 2025, no person or government entity shall advertise or represent any residence or other building to be a recovery housing residence, sober living home, or any other alcohol and drug free housing for persons recovering from alcohol use disorder or drug addiction unless the residence or building meets either of the following conditions:

(1) The residence or building is on the registry established and maintained under section 5119.394 of the Revised Code;

(2) The residence or building is regulated by the department of

rehabilitation and correction under section 2967.14 of the Revised Code.

(B) If the director of mental health and addiction services determines that a person or government entity is violating division (A) of this section, the director may request, in writing, that the attorney general petition the court of common pleas of the county where the person or government entity is operating the residence or other building to enjoin that person or government entity from engaging in the conduct that violates division (A) of this section.

Sec. 5119.396. Beginning January 1, 2025, community addiction services providers and community mental health services providers shall not refer clients to a recovery housing residence unless the residence is on the registry established and maintained under section 5119.394 of the Revised Code on the date that the referral is made. Community addiction services providers and community mental health services providers shall maintain records of all referrals made to recovery housing residences.

Sec. 5119.397. The director of mental health and addiction services may adopt rules in accordance with Chapter 119. of the Revised Code to implement sections 5119.39 to 5119.396 of the Revised Code.

Sec. 5119.48. (A) The department of mental health and addiction services shall create the all roads lead to home program. The program shall include all of the following initiatives:

(1) A media campaign. As part of the campaign, the department shall develop public service announcements and shall make the announcements available to television and radio media outlets. The announcements shall be made available beginning on January 1, 2018, and at least twice annually, once between January and March of each year, and once in September of each year as part of national recovery month.

(2) A web site as described in division (C) of this section;

(3) A twenty-four-hour hotline, that is operated by a call center, for the purpose of helping individuals access addiction services.

(B) The media campaign described in division (A)(1) of this section shall do all of the following:

(1) Include messages to reduce the stigma associated with seeking help for drug addiction;

(2) Provide directions for people who are in need of drug addiction assistance to a web-based location that includes all of the following:

(a) Information on where to find help for drug addiction;

(b) Information on intervention and referral options;

(c) Contact information for county board drug addiction assistance authorities.

(3) Prioritize its efforts in media markets that have the highest rates of drug overdose deaths in this state;

(4) Utilize television and radio public service announcements provided to media outlets, as well as internet advertising models such as low-cost social media outlets.

(C) Before January 1, 2018, the department shall create a web site as described in division (A)(2) of this section that offers all of the following components:

(1) If reasonably available for use, an evidence-based self-reporting screening tool approved by the department's medical director;

(2) Community detoxification and withdrawal management options and community treatment options;

(3) A searchable database of certified substance abuse providers organized by zip code;

(4) Information on recovery supports, including recovery housing residences;

(5) Clinical information regarding what a person may expect during detoxification, withdrawal, and treatment.

(D) The department may contract with private vendors for the creation and maintenance of the interactive web site described in division (C) of this section.

Sec. 5119.61. (A) The department of mental health and addiction services shall collect and compile statistics and other information on the care and treatment of persons with mental disabilities, and the care, treatment, and rehabilitation of persons with ~~alcoholism~~ alcohol use disorder, persons with drug dependencies, persons in danger of drug dependence, and persons with or in danger of developing a gambling addiction in this state. The information shall include, without limitation, information on the number of such persons, the type of drug involved, if any, the type of care, treatment, or rehabilitation prescribed or undertaken, and the success or failure of the care, treatment, or rehabilitation. The department shall collect information about addiction services, mental health services, and recovery supports delivered and persons served as required for reporting and evaluation relating to state and federal funds expended for such purposes.

(B) No community addiction services provider or community mental health services provider shall fail to supply statistics and other information within its knowledge and with respect to its addiction services, mental health services, and recovery supports upon request of the department.

(C) Communications by a person seeking aid in good faith for ~~alcoholism~~ alcohol use disorder or drug dependence are confidential, and

this section does not require the collection or permit the disclosure of information which reveals or comprises the identity of any person seeking aid.

(D) Based on the information collected and compiled under division (A) of this section, the department shall develop a project to assess the outcomes of persons served by community addiction services providers and community mental health services providers that receive funds distributed by the department.

(E) The director of mental health and addiction services may fine a community addiction services provider or community mental health services provider for violating division (B) of this section. In determining whether to impose a fine, the director shall consider whether the provider has engaged in a pattern of noncompliance. If a fine is imposed, it shall be one thousand dollars for a first failure to comply with division (B) of this section and two thousand dollars for each subsequent failure. The director's actions in imposing a fine shall be taken in accordance with Chapter 119. of the Revised Code.

All fines collected under this division shall be deposited in the state treasury to the credit of the department's statewide treatment and prevention fund created by section 4301.30 of the Revised Code.

Sec. 5119.90. As used in sections 5119.90 to 5119.98 of the Revised Code:

(A) "Alcohol and other drug abuse" means ~~alcoholism~~ alcohol use disorder or drug addiction.

(B) "Another drug" means a controlled substance as defined in section 3719.01 of the Revised Code or a harmful intoxicant as defined in section 2925.01 of the Revised Code.

(C) "Board of alcohol, drug addiction, and mental health services" means a board of alcohol, drug addiction, and mental health services established under section 340.02 or 340.021 of the Revised Code.

(D) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others.

(E) "Hospital" has the same meaning as in section 3701.01 or 3727.01 of the Revised Code but does not include either a hospital operated by the department of mental health and addiction services or an inpatient unit licensed by the department.

(F) "Intoxicated" means being under the influence of alcohol, another drug, or both alcohol and another drug and, as a result, having a significantly impaired ability to function.

(G) "Petitioner" means a person who institutes a proceeding under sections 5119.91 to 5119.98 of the Revised Code.

(H) "Probate court" means the probate division of the court of common pleas.

(I) "Qualified health professional" means a person that is properly credentialed or licensed to conduct a drug and alcohol assessment and diagnosis under Ohio law.

(J) "Residence" means the legal residence of a person as determined by applicable principles governing conflicts of law.

(K) "Respondent" means a person alleged in a petition filed or hearing under sections 5119.91 to 5119.98 of the Revised Code to be a person who is experiencing alcohol and other drug abuse and who may be ordered under those sections to undergo treatment.

(L) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and persons experiencing alcohol and other drug abuse. "Treatment" includes residential treatment, a halfway house setting, and an intensive outpatient or outpatient level of care.

Sec. 5119.99. (A) Whoever violates section 5119.333 of the Revised Code is guilty of a misdemeanor of the first degree.

~~(B) Whoever violates division (B) of section 5119.61 of the Revised Code is guilty of a misdemeanor of the fourth degree.~~

~~(C) Whoever violates section 5119.27 or 5119.28, division (A) of section 5119.35, division (K)(P) of section 5119.36, or division (A)(1) or (2) of section 5119.37 of the Revised Code is guilty of a felony of the fifth degree.~~

Sec. 5123.0412. (A) The department of developmental disabilities ~~shall~~ may charge each county board of developmental disabilities an annual fee ~~equal not to exceed~~ not to exceed one and one-quarter per cent of the total value of all medicaid paid claims for home and community-based services provided during the year to an individual eligible for services from the county board; ~~except that the department shall not charge the fee for home and community-based services provided under the medicaid waiver component known as the transitions developmental disabilities waiver.~~ A county board shall not pass on to a provider of home and community-based services the cost of a fee charged to the county board under this section.

(B) The amounts collected from the fees charged under this section shall be deposited into the department of developmental disabilities administration and oversight fund, which is hereby created in the state treasury. The department shall use the money in the fund for ~~both~~ any of the following purposes:

(1) Medicaid administrative costs, including administrative and oversight costs of medicaid case management services and home and community-based services. The administrative and oversight costs of medicaid case management services and home and community-based services shall include costs for staff, systems, and other resources the department needs and dedicates solely to the following duties associated with the services:

- (a) Eligibility determinations;
- (b) Training;
- (c) Fiscal management;
- (d) Claims processing;
- (e) Quality assurance oversight;
- (f) Other duties the department identifies.

(2) Providing technical or financial support to county boards with respect to their medicaid local administrative authority under section 5126.055 of the Revised Code for the services.

(3) Providing technical or financial support to county boards with respect to their responsibility to pay the nonfederal share of expenditures under sections 5126.059 and 5126.0510 of the Revised Code.

~~(C) The department shall submit an annual report to the director of budget and management certifying how the department spent the money in the fund for the purposes specified in division (B) of this section.~~

Sec. 5123.0419. (A) The director of developmental disabilities shall establish an interagency workgroup on autism. The purpose of the workgroup shall be to improve the coordination of the state's efforts to address the service needs of individuals with autism spectrum disorders and the families of those individuals. In fulfilling this purpose, the director may enter into interagency agreements with the government entities represented by the members of the workgroup. The agreements may specify any or all of the following:

(1) The roles and responsibilities of government entities that enter into the agreements;

(2) Procedures regarding the receipt, transfer, and expenditure of funds necessary to achieve the goals of the workgroup;

(3) The projects to be undertaken and activities to be performed by the government entities that enter into the agreements.

~~(B)~~(B)(1) The entity contracted to administer programs and coordinate services for infants, preschool and school-age children, and adults with autism and low incidence disabilities under section 3323.32 of the Revised Code shall serve as the coordinating body of the workgroup.

(2) The coordinating body of the workgroup shall ensure that the workgroup submits an annual report to the director of developmental disabilities by the thirty-first day of December of each year that includes recommendations for the workgroup's priorities and goals for the next year.

(3) The department shall contract with the coordinating body on the implementation of the recommendations and other department initiatives for individuals with autism and other low incidence disabilities.

(C) Money received from government entities represented by the members of the workgroup shall be deposited into the state treasury to the credit of the interagency workgroup on autism fund, which is hereby created in the state treasury. Money credited to the fund shall be used by the department of developmental disabilities solely to support the activities of the workgroup.

(D) The workgroup shall hold at least two meetings per year that are open to the public for the purposes of reporting its work and hearing public feedback.

Sec. 5123.19. (A) As used in sections 5123.19 to 5123.20 of the Revised Code:

(1) "Independent living arrangement" means an arrangement in which an individual with a developmental disability resides in an individualized setting chosen by the individual or the individual's guardian, which is not dedicated principally to the provision of residential services for individuals with developmental disabilities, and for which no financial support is received for rendering such service from any governmental agency by a provider of residential services.

(2) "Licensee" means the person or government agency that has applied for a license to operate a residential facility and to which the license was issued under this section.

(3) "Political subdivision" means a municipal corporation, county, or township.

(4) "Related party" has the same meaning as in section 5123.16 of the Revised Code except that "provider" as used in the definition of "related party" means a person or government entity that held or applied for a license to operate a residential facility, rather than a person or government entity certified to provide supported living.

(5)(a) Except as provided in division (A)(5)(b) of this section, "residential facility" means a home or facility, including an ICF/IID, in which an individual with a developmental disability resides.

(b) "Residential facility" does not mean any of the following:

(i) The home of a relative or legal guardian in which an individual with

a developmental disability resides;

(ii) A respite care home certified under section 5126.05 of the Revised Code;

(iii) A county home or district home operated pursuant to Chapter 5155. of the Revised Code;

(iv) A dwelling in which the only residents with developmental disabilities are in independent living arrangements or are being provided supported living;

(v) A location registered as a pediatric transition care program under section 3712.042 of the Revised Code.

(B) Every person or government agency desiring to operate a residential facility shall apply for licensure of the facility to the director of developmental disabilities unless the residential facility is subject to section 3721.02, 5103.03, 5119.33, or division (B)(1)(b) of section 5119.34 of the Revised Code.

(C)(1) Subject to section 5123.196 of the Revised Code, the director of developmental disabilities shall license the operation of residential facilities. An initial license shall be issued for a period that does not exceed one year, unless the director denies the license under division (D) of this section. A license shall be renewed for a period that does not exceed three years, unless the director refuses to renew the license under division (D) of this section. The director, when issuing or renewing a license, shall specify the period for which the license is being issued or renewed. A license remains valid for the length of the licensing period specified by the director, unless the license is terminated, revoked, or voluntarily surrendered.

(2) Notwithstanding sections 5123.043, 5123.196, and 5123.197 of the Revised Code and rules adopted under section 5123.04 of the Revised Code, the director shall issue a new license for a residential facility if the facility meets the following conditions:

(a) The residential facility will be certified as an ICF/IID;

(b) The building in which the residential facility will be operated was operated as a residential facility under a lease for not fewer than twenty years before the date of application for a new license;

(c) The former operator of the residential facility relocated the beds previously in the facility to another site that will be licensed as a residential facility;

(d) The residential facility will be located in Preble, Clermont, or Warren county;

(e) The residential facility will contain eight beds;

(f) The licensee will make a good faith effort to serve multi-system

youth or adults with severe behavioral challenges at the residential facility or at one or more other residential facilities for which licenses are issued under division (C) of this section.

(3) The director shall issue not more than five licenses under division (C)(2) of this section.

(D) If it is determined that an applicant or licensee is not in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, the director may deny issuance of a license, refuse to renew a license, terminate a license, revoke a license, issue an order for the suspension of admissions to a facility, issue an order for the placement of a monitor at a facility, issue an order for the immediate removal of residents, or take any other action the director considers necessary consistent with the director's authority under this chapter regarding residential facilities. In the director's selection and administration of the sanction to be imposed, all of the following apply:

(1) The director may deny, refuse to renew, or revoke a license, if the director determines that the applicant or licensee has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of residents of a residential facility.

(2) The director may terminate a license if more than twelve consecutive months have elapsed since the residential facility was last occupied by a resident or a notice required by division (J) of this section is not given.

(3) The director may issue an order for the suspension of admissions to a facility for any violation that may result in sanctions under division (D)(1) of this section and for any other violation specified in rules adopted under division (G)(2) of this section. If the suspension of admissions is imposed for a violation that may result in sanctions under division (D)(1) of this section, the director may impose the suspension before providing an opportunity for an adjudication under Chapter 119. of the Revised Code. The director shall lift an order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(4) The director may order the placement of a monitor at a residential facility for any violation specified in rules adopted under division (G)(2) of this section. The director shall lift the order when the director determines that the violation that formed the basis for the order has been corrected.

(5) When the director initiates license revocation proceedings, no opportunity for submitting a plan of correction shall be given. The director shall notify the licensee by letter of the initiation of the proceedings. The letter shall list the deficiencies of the residential facility and inform the

licensee that no plan of correction will be accepted. The director shall also send a copy of the letter to the county board of developmental disabilities. Except in the case of a licensee that is an ICF/IID, the county board shall send a copy of the letter to each of the following:

- (a) Each resident who receives services from the licensee;
- (b) The guardian of each resident who receives services from the licensee if the resident has a guardian;
- (c) The parent or guardian of each resident who receives services from the licensee if the resident is a minor.

(6) Pursuant to rules which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may order the immediate removal of residents from a residential facility whenever conditions at the facility present an immediate danger of physical or psychological harm to the residents.

(7) In determining whether a residential facility is being operated in compliance with a provision of this chapter that applies to residential facilities or the rules adopted under such a provision, or whether conditions at a residential facility present an immediate danger of physical or psychological harm to the residents, the director may rely on information obtained by a county board of developmental disabilities or other governmental agencies.

(8) In proceedings initiated to deny, refuse to renew, or revoke licenses, the director may deny, refuse to renew, or revoke a license regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing.

(E)(1) Except as provided in division (E)(2) of this section, appeals from proceedings initiated to impose a sanction under division (D) of this section shall be conducted in accordance with Chapter 119. of the Revised Code.

(2) Appeals from proceedings initiated to order the suspension of admissions to a facility shall be conducted in accordance with Chapter 119. of the Revised Code, unless the order was issued before providing an opportunity for an adjudication, in which case all of the following apply:

(a) The licensee may request a hearing not later than ten days after ~~receiving the notice specified~~ being served in ~~section~~ accordance with sections 119.05 and 119.07 of the Revised Code.

(b) If a timely request for a hearing that includes the licensee's current address is made, the hearing shall commence not later than thirty days after the department receives the request.

(c) After commencing, the hearing shall continue uninterrupted, except

for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the licensee and the director.

(d) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations not later than ten days after the last of the following:

(i) The close of the hearing;

(ii) If a transcript of the proceedings is ordered, the hearing examiner receives the transcript;

(iii) If post-hearing briefs are timely filed, the hearing examiner receives the briefs.

(e) A copy of the written report and recommendation of the hearing examiner shall be sent, by certified mail, to the licensee and the licensee's attorney, if applicable, not later than five days after the report is filed.

(f) Not later than five days after the hearing examiner files the report and recommendations, the licensee may file objections to the report and recommendations.

(g) Not later than fifteen days after the hearing examiner files the report and recommendations, the director shall issue an order approving, modifying, or disapproving the report and recommendations.

(h) Notwithstanding the pendency of the hearing, the director shall lift the order for the suspension of admissions when the director determines that the violation that formed the basis for the order has been corrected.

(F) Neither a person or government agency whose application for a license to operate a residential facility is denied nor a related party of the person or government agency may apply for a license to operate a residential facility before the date that is five years after the date of the denial. Neither a licensee whose residential facility license is revoked nor a related party of the licensee may apply for a residential facility license before the date that is five years after the date of the revocation.

(G) In accordance with Chapter 119. of the Revised Code, the director shall adopt and may amend and rescind rules for licensing and regulating the operation of residential facilities. The rules for residential facilities that are ICFs/IID may differ from those for other residential facilities. The rules shall establish and specify the following:

(1) Procedures and criteria for issuing and renewing licenses, including procedures and criteria for determining the length of the licensing period that the director must specify for each license when it is issued or renewed;

(2) Procedures and criteria for denying, refusing to renew, terminating, and revoking licenses and for ordering the suspension of admissions to a facility, placement of a monitor at a facility, and the immediate removal of

residents from a facility;

(3) Fees for issuing and renewing licenses, which shall be deposited into the program fee fund created under section 5123.033 of the Revised Code;

(4) Procedures for surveying residential facilities;

(5) Classifications for the various types of residential facilities;

(6) The maximum number of individuals who may be served in a particular type of residential facility;

(7) Uniform procedures for admission of individuals to and transfers and discharges of individuals from residential facilities;

(8) Other standards for the operation of residential facilities and the services provided at residential facilities;

(9) Procedures for waiving any provision of any rule adopted under this section.

(H)(1) Before issuing a license, the director shall conduct a survey of the residential facility for which application is made. The director shall conduct a survey of each licensed residential facility at least once during the period the license is valid and may conduct additional inspections as needed. A survey includes but is not limited to an on-site examination and evaluation of the residential facility, its personnel, and the services provided there. The director may assign to a county board of developmental disabilities or the department of health the responsibility to conduct any survey or inspection under this section.

(2) In conducting surveys, the director shall be given access to the residential facility; all records, accounts, and any other documents related to the operation of the facility; the licensee; the residents of the facility; and all persons acting on behalf of, under the control of, or in connection with the licensee. The licensee and all persons on behalf of, under the control of, or in connection with the licensee shall cooperate with the director in conducting the survey.

(3) Following each survey, the director shall provide the licensee with a report listing the date of the survey, any citations issued as a result of the survey, and the statutes or rules that purportedly have been violated and are the bases of the citations. The director shall also do both of the following:

(a) Specify a date by which the licensee may appeal any of the citations;

(b) When appropriate, specify a timetable within which the licensee must submit a plan of correction describing how the problems specified in the citations will be corrected and, the date by which the licensee anticipates the problems will be corrected.

(4) If the director initiates a proceeding to revoke a license, the director shall include the report required by division (H)(3) of this section with the

notice of the proposed revocation the director sends to the licensee. In this circumstance, the licensee may not submit a plan of correction.

(5) After a plan of correction is submitted, the director shall approve or disapprove the plan. If the plan of correction is approved, a copy of the approved plan shall be provided, not later than five business days after it is approved, to any person or government entity who requests it and made available on the internet web site maintained by the department of developmental disabilities. If the plan of correction is not approved and the director initiates a proceeding to revoke the license, a copy of the survey report shall be provided to any person or government entity that requests it and shall be made available on the internet web site maintained by the department.

(6) The director shall initiate disciplinary action against any department employee who notifies or causes the notification to any unauthorized person of an unannounced survey of a residential facility by an authorized representative of the department.

(I) In addition to any other information which may be required of applicants for a license pursuant to this section, the director shall require each applicant to provide a copy of an approved plan for a proposed residential facility pursuant to section 5123.042 of the Revised Code. This division does not apply to renewal of a license or to an applicant for an initial or modified license who meets the requirements of section 5123.197 of the Revised Code.

(J)(1) A licensee shall notify the owner of the building in which the licensee's residential facility is located of any significant change in the identity of the licensee or management contractor before the effective date of the change if the licensee is not the owner of the building.

(2) Pursuant to rules, which shall be adopted in accordance with Chapter 119. of the Revised Code, the director may require notification to the department of any significant change in the ownership of a residential facility or in the identity of the licensee or management contractor. If the director determines that a significant change of ownership is proposed, the director shall consider the proposed change to be an application for development by a new operator pursuant to section 5123.042 of the Revised Code and shall advise the applicant within sixty days of the notification that the current license shall continue in effect or a new license will be required pursuant to this section. If the director requires a new license, the director shall permit the facility to continue to operate under the current license until the new license is issued, unless the current license is revoked, refused to be renewed, or terminated in accordance with Chapter 119. of the Revised

Code.

(3) A licensee shall transfer to the new licensee or management contractor all records related to the residents of the facility following any significant change in the identity of the licensee or management contractor.

(K) A county board of developmental disabilities and any interested person may file complaints alleging violations of statute or department rule relating to residential facilities with the department. All complaints shall state the facts constituting the basis of the allegation. The department shall not reveal the source of any complaint unless the complainant agrees in writing to waive the right to confidentiality or until so ordered by a court of competent jurisdiction.

The department shall adopt rules in accordance with Chapter 119. of the Revised Code establishing procedures for the receipt, referral, investigation, and disposition of complaints filed with the department under this division.

(L) Before issuing a license under this section to a residential facility that will accommodate at any time more than one individual with a developmental disability, the director shall, by first class mail, notify the following:

(1) If the facility will be located in a municipal corporation, the clerk of the legislative authority of the municipal corporation;

(2) If the facility will be located in unincorporated territory, the clerk of the appropriate board of county commissioners and the fiscal officer of the appropriate board of township trustees.

The director shall not issue the license for ten days after mailing the notice, excluding Saturdays, Sundays, and legal holidays, in order to give the notified local officials time in which to comment on the proposed issuance.

Any legislative authority of a municipal corporation, board of county commissioners, or board of township trustees that receives notice under this division of the proposed issuance of a license for a residential facility may comment on it in writing to the director within ten days after the director mailed the notice, excluding Saturdays, Sundays, and legal holidays. If the director receives written comments from any notified officials within the specified time, the director shall make written findings concerning the comments and the director's decision on the issuance of the license. If the director does not receive written comments from any notified local officials within the specified time, the director shall continue the process for issuance of the license.

(M) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a

family setting for at least six but not more than eight individuals with developmental disabilities as a permitted use in any residential district or zone, including any single-family residential district or zone, of any political subdivision. These residential facilities may be required to comply with area, height, yard, and architectural compatibility requirements that are uniformly imposed upon all single-family residences within the district or zone.

(N) Any person may operate a licensed residential facility that provides room and board, personal care, habilitation services, and supervision in a family setting for at least nine but not more than sixteen individuals with developmental disabilities as a permitted use in any multiple-family residential district or zone of any political subdivision, except that a political subdivision that has enacted a zoning ordinance or resolution establishing planned unit development districts may exclude these residential facilities from those districts, and a political subdivision that has enacted a zoning ordinance or resolution may regulate these residential facilities in multiple-family residential districts or zones as a conditionally permitted use or special exception, in either case, under reasonable and specific standards and conditions set out in the zoning ordinance or resolution to:

(1) Require the architectural design and site layout of the residential facility and the location, nature, and height of any walls, screens, and fences to be compatible with adjoining land uses and the residential character of the neighborhood;

(2) Require compliance with yard, parking, and sign regulation;

(3) Limit excessive concentration of these residential facilities.

(O) This section does not prohibit a political subdivision from applying to residential facilities nondiscriminatory regulations requiring compliance with health, fire, and safety regulations and building standards and regulations.

(P) Divisions (M) and (N) of this section are not applicable to municipal corporations that had in effect on June 15, 1977, an ordinance specifically permitting in residential zones licensed residential facilities by means of permitted uses, conditional uses, or special exception, so long as such ordinance remains in effect without any substantive modification.

(Q)(1) The director may issue an interim license to operate a residential facility to an applicant for a license under this section if either of the following is the case:

(a) The director determines that an emergency exists requiring immediate placement of individuals in a residential facility, that insufficient licensed beds are available, and that the residential facility is likely to

receive a permanent license under this section within thirty days after issuance of the interim license.

(b) The director determines that the issuance of an interim license is necessary to meet a temporary need for a residential facility.

(2) To be eligible to receive an interim license, an applicant must meet the same criteria that must be met to receive a permanent license under this section, except for any differing procedures and time frames that may apply to issuance of a permanent license.

(3) An interim license shall be valid for thirty days and may be renewed by the director for a period not to exceed one hundred eighty days.

(4) The director shall adopt rules in accordance with Chapter 119. of the Revised Code as the director considers necessary to administer the issuance of interim licenses.

(R) Notwithstanding rules adopted pursuant to this section establishing the maximum number of individuals who may be served in a particular type of residential facility, a residential facility shall be permitted to serve the same number of individuals being served by the facility on the effective date of the rules or the number of individuals for which the facility is authorized pursuant to a current application for a certificate of need with a letter of support from the department of developmental disabilities and which is in the review process prior to April 4, 1986.

This division does not preclude the department from suspending new admissions to a residential facility pursuant to a written order issued under section 5124.70 of the Revised Code.

(S) The director may enter at any time, for purposes of investigation, any home, facility, or other structure that has been reported to the director or that the director has reasonable cause to believe is being operated as a residential facility without a license issued under this section.

The director may petition the court of common pleas of the county in which an unlicensed residential facility is located for an order enjoining the person or governmental agency operating the facility from continuing to operate without a license. The court may grant the injunction on a showing that the person or governmental agency named in the petition is operating a residential facility without a license. The court may grant the injunction, regardless of whether the residential facility meets the requirements for receiving a license under this section.

Sec. 5123.35. (A) There is hereby created the Ohio developmental disabilities council, which shall serve as an advocate for all persons with developmental disabilities. The council shall act in accordance with the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 42

U.S.C. 15001. The governor shall appoint the members of the council in accordance with 42 U.S.C. 15025.

(B) The council shall develop the state plan required by federal law as a condition of receiving federal assistance under 42 U.S.C. 15021 to 15029. The department of developmental disabilities, as the state agency selected by the governor for purposes of receiving the federal assistance, shall receive, account for, and disburse funds based on the state plan and shall provide assurances and other administrative support services required as a condition of receiving the federal assistance.

(C) The federal funds may be disbursed through grants to or contracts with persons and government agencies for the provision of necessary or useful goods and services for persons with developmental disabilities. The council may award the grants or enter into the contracts.

(D) The council may award grants to or enter into contracts with a member of the council or an entity that the member represents if all of the following apply:

(1) The member serves on the council as a representative of one of the principal state agencies concerned with services for persons with developmental disabilities as specified in 42 U.S.C. 15025(b)(4), a representative of a university affiliated program as defined in 42 U.S.C. 15002(5), or a representative of the Ohio protection and advocacy system, as defined in section 5123.60 of the Revised Code.

(2) The council determines that the member or the entity the member represents is capable of providing the goods or services specified under the terms of the grant or contract.

(3) The member has not taken part in any discussion or vote of the council related to awarding the grant or entering into the contract, including service as a member of a review panel established by the council to award grants or enter into contracts or to make recommendations with regard to awarding grants or entering into contracts.

(E) A member of the council is not in violation of Chapter 102. or section 2921.42 of the Revised Code with regard to receiving a grant or entering into a contract under this section if the requirements of division (D) of this section have been met.

(F)(1) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by interactive video conference and all of the following apply:

(a) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(b) A clear video and audio connection is established that enables all meeting participants at the primary meeting location to witness the participation of each member;

(c) ~~A roll call vote is recorded for each vote taken;~~

~~(d)~~ The minutes of the council identify which members participated by interactive video conference.

(2) Notwithstanding division (C) of section 121.22 of the Revised Code, the requirement for a member's presence in person at a meeting in order to be part of a quorum or to vote does not apply if the council holds a meeting by teleconference and all of the following apply:

(a) The council has determined its membership does not have access to and the council cannot provide access to the equipment needed to conduct interactive video conferencing;

(b) A primary meeting location that is open and accessible to the public is established for the meeting of the council;

(c) A clear audio connection is established that enables all meeting participants at the primary meeting location to hear the participation of each member;

(d) ~~A roll call vote is recorded for each vote taken;~~

~~(e)~~ The minutes of the council identify which members participated by teleconference.

(3) The council shall adopt any rules the council considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code. At a minimum, the rules shall do all of the following:

(a) Authorize council members to remotely attend a council meeting by interactive video conference or teleconference in lieu of attending the meeting in person;

(b) Establish a minimum number of members required to be physically present in person at the primary meeting location if the council conducts a meeting by interactive video conference or teleconference;

(c) ~~Establish geographic restrictions for participation in meetings by interactive video conference or teleconference;~~

~~(d)~~ Establish a policy for distributing and circulating necessary documents to council members, the public, and the media in advance of a meeting at which members are permitted to attend by interactive video conference or teleconference;

~~(e)~~~~(d)~~ Establish a method for verifying the identity of a member who remotely attends a meeting by teleconference.

Sec. 5123.60. (A) As used in this section and section 5123.601 of the

Revised Code, "Ohio protection and advocacy system" means the nonprofit entity designated by the governor in accordance with Am. Sub. H.B. 153 of the 129th general assembly to serve as the state's protection and advocacy system and client assistance program.

(B) The Ohio protection and advocacy system shall provide both of the following:

(1) Advocacy services for people with disabilities, as provided under section 101 of the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 42 U.S.C. 15001;

(2) A client assistance program, as provided under section 112 of the "Rehabilitation Act of 1973," 29 U.S.C. 732.

(C) The Ohio protection and advocacy system may establish any guidelines necessary for its operation.

(D) The Ohio protection and advocacy system shall adopt a policy that acknowledges and supports the right of individuals who receive services from the Ohio protection and advocacy system to reside in and receive services from an ICF/IID.

Sec. 5123.601. (A) The Ohio protection and advocacy system staff, and attorneys designated by the system to represent persons detained, hospitalized, or institutionalized under this chapter or Chapter 5122. of the Revised Code shall have ready access to all of the following:

(1) During normal business hours and at other reasonable times, all records, except records of community residential facilities and records of contract agencies of county boards of developmental disabilities and boards of alcohol, drug addiction, and mental health services, relating to expenditures of state and federal funds or to the commitment, care, treatment, and habilitation of all persons represented by the Ohio protection and advocacy system, including those who may be represented pursuant to division (D) of this section, or persons detained, hospitalized, institutionalized, or receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code that are records maintained by the following entities providing services for those persons: departments; institutions; hospitals; boards of alcohol, drug addiction, and mental health services; county boards of developmental disabilities; and any other entity providing services to persons who may be represented by the Ohio protection and advocacy system pursuant to division (D) of this section;

(2) Any records maintained in computerized data banks of the departments or boards or, in the case of persons who may be represented by the Ohio protection and advocacy system pursuant to division (D) of this section, any other entity that provides services to those persons;

(3) During their normal working hours, personnel of the departments, facilities, boards, agencies, institutions, hospitals, and other service-providing entities;

(4) At any time, all persons detained, hospitalized, or institutionalized; persons receiving services under this chapter or Chapter 340., 5119., 5122., or 5126. of the Revised Code; and persons who may be represented by the Ohio protection and advocacy system pursuant to division (D) of this section.

(5) Records of a community residential facility, a contract agency of a board of alcohol, drug addiction, and mental health services, or a contract agency of a county board of developmental disabilities with one of the following consents:

(a) The consent of the person, including when the person is a minor or has been adjudicated incompetent;

(b) The consent of the person's guardian of the person, if any, or the parent if the person is a minor;

(c) No consent, if the person is unable to consent for any reason, and the guardian of the person, if any, or the parent of the minor, has refused to consent or has not responded to a request for consent and either of the following has occurred:

(i) A complaint regarding the person has been received by the Ohio protection and advocacy system;

(ii) The Ohio protection and advocacy system has determined that there is probable cause to believe that such person has been subjected to abuse or neglect.

(B) All records received or maintained by the Ohio protection and advocacy system in connection with any investigation, representation, or other activity under this section shall be confidential and shall not be disclosed except as authorized by the person represented by the Ohio protection and advocacy system or, subject to any privilege, a guardian of the person or parent of the minor. Relationships between personnel and the agents of the Ohio protection and advocacy system and its clients shall be fiduciary relationships, and all communications shall be privileged as if between attorney and client.

(C) The Ohio protection and advocacy system may compel by subpoena the appearance and sworn testimony of any person the Ohio protection and advocacy system reasonably believes may be able to provide information or to produce any documents, books, records, papers, or other information necessary to carry out its duties. On the refusal of any person to produce or authenticate any requested documents, the Ohio protection and advocacy

system may apply to the Franklin county court of common pleas to compel the production or authentication of requested documents. If the court finds that failure to produce or authenticate any requested documents was improper, the court may hold the person in contempt as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(D) In addition to providing services to persons with mental illness or persons with developmental disabilities, when a grant authorizing the provision of services to other individuals is accepted by the Ohio protection and advocacy system, the Ohio protection and advocacy system may provide advocacy to those other individuals and exercise any other authority granted by this section on behalf of those individuals. Determinations of whether an individual is eligible for services under this division shall be made by the Ohio protection and advocacy system.

(E) The authority of the Ohio protection and advocacy system and its staff under this section shall not exceed the authority of an entity designated as a state protection and advocacy system specified in section 143 of the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 42 U.S.C. 15043.

Sec. 5123.603. (A) ~~Every two years, the president of the senate and speaker of the house of representative shall establish a~~ A joint committee to examine the activities of the state's protection and advocacy system and client assistance program is hereby established.

~~(B)(1)(B)~~ The joint committee shall consist of three members of the senate appointed by the senate president, two from the majority party and one from the minority party, and three members of the house of representatives, two from the majority party and one from the minority party, appointed by the speaker of the house of representatives. ~~The senate president and speaker of the house of representatives also shall determine the dates on which members' terms on the joint committee are to begin and end. Vacancies shall be filled in the manner of the original appointments.~~ In odd-numbered years, the senate president shall designate a member of the senate as the chairperson of the committee and in even-numbered years, the speaker of the house of representatives shall designate a member of the house of representatives as the chairperson of the joint committee.

~~(2) In its sole discretion, the current entity serving as the state's protection and advocacy system and client assistance program may appear before, and offer testimony to, the joint committee.~~

~~(C) Every two years, the senate president and speaker of the house of representatives shall specify a deadline for the joint committee to complete a~~

~~new report containing the joint committee's recommendations, if any. The joint committee shall submit the report to the senate president, speaker of the house of representatives, governor, and joint medicaid oversight committee by the deadline.~~

Sec. 5124.01. As used in this chapter:

(A) "Addition" means an increase in an ICF/IID's square footage.

(B) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (B)(1) of this section.

(C) "Allowable costs" means an ICF/IID's costs that the department of developmental disabilities determines are reasonable. Fines paid under section 5124.99 of the Revised Code are not allowable costs.

(D) "Capital costs" means an ICF/IID's costs of ownership and costs of nonextensive renovation.

(E) "Case-mix score" means the measure determined under section 5124.192 or 5124.193 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to an ICF/IID resident.

(F) "Change of operator" means an entering operator becoming the operator of an ICF/IID 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 ICF/IID to the entering operator, regardless of whether ownership of any or all of the real property or personal property associated with the ICF/IID is also transferred;

(c) A lease of the ICF/IID 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 an ICF/IID 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 an ICF/IID 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.

(G) "Cost center" means the following:

(1) Capital costs;

(2) Direct care costs;

(3) Indirect care costs;

(4) Other protected costs.

(H)(1) Except as provided in division (H)(2) of this section, "cost report year" means the calendar year immediately preceding the calendar year in which a fiscal year for which a medicaid payment rate determination is made begins.

(2) When a cost report the department of developmental disabilities accepts under division (A) or (C)(1)(b) of section 5124.101 of the Revised Code is used in determining an ICF/IID's medicaid payment rate, "cost report year" means the period that the cost report covers.

(I) "Costs of nonextensive renovations" means the actual expense incurred by an ICF/IID for depreciation or amortization and interest on renovations approved by the department of developmental disabilities as nonextensive renovations.

(J)(1) "Costs of ownership" means the actual expenses incurred by an ICF/IID for all of the following:

(a) Subject to division (J)(2) of this section, depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

(i) Buildings;

(ii) Building improvements that are not approved as nonextensive

renovations for the purpose of section 5124.17 of the Revised Code;

(iii) Equipment;

(iv) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

(c) Amortization of financing costs;

(d) Except as provided in division (AA) of this section, lease and rent of land, building, and equipment.

(2) The costs of capital assets of less than five hundred dollars per item may be considered costs of ownership in accordance with an ICF/IID provider's practice.

(K)(1) "Date of licensure" means the following:

(a) In the case of an ICF/IID that was originally licensed as a nursing home under Chapter 3721. of the Revised Code, the date that it was originally so licensed, regardless that it was subsequently licensed as a residential facility under section 5123.19 of the Revised Code;

(b) In the case of an ICF/IID that was originally licensed as a residential facility under section 5123.19 of the Revised Code, the date it was originally so licensed;

(c) In the case of an ICF/IID that was not required by law to be licensed as a nursing home or residential facility when it was originally operated as a residential facility, the date it first was operated as a residential facility, regardless of the date the ICF/IID was first licensed as a nursing home or residential facility.

(2) If, after an ICF/IID's original date of licensure, more residential facility beds are added to the ICF/IID or all or part of the ICF/IID undergoes an extensive renovation, the ICF/IID has a different date of licensure for the additional beds or extensively renovated portion of the ICF/IID. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the ICF/IID that was constructed at the same time as the continuing beds already located in that part of the ICF/IID.

(b) The part of the ICF/IID in which the additional beds are located was constructed as part of the ICF/IID at a time when the ICF/IID was not required by law to be licensed as a nursing home or residential facility.

(3) The definition of "date of licensure" in this section applies in determinations of ICFs/IID's medicaid payment rates but does not apply in determinations of ICFs/IID's franchise permit fees under sections 5168.60 to 5168.71 of the Revised Code.

(L) "Desk-reviewed" means that an ICF/IID's costs as reported on a cost

report filed under section 5124.10 or 5124.101 of the Revised Code have been subjected to a desk review under section 5124.108 of the Revised Code and preliminarily determined to be allowable costs.

(M) "Developmental center" means a residential facility that is maintained and operated by the department of developmental disabilities.

(N) "Direct care costs" means all of the following costs incurred by an ICF/IID:

(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the ICF/IID;

(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation staff (including habilitation supervisors), qualified intellectual disability professionals, program directors, social services staff, activities staff, psychologists, psychology assistants, social workers, counselors, and other persons holding degrees qualifying them to provide therapy;

(3) Costs of purchased nursing services;

(4) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5124.03 of the Revised Code, for personnel listed in divisions (N)(1), (2), and (3) of this section;

(5) Costs of quality assurance;

(6) Costs of consulting and management fees related to direct care;

(7) Allocated direct care home office costs;

(8) Costs of off-site day programming, including day programming that is provided in an area that is not certified by the director of health as an ICF/IID under Title XIX and regardless of either of the following:

(a) Whether or not the area in which the day programming is provided is less than two hundred feet away from the ICF/IID;

(b) Whether or not the day programming is provided by an individual or organization that is a related party to the ICF/IID provider.

(9) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5124.03 of the Revised Code.

(O) "Downsized ICF/IID" means an ICF/IID that permanently reduced its medicaid-certified capacity pursuant to a plan approved by the department of developmental disabilities under section 5123.042 of the Revised Code.

(P) "Effective date of a change of operator" means the day the entering

operator becomes the operator of the ICF/IID.

(Q) "Effective date of a facility closure" means the last day that the last of the residents of the ICF/IID resides in the ICF/IID.

(R) "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the ICF/IID or the last day that such a provider agreement is in effect when the department cancels or refuses to revalidate it.

(S) "Effective date of a voluntary termination" means the day the ICF/IID ceases to accept medicaid recipients.

(T) "Entering operator" means the person or government entity that will become the operator of an ICF/IID when a change of operator occurs or following an involuntary termination.

(U) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of an ICF/IID on the effective date of a change of operator;

(2) An operator that will cease to be the operator of an ICF/IID on the effective date of a facility closure;

(3) An operator of an ICF/IID that is undergoing or has undergone a voluntary termination;

(4) An operator of an ICF/IID that is undergoing or has undergone an involuntary termination.

(V)(1) Subject to divisions (V)(2) and (3) of this section, "facility closure" means either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as an ICF/IID that results in the relocation of all of the facility's residents;

(b) Conversion of the building, or part of the building, that houses an ICF/IID to a different use with any necessary license or other approval needed for that use being obtained and one or more of the facility's residents remaining in the facility to receive services under the new use.

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the ICF/IID by constructing a new ICF/IID or transferring the ICF/IID's license to another ICF/IID;

(b) The ICF/IID's residents relocating to another of the operator's ICFs/IID;

(c) Any action the department of health takes regarding the ICF/IID's medicaid certification that may result in the transfer of part of the ICF/IID's survey findings to another of the operator's ICFs/IID;

(d) Any action the department of developmental disabilities takes

regarding the ICF/IID's license under section 5123.19 of the Revised Code.

(3) A facility closure does not occur if all of the ICF/IID's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the ICF/IID not later than thirty days after the evacuation occurs.

(W) "Fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

(X) "Franchise permit fee" means the fee imposed by sections 5168.60 to 5168.71 of the Revised Code.

(Y) "Home and community-based services" has the same meaning as in section 5123.01 of the Revised Code.

(Z) "ICF/IID services" has the same meaning as in 42 C.F.R. 440.150.

(AA)(1) "Indirect care costs" means all reasonable costs incurred by an ICF/IID other than capital costs, direct care costs, and other protected costs. "Indirect care costs" includes costs of habilitation supplies, pharmacy consultants, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repair expenses, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs, as specified in rules adopted under section 5124.03 of the Revised Code, for personnel listed in this division. Notwithstanding division (J) of this section, "indirect care costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the ICF/IID's cost report for the cost reporting period ending December 31, 1992.

(2) For the purpose of division (AA)(1) of this section, an operating lease shall be construed in accordance with generally accepted accounting principles.

(BB) "Inpatient days" means both of the following:

(1) All days during which a resident, regardless of payment source, occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity;

(2) All days for which payment is made under section 5124.34 of the

Revised Code.

(CC) "Intermediate care facility for individuals with intellectual disabilities" and "ICF/IID" mean an intermediate care facility for the mentally retarded as defined in the "Social Security Act," section 1905(d), 42 U.S.C. 1396d(d).

(DD) "Involuntary termination" means the department of medicaid's termination of, cancellation of, or refusal to revalidate the operator's provider agreement for the ICF/IID when such action is not taken at the operator's request.

(EE) "Maintenance and repair expenses" means expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes the costs of ordinary repairs such as painting and wallpapering.

(FF) "Medicaid-certified capacity" means the number of an ICF/IID's beds that are certified for participation in medicaid as ICF/IID beds.

(GG) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for ICF/IID services occupies a bed in an ICF/IID that is included in the ICF/IID's medicaid-certified capacity;

(2) All days for which payment is made under section 5124.34 of the Revised Code.

(HH)(1) "New ICF/IID" means an ICF/IID for which the provider obtains an initial provider agreement following the director of health's medicaid certification of the ICF/IID, including such an ICF/IID that replaces one or more ICFs/IID for which a provider previously held a provider agreement.

(2) "New ICF/IID" does not mean either of the following:

(a) An ICF/IID for which the entering operator seeks a provider agreement pursuant to section 5124.511 or 5124.512 or (pursuant to section 5124.515) section 5124.07 of the Revised Code;

(b) A downsized ICF/IID or partially converted ICF/IID.

(II) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

(JJ) "Operator" means the person or government entity responsible for the daily operating and management decisions for an ICF/IID.

(KK) "Other protected costs" means costs incurred by an ICF/IID for medical supplies; real estate, franchise, and property taxes; natural gas, fuel oil, water, electricity, sewage, and refuse and hazardous medical waste collection; allocated other protected home office costs; and any additional

costs defined as other protected costs in rules adopted under section 5124.03 of the Revised Code.

(LL)(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding an ICF/IID:

- (a) The land on which the ICF/IID is located;
- (b) The structure in which the ICF/IID is located;
- (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the ICF/IID is located;
- (d) Any lease or sublease of the land or structure on or in which the ICF/IID is located.

(2) "Owner" does not mean a holder of a debenture or bond related to an ICF/IID and purchased at public issue or a regulated lender that has made a loan related to the ICF/IID unless the holder or lender operates the ICF/IID directly or through a subsidiary.

(MM) "Partially converted ICF/IID" means an ICF/IID that converted some, but not all, of its beds to providing home and community-based services under the individual options waiver pursuant to section 5124.60 or 5124.61 of the Revised Code.

(NN) For the purpose of the total per medicaid day payment rate determined for an ICF/IID under division (A) of section 5124.15 of the Revised Code and the initial total per medicaid day payment rate determined for a new ICF/IID under section 5124.151 of the Revised Code:

(1) "Peer group 1" means each ICF/IID with a medicaid-certified capacity exceeding sixteen.

(2) "Peer group 2" means each ICF/IID with a medicaid-certified capacity exceeding eight but not exceeding sixteen.

(3) "Peer group 3" means each ICF/IID with a medicaid-certified capacity of seven or eight.

(4) "Peer group 4" means each ICF/IID with a medicaid-certified capacity not exceeding six, other than an ICF/IID that is in peer group 5-A.

(5) "Peer group 5" means each ICF/IID to which all of the following apply:

- (a) The ICF/IID is first certified as an ICF/IID after July 1, 2014.
- (b) The ICF/IID has a medicaid-certified capacity not exceeding six.
- (c) The ICF/IID has a contract with the department of developmental disabilities that is for fifteen years and includes a provision for the department to approve all admissions to, and discharges from, the ICF/IID.
- (d) The ICF/IID's residents are admitted to the ICF/IID directly from a

developmental center or have been determined by the department to be at risk of admission to a developmental center.

(6) "Peer group 6" means each ICF/IID to which all of the following apply:

(a) The ICF/IID has submitted a best practices protocol for providing services to youth up to twenty-one years of age in need of intensive behavior support services that has been approved by the department of developmental disabilities.

(b) The ICF/IID, or a distinct unit of the ICF/IID, has a medicaid-certified capacity not exceeding six.

(c) The ICF/IID has a contract with the department that includes a provision for the department to approve all admissions to the ICF/IID.

(d) The ICF/IID has agreed to be reimbursed in accordance with the reimbursement methodology established under the rules authorized by section 5124.03 of the Revised Code.

(OO)(1) Except as provided in division (OO)(2) of this section, "per diem" means an ICF/IID's desk-reviewed, actual, allowable costs in a given cost center in a cost reporting period, divided by the facility's inpatient days for that cost reporting period.

(2) When determining indirect care costs for the purpose of section 5124.21 of the Revised Code, "per diem" means an ICF/IID's actual, allowable indirect care costs in a cost reporting period divided by the greater of the ICF/IID's inpatient days for that period or the number of inpatient days the ICF/IID would have had during that period if its occupancy rate had been eighty-five per cent.

(PP) "Provider" means an operator with a valid provider agreement.

(QQ) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the department of medicaid and the operator of an ICF/IID for the provision of ICF/IID services under the medicaid program.

(RR) "Purchased nursing services" means services that are provided in an ICF/IID by registered nurses, licensed practical nurses, or nurse aides who are not employees of the ICF/IID.

(SS) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of resident care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

(TT) "Related party" means an individual or organization that, to a

significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, a provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other ICFs/IID from outside organizations and are not a basic element of resident care ordinarily furnished directly to residents by the ICFs/IID.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

(UU) "Relative of owner" means an individual who is related to an owner of an ICF/IID by one of the following relationships:

(1) Spouse;

(2) Natural parent, child, or sibling;

(3) Adopted parent, child, or sibling;

(4) Stepparent, stepchild, stepbrother, or stepsister;

(5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;

(6) Grandparent or grandchild;

(7) Foster caregiver, foster child, foster brother, or foster sister.

(VV) For the purpose of determining an ICF/IID's per medicaid day capital component rate under section 5124.17 of the Revised Code,

"renovation" means an ICF/IID's betterment, improvement, or restoration, other than an addition, through a capital expenditure.

(WW) "Residential facility" has the same meaning as in section 5123.19 of the Revised Code.

(XX) "Secondary building" means a building or part of a building, other than an ICF/IID, in which the owner of one or more ICFs/IID has administrative work regarding the ICFs/IID performed or records regarding the ICFs/IID stored.

(YY) "Sponsor" means an adult relative, friend, or guardian of an ICF/IID resident who has an interest or responsibility in the resident's welfare.

(ZZ) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396, et seq.

(AAA) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395, et seq.

(BBB) "Voluntary termination" means an operator's voluntary election to terminate the participation of an ICF/IID in the medicaid program but to continue to provide service of the type provided by a residential facility as defined in section 5123.19 of the Revised Code.

Sec. 5124.15. (A) Except as otherwise provided by section 5124.101 of the Revised Code, sections 5124.151 to 5124.154 of the Revised Code, and divisions (B) and (C) of this section, the total per medicaid day payment rate that the department of developmental disabilities shall pay to an ICF/IID provider for ICF/IID services the provider's ICF/IID provides during a fiscal year shall equal the sum of all of the following:

(1) The per medicaid day capital component rate determined for the ICF/IID under section 5124.17 of the Revised Code;

(2) The per medicaid day direct care costs component rate determined for the ICF/IID under section 5124.19 of the Revised Code;

(3) The per medicaid day indirect care costs component rate determined for the ICF/IID under section 5124.21 of the Revised Code;

(4) The per medicaid day other protected costs component rate determined for the ICF/IID under section 5124.23 of the Revised Code;

(5) The sum of the following:

(a) The per medicaid day quality incentive payment determined for the ICF/IID under section 5124.24 of the Revised Code;

(b) A direct support personnel payment equal to two and four-hundredths per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year;

(c) A professional workforce development payment equal to thirteen

and fifty-five hundredths for state fiscal year 2024 and twenty and eighty-one hundredths during fiscal year 2025 per cent of the ICF/IID's desk-reviewed, actual, allowable, per medicaid day direct care costs from the applicable cost report year.

(B) The total per medicaid day payment rate for an ICF/IID that is in peer group 5 shall not exceed the average total per medicaid day payment rate in effect on July 1, 2013, for developmental centers.

(C) The department shall adjust the total per medicaid day payment rate otherwise determined for an ICF/IID under this section as directed by the general assembly through the enactment of law governing medicaid payments to ICF/IID providers.

(D)(1) In addition to paying an ICF/IID provider the total per medicaid day payment rate determined for the provider's ICF/IID under divisions (A), (B), and (C) of this section for a fiscal year, the department may do either or both of the following:

(a) In accordance with section 5124.25 of the Revised Code, pay the provider a rate add-on for ventilator-dependent outlier ICF/IID services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on;

(b) In accordance with section 5124.26 of the Revised Code, pay the provider for outlier ICF/IID services the ICF/IID provides to residents identified as needing intensive behavioral health support services if the rate add-on is to be paid under that section and the department approves the provider's application for the rate add-on.

(2) The rate add-ons are not to be part of the ICF/IID's total per medicaid day payment rate.

Sec. 5124.45. The department of developmental disabilities shall transmit to the treasurer of state for deposit in the general revenue fund amounts collected from the following:

(A) ~~Recoupments and voluntary repayments made under section 5124.39 of the Revised Code;~~

~~(B)~~ Refunds required by, and interest charged under, section 5124.41 of the Revised Code;

~~(C)~~(B) Penalties imposed under section 5124.42 of the Revised Code.

Sec. 5124.70. (A) This section does not apply to ~~either~~ any of the following:

(1) An ICF/IID to which both of the following apply:

(a) On or before January 1, 2015, the ICF/IID became a downsized ICF/IID or partially converted ICF/IID.

(b) On January 1, 2015, the ICF/IID's medicaid-certified capacity was at

least twenty per cent less than the greatest medicaid-certified capacity it had before it became a downsized ICF/IID or partially converted ICF/IID.

(2) An ICF/IID's sleeping room in which more than two residents reside if both of the following apply:

(a) All of the residents of the sleeping room are under twenty-one years of age.

(b) The parents or guardians of all of the residents of the sleeping room consent to the residents residing in a sleeping room with more than two residents.

(3) An ICF/IID to which any of the following apply on the effective date of this amendment:

(a) The ICF/IID has a medicaid-certified capacity between sixty and seventy beds and is located in a county with a population between forty thousand five hundred and forty-one thousand according to the 2020 federal decennial census.

(b) The ICF/IID has a medicaid-certified capacity between ninety and one hundred beds and is located in a county with a population between two hundred forty-two thousand and two hundred forty-three thousand according to the 2020 federal decennial census.

(c) The ICF/IID has a medicaid-certified capacity between fifty-five and sixty beds and is located in a county with a population between four hundred thousand and five hundred thousand according to the 2020 federal decennial census.

(d) The ICF/IID has a medicaid-certified capacity between ninety and one hundred beds and is located in a county with a population between one million three hundred thousand and one million four hundred thousand according to the 2020 federal decennial census.

(e) The ICF/IID has a medicaid-certified capacity between one hundred twenty and one hundred thirty beds and is located in a county with a population between one hundred sixty thousand and one hundred sixty-two thousand according to the 2020 federal decennial census.

(B) Except as provided in divisions (G) and (H) of this section, an ICF/IID provider shall not permit more than two residents to reside in the same sleeping room.

(C)(1) If, on ~~the effective date of this section~~ September 29, 2015, more than two residents of an ICF/IID reside in the same sleeping room, the ICF/IID provider shall submit to the department of developmental disabilities for its review a plan to come into compliance with division (B) of this section. The provider shall submit the plan not later than December 31, 2015.

(2) The plan shall include all of the following:

(a) The date by which not more than two residents will reside in the same sleeping room, which shall be not later than June 30, 2025;

(b) Detailed descriptions of the actions the ICF/IID provider will take to come into compliance with division (B) of this section, which shall include becoming either a downsized ICF/IID or a partially converted ICF/IID.

(c) The ICF/IID's projected medicaid-certified capacity for each year covered by the plan, which must demonstrate that the provider will make regular progress toward coming into compliance with division (B) of this section;

(d) A discharge planning process that includes providing information to residents regarding home and community-based services;

(e) Additional interim steps the provider will take to demonstrate that the provider is making regular progress toward coming into compliance with division (B) of this section.

(3) The plan shall not include the creation of a new ICF/IID that has a medicaid-certified capacity that is greater than six unless the department determines that a new ICF/IID would need a larger medicaid-certified capacity to be financially viable. If the department determines that a new ICF/IID would need a larger medicaid-certified capacity to be financially viable, the plan may include the creation of a new ICF/IID that has a medicaid-certified capacity that is greater than six but not greater than eight.

(D) The department shall review each plan submitted under division (C) of this section and decide whether to approve the plan. In making this decision, the department shall consider both of the following:

(1) Whether the plan conforms to the requirements of division (C) of this section;

(2) The feasibility of completing the implementation as described in the plan.

(E) If the department approves an ICF/IID provider's plan under division (D) of this section, the provider shall submit to the department annual reports regarding the plan's implementation.

(F) The department may issue a written order to an ICF/IID provider that suspends new admissions to the ICF/IID if both of the following apply:

(1) The department has approved the provider's plan under division (D) of this section.

(2) The provider fails to do either of the following:

(a) Submit to the department an annual report required by division (E) of this section;

(b) Meet, to the department's satisfaction, the projected

medicaid-certified capacity for the ICF/IID for a year as specified in the plan and the failure is due to factors within the provider's control.

(G)(1) Before January 1, 2016, an ICF/IID provider may permit more than two residents to reside in the same sleeping room if more than two residents resided in the same sleeping room on ~~the effective date of this section~~ September 29, 2015.

(2) On and after January 1, 2016, an ICF/IID provider may permit more than two residents to reside in the same sleeping room only if all of the following apply:

(a) More than two residents resided in the same sleeping room on ~~the effective date of this section~~ September 29, 2015.

(b) The provider has submitted a plan in accordance with division (C) of this section.

(c) Either of the following applies:

(i) The department has approved and the provider complies with the plan.

(ii) The department has not decided whether to approve the plan.

(H) The department shall waive application of division (B) of this section for an ICF/IID's sleeping room in which more than two residents reside on June 30, 2025, if both of the following apply:

(1) The same residents have continuously resided in the sleeping room since ~~the effective date of this section~~ September 29, 2015;

(2) The department determines that at least three of these residents want to continue to reside together in the sleeping room.

Sec. 5124.75. Notwithstanding any provision of the Revised Code to the contrary, an ICF/IID operator shall not reserve or convert any portion of the ICF/IID's beds from providing ICF/IID services to providing services to individuals receiving services through the Ohio resilience through integrated systems and excellence (OhioRISE) program for children and youth involved in multiple state systems or children and youth with other complex behavioral health needs, if reserving or converting a bed would require the operator to discharge or terminate services to a resident occupying that bed.

Sec. 5126.021. ~~Each~~ (A) Each county board of developmental disabilities shall consist of seven members. The board of county commissioners of the county shall appoint five members and the senior probate judge of the county shall appoint two members.

(B) Beginning July 1, 2025, when making initial appointments to a county board of developmental disabilities, and when making an appointment to fill a vacancy pursuant to section 5126.027 of the Revised Code, an appointing authority shall do all of the following:

(1) Appoint only individuals who are adult residents of the county the appointing authority serves, citizens of the United States, and interested and knowledgeable in the field of intellectual and developmental disabilities and other allied fields;

(2) Place emphasis on appointing individuals with developmental disabilities and family members of individuals with developmental disabilities;

(3) Place emphasis on appointing individuals who have professional training and experience in business management, finance, law, health care practice, personnel administration, or government service;

(4) Place emphasis on appointing individuals who reflect, as nearly as possible, the composition of the county that the county board serves.

(C) If the appointing authority is a board of county commissioners, the board of county commissioners shall appoint the following:

(1) Except as otherwise provided in this section, at least one individual with developmental disabilities;

(2) At least one individual who is a family member of an individual with developmental disabilities.

(D)(1) If the appointing authority is a senior probate judge, the senior probate judge shall appoint at least one individual with developmental disabilities or an immediate family member of an individual eligible for residential services or supported living.

(2) If a senior probate judge appoints an individual with developmental disabilities under division (D)(1) of this section, that appointment satisfies the requirement under division (C)(1) of this section that a board of county commissioners appoint at least one such individual.

(E) An appointing authority's unfilled vacancy does not prohibit that appointing authority from filling other vacancies on the county board of developmental disabilities.

Sec. 5126.0223. (A) As used in this section, "electronic communication" means live, audio-enabled communication that permits the board members attending a meeting, the board members present in person at the place where the meeting is conducted, and all members of the public present in person at the place where the meeting is conducted to simultaneously communicate with each other during the meeting.

(B) Notwithstanding division (C) of section 121.22 and section 5126.029 of the Revised Code, each county board of developmental disabilities may establish a policy that allows board members to attend a meeting of the county board via means of electronic communication. The policy shall specify at least all of the following:

(1) The number of regular meetings at which each board member shall be present in person, which may not be less than one-half of the regular meetings of the county board annually;

(2) All of the following minimum standards regarding a meeting conducted using means of electronic communication:

(a) That at least one-third of the board members attending the meeting shall be present in person at the place where the meeting is conducted;

(b) That all votes taken at the meeting are taken by roll call vote;

(c) That a board member who intends to attend a meeting via means of electronic communication notifies the chairperson of that intent not less than forty-eight hours before the meeting, except in the case of a declared emergency.

(C) Notwithstanding division (C) of section 121.22 and section 5126.029 of the Revised Code, a board member who attends a meeting via means of electronic communication is considered to be present at the meeting, is counted for purposes of establishing a quorum, and may vote at the meeting.

(D) Except as otherwise provided in this section, no person shall limit the number of board members who may attend a meeting via means of electronic communication, limit the total number of meetings that the board may conduct using means of electronic communication, limit the number of meetings in which any one board member may attend via means of electronic communication, or impose other limits or obligations on a board member by virtue of the board member's attending a meeting via means of electronic communication.

Sec. 5145.161. (A) The program for the employment of prisoners within the custody of the department of rehabilitation and correction that the department is required to establish by division (A) of section 5145.16 of the Revised Code shall be administered in accordance with any rules adopted pursuant to division (B) of section 5145.03 of the Revised Code and with the following requirements:

(1) The department shall consider the nature of the offense committed by a prisoner, the availability of employment, the security requirements for the prisoner, the prisoner's present state of mind, the prisoner's record in the institution to which the prisoner has been committed, and all other relevant factors when assigning a prisoner to the prisoner's initial job assignment. The department, when making a prisoner's initial job assignment, shall attempt to develop the prisoner's work skills, provide rehabilitation for the prisoner, consider the proximity to the prisoner's family, and permit the prisoner to provide support for the prisoner's dependents if the prisoner's

earnings are sufficient for that to be feasible.

(2)(a) Except as provided in division (A)(2)(b) of this section, no prisoner shall be assigned to any job with the Ohio penal industries, or to any other job level or job grade of prisoner employment that the director of rehabilitation and correction may designate, unless the prisoner has obtained, or enrolled in an education program that leads to, a high school diploma or a certificate of high school equivalence.

(b) Division (A)(2)(a) of this section does not apply to either of the following:

(i) A prisoner who is determined, in accordance with a procedure approved by the director, to be incapable of obtaining a diploma or certificate of high school equivalence;

(ii) A prisoner working in the Ohio penal industries as of February 1, 1999, who applied on or before May 1, 1999, for enrollment in a program leading to a diploma or a certificate of high school equivalence, and who has been enrolled in that program for less than one year.

(3) Each prisoner shall be required to perform the prisoner's job satisfactorily, be permitted to be absent from the prisoner's job only for legitimate reasons, be required to comply with all security requirements, and be required to comply with any other reasonable job performance standards.

(4) A prisoner who advances from one job grade to the next higher job grade within the job level, advances from one job level to the next higher job level, or advances from one job category to the next highest job category shall receive additional benefits in accordance with the rules adopted pursuant to division (B) of section 5145.03 of the Revised Code.

(5) A prisoner shall not be eligible for a job in private industry or agriculture, unless the prisoner meets the requirements of the department for private employment that are set forth in rules adopted pursuant to division (B) of section 5145.03 of the Revised Code.

(6) A prisoner who violates the work requirements of any job grade, level, or category shall be disciplined pursuant to the disciplinary procedure adopted pursuant to division (B)(9) of section 5145.03 of the Revised Code.

(B) The department of rehabilitation and correction may administer the program that it is required to establish by division (A) of section 5145.16 of the Revised Code in any manner that is consistent with division (A) of this section, division (B) of section 5145.03, and section 5145.16 of the Revised Code.

Sec. 5145.163. (A) As used in this section:

(1) "Customer model enterprise" means an enterprise conducted under a federal prison industries enhancement certification program in which a

private party participates in the enterprise only as a purchaser of goods and services.

(2) "Employer model enterprise" means an enterprise conducted under a federal prison industries enhancement certification program in which a private party participates in the enterprise as an operator of the enterprise.

(3) "Injury" ~~means a diagnosable injury to an inmate supported by medical findings that it was~~ and "occupational disease" have the same meanings as in section 4123.01 of the Revised Code if sustained or contracted in the course of, and arose arising out of, participation in authorized work activity ~~that was an integral part of the inmate's participation in the Ohio penal industries~~ federal prison industries enhancement certification program.

(4) "Inmate" means any person who is committed to the custody of the department of rehabilitation and correction and who is participating in an Ohio penal industries program that is under the federal prison industries enhancement certification program.

(5) "Federal prison industries enhancement certification program" means the program authorized pursuant to 18 U.S.C. 1761.

~~(6) "Loss of earning capacity" means an impairment of the body of an inmate to a degree that makes the inmate unable to return to work activity under the Ohio penal industries program and results in a reduction of compensation earned by the inmate at the time the injury occurred.~~

~~(B) Every inmate shall be covered by a policy of disability insurance to provide benefits for loss of earning capacity due to an injury and for medical treatment of the injury following the inmate's release from prison. No private party shall participate in an employer model enterprise in this state unless the private party is approved by the director of rehabilitation and correction in accordance with division (C) of this section.~~

(C) The director may approve a private party to participate in an employer model enterprise only if the private party meets the following requirements:

(1) The private party provides proof of workers' compensation coverage furnished by the bureau of workers' compensation.

(2) The private party carries liability insurance in an amount the director determines to be sufficient.

(3) The private party does not have an unresolved finding for recovery by the auditor of state under section 9.24 of the Revised Code.

(D)(1) If the enterprise for which the an inmate works is a customer model enterprise, Ohio penal industries shall purchase the policy the department may treat the inmate as an employee of the department for the

purpose of workers' compensation coverage in accordance with Chapters 4121., 4123., 4127., and 4131. of the Revised Code.

~~(2) If the enterprise for which the an inmate works is an employer model enterprise, the private participant shall purchase the policy. The person required to purchase the policy shall submit proof of coverage to the prison labor advisory board before the enterprise begins operation.~~

~~(C) Within ninety days after an inmate sustains an injury, the inmate may file a disability claim with the person required to purchase the policy of disability insurance. Upon the request of the insurer, the inmate shall be medically examined, and the insurer shall determine the inmate's entitlement to disability benefits based on the medical examination. The inmate shall accept or reject an award within thirty days after a determination of the inmate's entitlement to the award. If the inmate accepts the award, the benefits shall be paid upon the inmate's release from prison. The amount of disability benefits payable to the inmate shall be reduced by sick leave benefits or other compensation for lost pay made by Ohio penal industries to the inmate due to an injury that rendered the inmate unable to work. An inmate shall not receive disability benefits for injuries occurring as the result of a fight, assault, horseplay, purposely self inflicted injury, use of alcohol or controlled substances, misuse of prescription drugs, or other activity that is prohibited by the department's or institution's inmate conduct rules or the work rules of the private participant in the enterprise.~~

~~(D) Inmates may treat the inmate as an employee of the private participant for the purpose of workers' compensation coverage in accordance with Chapters 4121., 4123., 4127., and 4131. of the Revised Code.~~

~~(E) Except as provided in division (D) of this section, inmates are not employees of the department of rehabilitation and correction or the private participant in an enterprise.~~

~~(E) An inmate is ineligible to receive compensation or benefits under Chapter 4121., 4123., 4127., or 4131. of the Revised Code for any injury, death, or occupational disease received in the course of, and arising out of, participation in the Ohio penal industries program. Any claim for an injury arising from an inmate's participation in the program is specifically excluded from the jurisdiction of the Ohio bureau of workers' compensation and the industrial commission of Ohio.~~

~~(F) Any disability benefit award accepted by an inmate under this section shall be the inmate's exclusive remedy against the insurer, the private participant in an enterprise, and the state. If an inmate rejects an award or a disability claim is denied, the inmate may bring an action in the~~

court of claims within the appropriate period of limitations.

~~(G) If any inmate who is paid disability benefits under this section is reincarcerated, the benefits shall immediately cease but shall resume upon the inmate's subsequent release from incarceration.~~

(F)(1) An inmate who is injured or who contracts an occupational disease arising out of participation in authorized work activity in the federal prison industries enhancement certification program may file a claim for compensation or benefits under Chapters 4121., 4123., 4127., and 4131. of the Revised Code while the claimant is in the custody of the department.

(2) The dependent of an inmate who is killed or dies as the result of an occupational disease contracted in the course of participation in authorized work activity in the federal prison industries enhancement certification program may file a claim for compensation and benefits under Chapters 4121., 4123., 4127., and 4131. of the Revised Code.

(G) Notwithstanding any provision of Chapter 4121. or 4123. of the Revised Code to the contrary, an inmate who files a claim pursuant to this section while in the custody of the department shall receive medical treatment and have medical determinations for purposes of Chapter 4121. and 4123. of the Revised Code made by the department's medical providers. Medical determinations made by the department's providers shall be limited to initial claim allowances and requests for additional conditions. The claimant may request a review by the department's chief medical officer. In the event of an appeal, the claimant may receive a medical evaluation from a medical practitioner affiliated within the department's network of third-party medical contractors or a medical practitioner in a managed care organization certified by the bureau of workers' compensation under section 4121.44 of the Revised Code and located in Franklin county.

(H) In accordance with division (J) of section 4123.54 of the Revised Code, compensation or benefits are not payable to or on behalf of a claimant during the period of confinement of the claimant in any correctional institution or county jail. Any remaining amount of an award of compensation or benefits for an injury or occupational disease arising out of participation in authorized work activity in the federal prison industries enhancement certification program shall be paid to or on behalf of a claimant after the claimant is released from imprisonment. If a claimant is reimprisoned, compensation and benefits shall be suspended during the claimant's imprisonment but shall resume on the claimant's release from imprisonment.

(I) An inmate shall voluntarily consent to participate in a federal prison industries enhancement certification program prior to commencing

participation in the program. Such consent disclaims the inmate's ability to choose a medical provider while the inmate is imprisoned and subjects the inmate to the requirements of this section.

Sec. 5149.101. ~~(A)(1) A board hearing officer, a board member, or the office of victims' services may petition the board for a full board hearing that relates to the proposed parole or re-parole of a prisoner, including any prisoner described in section 2967.132 of the Revised Code. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held.~~

~~(2)(A)(1)(a)~~ A victim of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the victim's representative, or any person described in division (B)(5) of this section may request, through the office of victims' services, for the board to hold a full board hearing that relates to the proposed parole or re-parole of the person that committed the violation. If a victim, victim's representative, or other any person described in division (B)(5) of this section requests a full board hearing pursuant to this division, the board shall hold a full board hearing.

(b) A family member of a victim who is not described in division (B)(5) of this section may request, through the office of victims' services, for the board to hold a full board hearing that relates to the proposed parole or re-parole of a person who committed a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment. At a meeting of the board at which a majority of board members are present, the majority of those present shall determine whether a full board hearing shall be held, if a family member of the victim makes a request pursuant to this division.

(c) If a person is convicted of a violation of section 2903.01 or 2903.02 of the Revised Code, an offense of violence that is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the prosecuting attorney may submit a request directly to the board to hold a full board hearing that relates to the proposed parole or re-parole of the person who committed the violation. If the prosecutor requests a full board hearing pursuant to this division, the board shall hold a full board hearing.

(2) At least thirty days before the full hearing, except as otherwise provided in this division, the board shall give notice of the date, time, and place of the hearing to the victim regardless of whether the victim has

requested the notification. The notice of the date, time, and place of the hearing shall not be given under this division to a victim if the victim has requested pursuant to division (B)(2) of section 2930.03 of the Revised Code that the notice not be provided to the victim. At least thirty days before the full board hearing and regardless of whether the victim has requested that the notice be provided or not be provided under this division to the victim, the board shall give similar notice to the prosecuting attorney in the case, the law enforcement agency that arrested the prisoner if any officer of that agency was a victim of the offense, and, if different than the victim, the person who requested the full hearing. If the prosecuting attorney has not previously been sent an institutional summary report with respect to the prisoner, upon the request of the prosecuting attorney, the board shall include with the notice sent to the prosecuting attorney an institutional summary report that covers the offender's participation while confined in a state correctional institution in training, work, and other rehabilitative activities and any disciplinary action taken against the offender while so confined. Upon the request of a law enforcement agency that has not previously been sent an institutional summary report with respect to the prisoner, the board also shall send a copy of the institutional summary report to the law enforcement agency. If notice is to be provided as described in this division, the board may give the notice by any reasonable means, including regular mail, telephone, and electronic mail, in accordance with division (D)(1) of section 2930.16 of the Revised Code. If the notice is based on an offense committed prior to March 22, 2013, the notice also shall include the opt-out information described in division (D)(1) of section 2930.16 of the Revised Code. The board, in accordance with division (D)(2) of section 2930.16 of the Revised Code, shall keep a record of all attempts to provide the notice, and of all notices provided, under this division.

The preceding paragraph, and the notice-related provisions of divisions (E)(2) and (K) of section 2929.20, division (D)(1) of section 2930.16, division (H) of section 2967.12, division (E)(1)(b) of section 2967.19 as it existed prior to ~~the effective date of this amendment~~ April 4, 2023, division (A)(3)(b) of section 2967.26, and division (D)(1) of section 2967.28 of the Revised Code enacted in the act in which this paragraph was enacted, shall be known as "Roberta's Law."

(B) At a full board hearing that relates to the proposed parole or re-parole of a prisoner and that has been petitioned for or requested in accordance with division (A) of this section, the parole board shall permit the following persons to appear and to give testimony or to submit written statements:

(1) The prosecuting attorney of the county in which the original indictment against the prisoner was found and members of any law enforcement agency that assisted in the prosecution of the original offense;

(2) The judge of the court of common pleas who imposed the original sentence of incarceration upon the prisoner, or the judge's successor;

(3) The victim of the original offense for which the prisoner is serving the sentence or the victim's representative designated pursuant to section 2930.02 of the Revised Code;

(4) The victim of any behavior that resulted in parole being revoked;

(5) With respect to a full board hearing held pursuant to division ~~(A)(2)(A)(1)(a)~~ or (c) of this section, all of the following:

(a) The spouse of the victim of the original offense;

(b) The parent or parents of the victim of the original offense;

(c) The sibling of the victim of the original offense;

(d) The child or children of the victim of the original offense.

(6) ~~Counsel~~ A state public defender when designated by the director of the department of rehabilitation and correction pursuant to division (A)(5) of section 120.06 of the Revised Code, private counsel, or some other person designated by the prisoner as a representative, as described in division (C) of this section permitted by the board.

(C) Except as otherwise provided in this division, a full board hearing of the parole board is not subject to section 121.22 of the Revised Code. The persons who may attend a full board hearing are the persons described in divisions (B)(1) to (6) of this section, and representatives of the press, radio and television stations, and broadcasting networks who are members of a generally recognized professional media organization.

At the request of a person described in division (B)(3) of this section, representatives of the news media described in this division shall be excluded from the hearing while that person is giving testimony at the hearing. The prisoner being considered for parole has no right to be present at the hearing, but may be represented ~~by counsel or some other person designated by the prisoner as described in division (B)(6) of this section.~~

If there is an objection at a full board hearing to a recommendation for the parole of a prisoner, the board may approve or disapprove the recommendation or defer its decision until a subsequent full board hearing. The board may permit interested persons other than those listed in this division and division (B) of this section to attend full board hearings pursuant to rules adopted by the adult parole authority.

(D) If the victim of the original offense died as a result of the offense and the offense was aggravated murder, murder, an offense of violence that

is a felony of the first, second, or third degree, or an offense punished by a sentence of life imprisonment, the family of the victim may show at a full board hearing a video recording not exceeding five minutes in length memorializing the victim.

(E) The adult parole authority shall adopt rules for the implementation of this section. The rules shall specify reasonable restrictions on the number of media representatives that may attend a hearing, based on considerations of space, and other procedures designed to accomplish an effective, orderly process for full board hearings.

Sec. 5149.38. (A) In each voluntary county, subject to division (B) of this section and not later than ~~September 1, 2022~~ the deadlines established by the department of rehabilitation and correction in division (B)(3)(b)(ii) of section 2929.34 of the Revised Code, a county commissioner representing the board of county commissioners of the county, the administrative judge of the general division of the court of common pleas of the county, the sheriff of the county, and an official from any municipality operating a local correctional facility in the county to which courts of the county sentence offenders shall agree to, sign, and submit to the department of rehabilitation and correction for its approval a memorandum of understanding that does all of the following:

(1) Sets forth the plans by which the county will use grant money provided to the county in the state fiscal year 2023 and succeeding years within the specified state fiscal years biennium under the ~~targeting targeted~~ community alternatives to prison (T-CAP) program;

(2) Specifies the manner in which the county will address a per diem reimbursement of local correctional facilities for prisoners who serve a prison term in the facility pursuant to division (B)(3)(c) of section 2929.34 of the Revised Code. The per diem reimbursement rate shall be the rate determined in division (F)(1) of this section and shall be specified in the memorandum;

(3) Specifies whether the memorandum of understanding will apply to prison terms for felonies of the fifth degree or prison terms for felonies of the fourth and fifth degree pursuant to division (B)(3)(c) of section 2929.34 of the Revised Code.

(B) Two or more voluntary counties may join together to jointly establish a memorandum of understanding of the type described in division (A) of this section. Not later than ~~September 1, 2022~~ the deadlines established by the department of rehabilitation and correction in division (B)(3)(b)(ii) of section 2929.34 of the Revised Code, a county commissioner from each of the affiliating voluntary counties representing the county's

board of county commissioners, the administrative judge of the general division of the court of common pleas of each affiliating voluntary county, the sheriff of each affiliating voluntary county, and an official from any municipality operating a local correctional facility in the affiliating voluntary counties to which courts of the counties sentence offenders shall agree to, sign, and submit to the department of rehabilitation and correction for its approval the memorandum of understanding. The memorandum of understanding shall set forth the plans by which, and specify the manner in which, the affiliating counties will complete the tasks identified in divisions (A)(1) to (3) of this section.

(C) The department of rehabilitation and correction shall adopt rules establishing standards for approval of memorandums of understanding submitted to it under division (A) or (B) of this section. The department shall review the memorandums of understanding submitted to it and may require the county or counties that submit a memorandum to modify the memorandum. The director of rehabilitation and correction shall approve memorandums of understanding submitted to it under division (A) or (B) of this section that the director determines satisfy the standards adopted by the department within thirty days after receiving each memorandum submitted.

(D) Any person responsible for agreeing to, signing, and submitting a memorandum of understanding under division (A) or (B) of this section may delegate the person's authority to do so to an employee of the agency, entity, or office served by the person.

(E) The persons signing a memorandum of understanding under division (A) or (B) of this section, or their successors in office, may revise the memorandum as they determine necessary. Any revision of the memorandum shall be signed by the parties specified in division (A) or (B) of this section and submitted to the department of rehabilitation and correction for its approval under division (C) of this section within thirty days after the beginning of the state fiscal year.

(F)(1) In each county, commencing in calendar year 2023, on or before the first day of February of each calendar year the sheriff shall determine the per diem costs for the preceding calendar year for each of the local correctional facilities for the housing in the facility of prisoners who serve a term in it pursuant to division (B)(3)(c) of section 2929.34 of the Revised Code. The per diem cost so determined shall apply in the calendar year in which the determination is made.

(2) For each county, the per diem cost determined under division (F)(1) of this section that applies with respect to a facility in a specified calendar year shall be the per diem rate of reimbursement in that calendar year, under

the ~~targeting~~ targeted community alternatives to prison (T-CAP) program, for prisoners who serve a term in the facility pursuant to division (B)(3)(c) of section 2929.34 of the Revised Code.

(3) The per diem costs of housing determined under division (F)(1) of this section for a facility shall be the actual costs of housing the specified prisoners in the facility, on a per diem basis.

(G) As used in this section:

(1) "Local correctional facility" means a facility of a type described in division (C) or (D) of section 2929.34 of the Revised Code.

(2) "Voluntary county" has the same meanings as in section 2929.34 of the Revised Code.

Sec. 5153.122. Each PCSA caseworker hired after January 1, 2007, shall complete ~~at least one hundred two hours of~~ in-service training during the first year of the caseworker's continuous employment as a PCSA caseworker, except that the executive director of the public children services agency may waive the training requirement for a school of social work graduate who participated in the university partnership program described in division (E) of section 5101.141 of the Revised Code and as provided in section 5153.124 of the Revised Code. The training shall consist of courses in all of the following:

(A) Recognizing, accepting reports of, and preventing child abuse, neglect, and dependency;

(B) Assessing child safety;

(C) Assessing risks;

(D) Interviewing persons;

(E) Investigating cases;

(F) Intervening;

(G) Providing services to children and their families;

(H) The importance of and need for accurate data;

(I) Preparation for court;

(J) Maintenance of case record information;

(K) The legal duties of PCSA caseworkers to protect the constitutional and statutory rights of children and families from the initial time of contact during investigation through treatment, including instruction regarding parents' rights and the limitations that the Fourth Amendment to the United States Constitution places upon caseworkers and their investigations;

(L) Content on other topics relevant to child abuse, neglect, and dependency, including permanency strategies, concurrent planning, and adoption as an option for unintended pregnancies.

After a PCSA caseworker's first year of continuous employment as a

PCSA caseworker, the caseworker annually shall complete thirty-six hours of training in areas relevant to the caseworker's assigned duties.

During the first two years of continuous employment as a PCSA caseworker, each PCSA caseworker shall complete ~~at least twelve hours of~~ training in recognizing the signs of domestic violence and its relationship to child abuse as established in rules the director of job and family services shall adopt pursuant to Chapter 119. of the Revised Code. ~~The twelve hours may be in addition to the training required during the caseworker's first year of employment or part of the training required during the second year of employment.~~

Sec. 5153.123. Each PCSA caseworker supervisor shall complete ~~at least sixty hours of~~ in-service training during the first year of the supervisor's continuous employment as a PCSA caseworker supervisor. The training shall include courses in screening reports of child abuse, neglect, or dependency. After a PCSA caseworker supervisor's first year of continuous employment as a PCSA caseworker supervisor, the supervisor annually shall complete thirty hours of training in areas relevant to the supervisor's assigned duties. During the first two years of continuous employment as a PCSA caseworker supervisor, each PCSA caseworker supervisor shall complete ~~at least twelve hours of~~ training in recognizing the signs of domestic violence and its relationship to child abuse as established in rules the director of job and family services shall adopt pursuant to Chapter 119. of the Revised Code. ~~The twelve hours may be in addition to the training required during the supervisor's first year of employment or part of the training required during the second year of employment.~~

Sec. 5153.124. (A)(1) The director of job and family services shall adopt rules as necessary to implement the training requirements of sections 5153.122 and 5153.123 of the Revised Code.

(2) ~~Not later than nine months after the effective date of the amendment to this section by H.B. 110 of the 134th general assembly~~ September 30, 2021, the director shall adopt rules in accordance with Chapter 119. of the Revised Code to establish the circumstances under which an executive director of a public children services agency may waive portions of in-service training for PCSA caseworkers, in addition to the waiver described in section 5153.122 of the Revised Code.

(B) Notwithstanding sections ~~5103.33~~ 5103.37 to ~~5103.422~~ 5103.42 and sections 5153.122 to 5153.127 of the Revised Code, the department of job and family services may require additional training for PCSA caseworkers and PCSA caseworker supervisors as necessary to comply with federal requirements.

Sec. 5153.127. The executive director of each public children services agency or a person designated by the executive director shall collect and maintain the data from individual training needs assessments completed under sections 5153.125 and 5153.126 of the Revised Code for each PCSA caseworker and PCSA caseworker supervisor employed by the agency. The executive director or designated person shall compile and forward the data collected from the completed assessments to the regional training center established under section ~~5103.42~~ 5103.41 of the Revised Code for the training region the agency is located in.

Sec. 5153.16. (A) Except as provided in section 2151.422 of the Revised Code, in accordance with rules adopted under section 5153.166 of the Revised Code, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency shall do all of the following:

(1) Make an investigation concerning any child alleged to be an abused, neglected, or dependent child;

(2) Enter into agreements with the parent, guardian, or other person having legal custody of any child, or with the department of job and family services, department of mental health and addiction services, department of developmental disabilities, other department, any certified organization within or outside the county, or any agency or institution outside the state, having legal custody of any child, with respect to the custody, care, or placement of any child, or with respect to any matter, in the interests of the child, provided the permanent custody of a child shall not be transferred by a parent to the public children services agency without the consent of the juvenile court;

(3) Enter into a contract with an agency providing prevention services in an effort to prevent neglect or abuse, to enhance a child's welfare, and to preserve the family unit intact.

(4) Accept custody of children committed to the public children services agency by a court exercising juvenile jurisdiction;

~~(4)~~(5) Provide such care as the public children services agency considers to be in the best interests of any child adjudicated to be an abused, neglected, or dependent child the agency finds to be in need of public care or service;

~~(5)~~(6) Provide social services to any unmarried girl adjudicated to be an abused, neglected, or dependent child who is pregnant with or has been delivered of a child;

~~(6)~~(7) Make available to the children with medical handicaps program of the department of health at its request any information concerning a child

with a disability found to be in need of treatment under sections 3701.021 to 3701.028 of the Revised Code who is receiving services from the public children services agency;

~~(7)~~(8) Provide temporary emergency care for any child considered by the public children services agency to be in need of such care, without agreement or commitment;

~~(8)~~(9) Find certified foster homes, within or outside the county, for the care of children, including children with disabilities from other counties attending special schools in the county;

~~(9)~~(10) Subject to the approval of the board of county commissioners and the state department of job and family services, establish and operate a training school or enter into an agreement with any municipal corporation or other political subdivision of the county respecting the operation, acquisition, or maintenance of any children's home, training school, or other institution for the care of children maintained by such municipal corporation or political subdivision;

~~(10)~~(11) Acquire and operate a county children's home, establish, maintain, and operate a receiving home for the temporary care of children, or procure certified foster homes for this purpose;

~~(11)~~(12) Enter into an agreement with the trustees of any district children's home, respecting the operation of the district children's home in cooperation with the other county boards in the district;

~~(12)~~(13) Cooperate with, make its services available to, and act as the agent of persons, courts, the department of job and family services, the department of health, and other organizations within and outside the state, in matters relating to the welfare of children, except that the public children services agency shall not be required to provide supervision of or other services related to the exercise of parenting time rights granted pursuant to section 3109.051 or 3109.12 of the Revised Code or companionship or visitation rights granted pursuant to section 3109.051, 3109.11, or 3109.12 of the Revised Code unless a juvenile court, pursuant to Chapter 2151. of the Revised Code, or a common pleas court, pursuant to division (E)(6) of section 3113.31 of the Revised Code, requires the provision of supervision or other services related to the exercise of the parenting time rights or companionship or visitation rights;

~~(13)~~(14) Make investigations at the request of any superintendent of schools in the county or the principal of any school concerning the application of any child adjudicated to be an abused, neglected, or dependent child for release from school, where such service is not provided through a school attendance department;

~~(14)~~(15) Administer funds provided under Title IV-E of the "Social Security Act," 94 Stat. 501 (1980), 42 U.S.C.A. 671, as amended, in accordance with rules adopted under section 5101.141 of the Revised Code;

~~(15)~~(16) In addition to administering Title IV-E adoption assistance funds, enter into agreements to make adoption assistance payments under section 5153.163 of the Revised Code;

~~(16)~~(17) Implement a system of safety and risk assessment, in accordance with rules adopted by the director of job and family services, to assist the public children services agency in determining the risk of abuse or neglect to a child;

~~(17)~~(18) Enter into a plan of cooperation with the board of county commissioners under section 307.983 of the Revised Code and comply with each fiscal agreement the board enters into under section 307.98 of the Revised Code that include family services duties of public children services agencies and contracts the board enters into under sections 307.981 and 307.982 of the Revised Code that affect the public children services agency;

~~(18)~~(19) Make reasonable efforts to prevent the removal of an alleged or adjudicated abused, neglected, or dependent child from the child's home, eliminate the continued removal of the child from the child's home, or make it possible for the child to return home safely, except that reasonable efforts of that nature are not required when a court has made a determination under division (A)(2) of section 2151.419 of the Revised Code;

~~(19)~~(20) Make reasonable efforts to place the child in a timely manner in accordance with the permanency plan approved under division (E) of section 2151.417 of the Revised Code and to complete whatever steps are necessary to finalize the permanent placement of the child;

~~(20)~~(21) Administer a Title IV-A program identified under division (A)(4)(c) or ~~(g)~~(h) of section 5101.80 of the Revised Code that the department of job and family services provides for the public children services agency to administer under the department's supervision pursuant to section 5101.801 of the Revised Code;

~~(21)~~(22) Administer the kinship permanency incentive program created under section 5101.802 of the Revised Code under the supervision of the director of job and family services;

~~(22)~~(23) Provide independent living services pursuant to sections 2151.81 to 2151.84 of the Revised Code;

~~(23)~~(24) File a missing child report with a local law enforcement agency upon becoming aware that a child in the custody of the public children services agency is or may be missing.

(B) The public children services agency shall use the system

implemented pursuant to division ~~(A)(16)~~(A)(17) of this section in connection with an investigation undertaken pursuant to division (G)(1) of section 2151.421 of the Revised Code to assess both of the following:

- (1) The ongoing safety of the child;
- (2) The appropriateness of the intensity and duration of the services provided to meet child and family needs throughout the duration of a case.

(C) Except as provided in section 2151.422 of the Revised Code, in accordance with rules of the director of job and family services, and on behalf of children in the county whom the public children services agency considers to be in need of public care or protective services, the public children services agency may do the following:

(1) Provide or find, with other child serving systems, specialized foster care for the care of children in a specialized foster home, as defined in section 5103.02 of the Revised Code, certified under section 5103.03 of the Revised Code;

(2)(a) Except as limited by divisions (C)(2)(b) and (c) of this section, contract with the following for the purpose of assisting the agency with its duties:

- (i) County departments of job and family services;
- (ii) Boards of alcohol, drug addiction, and mental health services;
- (iii) County boards of developmental disabilities;
- (iv) Regional councils of political subdivisions established under Chapter 167. of the Revised Code;
- (v) Private and government providers of services;
- (vi) Managed care organizations and prepaid health plans.

(b) A public children services agency contract under division (C)(2)(a) of this section regarding the agency's duties under section 2151.421 of the Revised Code may not provide for the entity under contract with the agency to perform any service not authorized by the department's rules.

(c) Only a county children services board appointed under section 5153.03 of the Revised Code that is a public children services agency may contract under division (C)(2)(a) of this section. If an entity specified in division (B) or (C) of section 5153.02 of the Revised Code is the public children services agency for a county, the board of county commissioners may enter into contracts pursuant to section 307.982 of the Revised Code regarding the agency's duties.

Sec. 5153.161. (A) As used in this section, "qualified nonrelative" means a nonrelative adult whom a child or the current custodial caretaker of a child identifies as having a familiar and longstanding relationship or bond with the child or the child's family that will ensure the child's social and

cultural ties.

(B) Care provided by the public children services agency under division ~~(A)(4)(A)(5)~~ of section 5153.16 of the Revised Code shall be provided by the agency, by its own means or through other available resources, in the child's own home, in the home of a relative or qualified nonrelative, or in a certified foster home, any other home approved by the court, receiving home, school, hospital, convalescent home, or other public or private institution within or outside the county or state.

Sec. 5153.162. Pursuant to an agreement entered into under division ~~(A)(9)(A)(10)~~ of section 5153.16 of the Revised Code respecting the operation, acquisition, or maintenance of a children's home, training school, or other institution for the care of children maintained by a municipal corporation or other political subdivision, the public children services agency may acquire, operate, and maintain such an institution. The agency may enter into an agreement with a municipal corporation, a board of education, and the board of county commissioners, or with any one of them, to provide for the maintenance and operation of children's training schools. The agreement may provide for the contribution of funds by the municipal corporation, board of education, or board of county commissioners, in such proportions and amounts as the agreement states. The agreement also may provide for the operation and supervision of the training school by any one of them, or by the joint action of two or more of them, provided that municipal corporations, boards of education, and boards of county commissioners may expend moneys from their general funds for maintaining and operating the joint children's training school.

Sec. 5153.17. ~~The (A) Each~~ public children services agency shall prepare and keep written records of ~~investigations~~ all of the following:

- ~~(1) Investigations~~ of families, children, and foster homes, ~~and of the~~
- ~~(2) The~~ care, training, and treatment afforded to children, ~~and shall prepare and keep such~~
- ~~(3) Such~~ other records as are required by the department of job and family services. ~~Such records~~

~~(B) Records under division (A) of this section~~ shall be confidential, but, except as provided by division (B) of section 3107.17 of the Revised Code, shall be open to inspection by the following:

~~(1) The~~ agency, the director of job and family services, and the director of the county department of job and family services, and by other persons upon the written permission of the executive director;

~~(2) Upon request to an agency and subject to division (C) of this section,~~ an adult who was formerly placed in foster care.

(C)(1) With regard to an adult under division (B)(2) of this section, records subject to inspection include those pertaining to the adult's time placed in foster care. Records may include medical, mental health, school, and legal records and a comprehensive summary of reasons why the adult was placed in foster care.

(2) The executive director or the director's designee may redact information that is specific to other individuals if that information does not directly pertain to the requesting adult's records that are subject to inspection under division (C)(1) of this section or the comprehensive summary of reasons why the adult was placed in foster care.

Sec. 5160.35. As used in sections 5160.35 to 5160.43 of the Revised Code:

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

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

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

(3) Any other data the medicaid director specifies in rules authorized by section 5160.43 of the Revised Code.

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

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

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

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

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

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

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

(f) A managed care organization;

(g) A pharmacy benefit manager;

(h) A third party administrator;

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

(2) Except when otherwise provided by the "Social Security Act," section 1862(b), 42 U.S.C. 1395y(b), a person or governmental entity listed

in division (C)(1) of this section is a third party even if the person or governmental entity limits or excludes payments for a medical item or service in the case of a public assistance recipient.

(3) "Third party" does not include the program for ~~medically handicapped~~ children and youth with special health care needs established under section 3701.023 of the Revised Code.

Sec. 5160.40. (A) As used in this section, "business day" means any day of the week excluding Saturday, Sunday, and a legal holiday, as defined in section 1.14 of the Revised Code.

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

(1) Accept the department of medicaid's right of recovery under section 5160.37 of the Revised Code and the assignment of rights to the department that are described in section 5160.38 of the Revised Code;

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

(3) Respond to the department's request for payment of a claim described in division (B)(2) of this section not later than ~~ninety~~ sixty business days after receipt of written proof of the claim, either by paying the claim or issuing a written denial to the department;

(4) Not charge a fee to do either of the following for a claim described in division (B)(2) of this section:

(a) Determine whether the claim should be paid;

(b) Process the claim.

(5) Pay a claim described in division (B)(2) of this section;

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

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

(b) An action by the department to enforce its right of recovery under section 5160.37 of the Revised Code on the claim was commenced not later than six years after the department's submission of the claim.

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

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

(C) For purposes of the requirements in division (B) of this section, a third party shall treat a medicaid managed care organization as the department for a claim if the individual who is the subject of the claim received a medical item or service through a medicaid managed care organization and the department has assigned its right of recovery for the claim to the medicaid managed care organization. Even if the department assigned its right of recovery to a medicaid managed care organization, the department may, beginning one year from the date the organization paid the claim, recoup from a third party an amount that was assigned to the organization but not collected.

(D) If the department of medicaid, as permitted by division (K) of section 5160.37 of the Revised Code, assigns to a medical assistance provider the department's right of recovery for a claim for which it has notified the provider that it intends to recoup its prior payment for a claim, a third party shall treat the provider as the department and shall pay the provider the greater of the following:

(1) The amount the department intends to recoup from the provider for the claim.

(2) If the third party and the provider have an agreement that requires the third party to pay the provider at the time the provider presents the claim to the third party, the amount that is to be paid under that agreement.

(E) The time limitations associated with the requirements in divisions (B)(2) and (6) of this section apply only to submissions of claims to, and payments of claims by, a health insurer to which the "Social Security Act," section 1902(a)(25)(I), 42 U.S.C. 1396a(a)(25)(I), applies.

Sec. 5160.45. (A) As used in sections 5160.45 to 5160.481 of the Revised Code, "information" means all of the following:

(1) Records, as defined in section 149.011 of the Revised Code;

(2) Any other documents in any format;

(3) Data derived from records and documents that are generated, acquired, or maintained by the department of medicaid, a county department of job and family services, or an entity performing duties on behalf of the department or a county department.

(B) Except as permitted by this section, division (B) of section 340.035, section 5160.47, or rules authorized by section 5160.48 or 5160.481 of the Revised Code, or when required by federal law, no person or government

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The above boxed and initialed text was disapproved.

Date: JULY 3, 2023



Mike DeWine, Governor

entity shall use or disclose information regarding a medical assistance recipient for any purpose not directly connected with the administration of a medical assistance program.

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

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

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

(D) The department or a county department of job and family services may disclose information regarding a medical assistance recipient to any of the following:

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

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

(3) The attorney of the recipient, if the department or county department has obtained authorization from the recipient or the recipient's authorized representative or legal guardian that meets all requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d et seq., regulations promulgated by the United States department of health and human services to implement the act, section 5160.46 of the Revised Code, and any rules authorized by section 5160.48 of the Revised Code;

(4) A health information or health records management entity that has executed with the department a business associate agreement required by 45 C.F.R. 164.502(e)(2) and has been authorized by the recipient or the recipient's authorized representative or legal guardian to receive the recipient's electronic health records in accordance with rules authorized by section 5160.48 of the Revised Code;

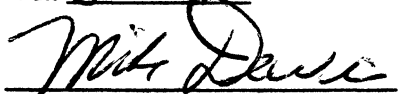
(5) A court if pursuant to a written order of the court.

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

(F) The department shall notify courts in this state regarding its

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Date: July 3, 2023



Mike DeWine, Governor

authority, under division (D)(5) of this section, to disclose information regarding a medical assistance recipient pursuant to a written court order.

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

(2) "Expansion eligibility group" has the same meaning as in section 5163.01 of the Revised Code.

(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) "Healthcheck" has the same meaning as in section 5164.01 of the Revised Code.

(6) "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.

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

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

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

(10) "Individualized education program" has the same meaning as in section 3323.011 of the Revised Code.

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

(12) "Medicaid MCO plan" has the same meaning as in section 5167.01

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of the Revised Code.

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

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

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

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

(17) "Ordering or referring only provider" means a medicaid provider who orders, prescribes, refers, or certifies a service or item reported on a claim for medicaid payment but does not bill for medicaid services.

(18) "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.

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

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

(21) "Qualified medicaid school provider" means the board of education of a city, local, or exempted village school district, the governing board of an educational service center, 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~~ Ohio deaf and blind education services 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.

(22) "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.

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

Sec. 5162.137. Annually, the department of medicaid shall conduct a cost savings study of the medicaid program and prepare a report based on that study recommending measures to reduce costs under that program. The department shall submit its report to the governor.

Sec. 5162.364. The medicaid director shall adopt rules under section 5162.02 of the Revised Code as necessary to implement the medicaid school component of the medicaid program, including rules that establish or specify all of the following:

(A) Conditions a board of education of a city, local, or exempted school district, a governing board of an educational service center, 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~~ Ohio deaf and blind education services must meet to participate in the component;

(B) Services the component covers;

(C) Payment rates for the services the component covers.

The rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 5162.70. (A) As used in this section:

(1) "CPI" means the consumer price index for all urban consumers as published by the United States bureau of labor statistics.

(2) "CPI medical inflation rate" means the inflation rate for medical care, or the successor term for medical care, for the midwest region as specified in the CPI.

(3) "JMOC projected medical inflation rate" means the following:

(a) The projected medical inflation rate for a fiscal biennium determined by the actuary with which the joint medicaid oversight committee contracts under section 103.414 of the Revised Code if the committee agrees with the actuary's projected medical inflation rate for that fiscal biennium;

(b) The different projected medical inflation rate for a fiscal biennium determined by the joint medicaid oversight committee under section 103.414 of the Revised Code if the committee disagrees with the projected medical inflation rate determined for that fiscal biennium by the actuary with which the committee contracts under that section.

(4) "Successor term" means a term that the United States bureau of labor statistics uses in place of another term in revisions to the CPI.

(B) The medicaid director shall implement reforms to the medicaid program that do all of the following:

(1) Limit the growth in the per ~~recipient~~ member per month cost of the medicaid program, as determined on an aggregate basis for all eligibility groups, for a fiscal biennium to not more than the lesser of the following:

(a) The average annual increase in the CPI medical inflation rate for the most recent three-year period for which the necessary data is available as of the first day of the fiscal biennium, weighted by the most recent year of the

three years;

(b) The JMOC projected medical inflation rate for the fiscal biennium.

(2) Achieve the limit in the growth of the per ~~recipient~~ member per month cost of the medicaid program under division (B)(1) of this section by doing all of the following:

(a) Improving the physical and mental health of medicaid recipients;

(b) Providing for medicaid recipients to receive medicaid services in the most cost-effective and sustainable manner;

(c) Removing barriers that impede medicaid recipients' ability to transfer to lower cost, and more appropriate, medicaid services, including home and community-based services;

(d) Establishing medicaid payment rates that encourage value over volume and result in medicaid services being provided in the most efficient and effective manner possible;

(e) Implementing fraud and abuse prevention and cost avoidance mechanisms to the fullest extent possible.

(3) Reduce the prevalence of comorbid health conditions among, and the mortality rates of, medicaid recipients;

(4) Reduce infant mortality rates among medicaid recipients.

(C) When determining the growth in the per member per month cost of the medicaid program for purposes of the reforms required by this section, the medicaid director shall not exclude any medicaid eligibility group, provider wages, or service. The director may exclude one-time expenses or expenses that are not directly related to enrollees.

(D) The medicaid director shall implement the reforms under this section in accordance with evidence-based strategies that include measurable goals.

~~(D)~~(E) By October first of each calendar year, the medicaid director shall submit to the joint medicaid oversight committee a report detailing the reforms implemented under this section. In even-numbered years, the report shall include the department's historical and projected medicaid program expenditure and utilization trend rates by medicaid program and service category for each year of the upcoming fiscal biennium and an explanation of how the trend rates were calculated.

(F) The reforms implemented under this section shall, without making the medicaid program's eligibility requirements more restrictive, reduce the relative number of individuals enrolled in the medicaid program who have the greatest potential to obtain the income and resources that would enable them to cease enrollment in medicaid and instead obtain health care coverage through employer-sponsored health insurance or an exchange.

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) of the "Social Security Act," 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 maximum postpartum period permitted under 42 U.S.C. 1396a(e) 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) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(IX);

(C) The group consisting of employed individuals with disabilities who are specified in section 1902(a)(10)(A)(ii) (XIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A) (ii)(XIII);

(D) 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) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(XV);

~~(D)~~(E) 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) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(XVI);

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

~~(F)~~(G) 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) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(XVIII).

Sec. 5163.063. The medicaid director shall adopt rules under section 5163.02 of the Revised Code as necessary to provide medicaid coverage for the optional eligibility group described in section 1902(a)(10)(A)(ii)(XIII) of the "Social Security Act," 42 U.S.C. 1396a(a)(10)(A)(ii)(XIII).

By requiring the medicaid program to provide coverage to the optional eligibility group consisting of employed individuals with disabilities under division (C) of section 5163.06 of the Revised Code, it is the intent of the general assembly to establish medicaid coverage for employed individuals with disabilities who are sixty-five years of age or older in a manner that is consistent with the coverage provided to individuals participating in the

medicaid buy-in for workers with disabilities program described in sections 5163.09 to 5163.098 of the Revised Code.

Sec. 5163.103. (A) As used in this section:

(1) "Presumptive eligibility error rate" means the rate at which a qualified entity or qualified provider deems an individual presumptively eligible for medicaid under sections 5163.10 to 5163.102 of the Revised Code when the individual is ineligible for the medicaid program.

(2) "Qualified entity" has the same meaning as in section 5163.101 of the Revised Code.

(3) "Qualified provider" has the same meaning as in section 5163.10 of the Revised Code.

(B) Notwithstanding sections 5163.10 to 5163.102 of the Revised Code, the department of medicaid shall require each qualified entity or qualified provider that has a presumptive eligibility error rate exceeding seven and one-half per cent in a calendar month to do both of the following:

(1) Submit to the department for approval a corrective action plan specifying the steps the qualified entity or qualified provider will take to reduce its presumptive eligibility error rate, including details about the training required under division (B)(2) of this section;

(2) Provide training for all of its staff who make presumptive eligibility determinations to ensure their thorough knowledge of presumptive eligibility prescreening procedures. The training shall occur for each month the qualified entity or qualified provider's presumptive eligibility error rate exceeds seven and one-half per cent.

(C) If the qualified entity or qualified provider's presumptive eligibility error rate exceeds seven and one-half per cent in six or more months, aggregately, in a twenty-four month period, the department shall notify the qualified entity or provider that it is no longer qualified to make presumptive eligibility determinations.

(D) A qualified entity or qualified provider that loses its presumptive eligibility qualification as a result of this section is ineligible to make presumptive eligibility determinations for sixty months following the disqualifying month.

Sec. 5164.071. (A) As used in this section, "doula" has the same meaning as in section 4723.89 of the Revised Code.

(B) During the period beginning one year after the effective date of this section and ending five years after the effective date of this section, the medicaid program shall operate a program to cover doula services that are provided by a doula if the doula has a valid provider agreement and is certified under section 4723.89 of the Revised Code. Medicaid payments for

The above boxed and initialed text was disapproved.

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doula services shall be determined on the basis of each pregnancy, regardless of whether multiple births occur as a result of that pregnancy.

(C) Outcome measurements and incentives for the program shall be consistent with this state's medicare-medicaid plan quality withhold methodology and benchmarks. The medicaid director shall complete an annual report regarding the program outcomes, including related to maternal health and morbidity and an estimated fiscal impact. The final annual report shall include recommendations related to whether the program should be continued. The director shall provide a copy of the annual report to the joint medicaid oversight committee.

(D) The medicaid director shall adopt rules under section 5164.02 of the Revised Code to implement this section. Notwithstanding any provision of section 121.95 of the Revised Code to the contrary, a regulatory restriction contained in a rule adopted under this section is not subject to sections 121.95 to 121.953 of the Revised Code.

Sec. 5164.072. (A) As used in this section, "licensed health professional" means the following:

(1) A physician authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery;

(2) An advanced practice registered nurse who holds a current, valid license issued under Chapter 4723. of the Revised Code that authorizes the practice of nursing as an advanced practice registered nurse and is designated as a clinical specialist, certified nurse-midwife, or certified nurse practitioner;

(3) A physician assistant licensed under Chapter 4730. of the Revised Code.

(B) The medicaid program shall cover pasteurized human donor milk and human milk fortifiers, in both hospital and home settings, for an infant whose gestationally corrected age is less than twelve months when all of the following apply:

(1) A licensed health professional signs an order stating that human donor milk or human milk fortifiers are medically necessary because the infant meets any of the following criteria:

(a) The infant has a birth weight less than eighteen hundred grams or body weight below healthy levels.

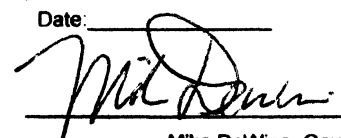
(b) The infant has a gestational age at birth of thirty-four weeks or less.

(c) The infant has any congenital or acquired condition for which the health professional determines that the use of pasteurized human donor milk or human milk fortifiers will support the treatment of the condition and recovery of the infant.

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Date:



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(2) The infant is medically or physically unable to receive maternal breast milk or participate in breast-feeding, or the infant's mother is medically or physically unable to produce breast milk in sufficient quantities or of adequate caloric density, despite lactation support.

(C) The medicaid director may adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5164.092. (A) Except as provided in division (B) of this section, the medicaid program shall cover remote ultrasound procedures and remote fetal nonstress tests, utilizing established current procedural terminology codes (CPT codes) for those procedures for when the patient is in a residence or other off-site location from the patient's medicaid provider.

(B) The coverage under division (A) of this section applies only under the following circumstances:

(1) The medicaid provider responsible for the procedure uses digital technology that meets both of the following criteria:

(a) The technology is used only to collect medical and other data from a patient and electronically transmit that data securely to a health care provider in a different location for that provider's examination of the data;

(b) The technology has been approved by the United States food and drug administration for remote data acquisition, if required under federal law.

(2) For remote fetal nonstress tests, the CPT code includes a place of service modifier for at home monitoring using remote monitoring solutions that are cleared by the United States food and drug administration for monitoring fetal heart rate, maternal heart rate, and uterine activity.

(C) The department shall adopt rules as necessary to implement this section.

Sec. 5164.34. (A) As used in this section:

(1) "Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

(2) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(3) "Owner" means a person who has an ownership interest in a medicaid provider in an amount designated in rules authorized by this section.

(4) "Person subject to the criminal records check requirement" means the following:

(a) A medicaid provider who is notified under division (E)(1) of this section that the provider is subject to a criminal records check;

(b) An owner or prospective owner, officer or prospective officer, or board member or prospective board member of a medicaid provider if, pursuant to division (E)(1)(a) of this section, the owner or prospective owner, officer or prospective officer, or board member or prospective board member is specified in information given to the provider under division (E)(1) of this section;

(c) An employee or prospective employee of a medicaid provider if both of the following apply:

(i) The employee or prospective employee is specified, pursuant to division (E)(1)(b) of this section, in information given to the provider under division (E)(1) of this section.

(ii) The provider is not prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee.

(5) "Responsible entity" means the following:

(a) With respect to a criminal records check required under this section for a medicaid provider, the department of medicaid or the department's designee;

(b) With respect to a criminal records check required under this section for an owner or prospective owner, officer or prospective officer, board member or prospective board member, or employee or prospective employee of a medicaid provider, the provider.

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

(1) An individual who is subject to a criminal records check under section 3712.09, 3721.121, 5123.081, or 5123.169 of the Revised Code;

(2) An individual who is subject to a database review or criminal records check under section 173.38, 173.381, 3740.11, or 5164.342 of the Revised Code;

(3) An individual who is an applicant or independent provider, both as defined in section 5164.341 of the Revised Code.

(C) The department of medicaid may do any of the following:

(1) Require that any medicaid provider submit to a criminal records check as a condition of obtaining or maintaining a provider agreement;

(2) Require that any medicaid provider require an owner or prospective owner, officer or prospective officer, or board member or prospective board member of the provider submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;

(3) Require that any medicaid provider do the following:

(a) If so required by rules authorized by this section, determine pursuant to a database review conducted under division (F)(1)(a) of this section whether any employee or prospective employee of the provider is included

in a database;

(b) Unless the provider is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the employee or prospective employee to submit to a criminal records check as a condition of being an employee of the provider.

(D)(1) The department or the department's designee shall deny or terminate a medicaid provider's provider agreement if the provider is a person subject to the criminal records check requirement and either of the following applies:

(a) The provider fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules authorized by this section, the provider is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(2) No medicaid provider shall permit a person to be an owner, officer, or board member of the provider if the person is a person subject to the criminal records check requirement and either of the following applies:

(a) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(b) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea.

(3) Except as provided in division (I) of this section, no medicaid provider shall employ a person if any of the following apply:

(a) The person has been excluded from being a medicaid provider, a medicare provider, or provider for any other federal health care program.

(b) If the person is subject to a database review conducted under division (F)(1)(a) of this section, the person is found by the database review to be included in a database and the rules authorized by this section regarding the database review prohibit the provider from employing a person included in the database.

(c) If the person is a person subject to the criminal records check requirement, either of the following applies:

(i) The person fails to obtain the criminal records check after being given the information specified in division (G)(1) of this section.

(ii) Except as provided in rules authorized by this section, the person is found by the criminal records check to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the

conviction or the date of entry of the guilty plea.

(E)(1) The department or the department's designee shall inform each medicaid provider whether the provider is subject to a criminal records check. For providers with valid provider agreements, the information shall be given at times designated in rules authorized by this section. For providers applying to be medicaid providers, the information shall be given at the time of initial application. When the information is given, the department or the department's designee shall specify the following:

(a) Which of the provider's owners or prospective owners, officers or prospective officers, or board members or prospective board members are subject to a criminal records check;

(b) Which of the provider's employees or prospective employees are subject to division (C)(3) of this section.

(2) At times designated in rules authorized by this section, a medicaid provider that is a person subject to the criminal records check requirement shall do the following:

(a) Inform each person specified under division (E)(1)(a) of this section that the person is required to submit to a criminal records check as a condition of being an owner, officer, or board member of the provider;

(b) Inform each person specified under division (E)(1)(b) of this section that the person is subject to division (C)(3) of this section.

(F)(1) If a medicaid provider is a person subject to the criminal records check requirement, the department or the department's designee shall require the conduct of a criminal records check by the superintendent of the bureau of criminal identification and investigation. A medicaid provider shall require the conduct of a criminal records check by the superintendent with respect to each of the persons specified under division (E)(1)(a) of this section. With respect to each employee and prospective employee specified under division (E)(1)(b) of this section, a medicaid provider shall do the following:

(a) If rules authorized by this section require the provider to conduct a database review to determine whether the employee or prospective employee is included in a database, conduct the database review in accordance with the rules;

(b) Unless the provider is prohibited by division (D)(3)(b) of this section from employing the employee or prospective employee, require the conduct of a criminal records check of the employee or prospective employee by the superintendent.

(2) If a person subject to the criminal records check requirement does not present proof of having been a resident of this state for the five-year

period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the person from the federal bureau of investigation in a criminal records check, the responsible entity shall require the person to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check of the person. Even if the person presents proof of having been a resident of this state for the five-year period, the responsible entity may require that the person request that the superintendent obtain information from the federal bureau of investigation and include it in the criminal records check of the person.

(G) Criminal records checks required by this section shall be obtained as follows:

(1) The responsible entity shall provide each person subject to the criminal records check requirement information about accessing and completing the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section.

(2) The person subject to the criminal records check requirement shall submit the required form and one complete set of the person's fingerprint impressions directly to the superintendent for purposes of conducting the criminal records check using the applicable methods prescribed by division (C) of section 109.572 of the Revised Code. The person shall pay all fees associated with obtaining the criminal records check.

(3) The superintendent shall conduct the criminal records check in accordance with section 109.572 of the Revised Code. The person subject to the criminal records check requirement shall instruct the superintendent to submit the report of the criminal records check directly to the responsible entity. If the department or the department's designee is not the responsible entity, the department or designee may require the responsible entity to submit the report to the department or designee.

(H)(1) A medicaid provider may employ conditionally a person for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The provider is not prohibited by division (D)(3)(b) of this section from employing the person.

(b) The person submits a request for the criminal records check not later than five business days after the person begins conditional employment.

(2) Except as provided in division (I) of this section, a medicaid provider that employs a person conditionally under division (H)(1) of this

section shall terminate the person's employment if either of the following apply:

(a) The results of the criminal records check request are not obtained within the period ending sixty days after the date the request is made.

(b) Regardless of when the results of the criminal records check are obtained, the results indicate that the person has been convicted of or has pleaded guilty to a disqualifying offense, unless circumstances specified in rules authorized by this section exist that permit the provider to employ the person and the provider chooses to employ the person.

(I) As used in this division, "behavioral health services" means alcohol and drug addiction services, mental health services, or both.

A medicaid provider of behavioral health services may choose to employ a person who the provider would be prohibited by division (D)(3) of this section from employing or would be required by division (H)(2) of this section to terminate the person's employment if both of the following apply:

(1) The person holds a valid health professional license issued under the Revised Code granting the person authority to provide behavioral health services, holds a valid peer recovery supporter certificate issued pursuant to rules adopted by the department of mental health and addiction services, or is in the process of obtaining such a license or certificate.

(2) The provider does not submit any medicaid claims for any services the person provides.

(J) The report of a criminal records check conducted pursuant to this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) The medicaid provider who required the person who is the subject of the criminal records check to submit to the criminal records check;

(5) An individual receiving or deciding whether to receive, from the subject of the criminal records check, home and community-based services available under the medicaid state plan;

(6) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with any of the following:

(a) The denial, suspension, or termination of a provider agreement;

(b) A person's denial of employment, termination of employment, or

employment or unemployment benefits;

(c) A civil or criminal action regarding the medicaid program.

With respect to an administrative hearing dealing with the denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

(K) The medicaid director may adopt rules under section 5164.02 of the Revised Code to implement this section. If the director adopts such rules, the rules shall designate the times at which a criminal records check must be conducted under this section. The rules may do any of the following:

(1) Designate the categories of persons who are subject to a criminal records check under this section;

(2) Specify circumstances under which the department or the department's designee may continue a provider agreement or issue a provider agreement when the medicaid provider is found by a criminal records check to have been convicted of or pleaded guilty to a disqualifying offense;

(3) Specify circumstances under which a medicaid provider may permit a person to be an employee, owner, officer, or board member of the provider when the person is found by a criminal records check conducted pursuant to this section to have been convicted of or have pleaded guilty to a disqualifying offense;

(4) Specify all of the following:

(a) The circumstances under which a database review must be conducted under division (F)(1)(a) of this section to determine whether an employee or prospective employee of a medicaid provider is included in a database;

(b) The procedures for conducting the database review;

(c) The databases that are to be checked;

(d) The circumstances under which, except as provided in division (I) of this section, a medicaid provider is prohibited from employing a person who is found by the database review to be included in a database.

Sec. 5164.341. (A) As used in this section:

"Anniversary date" means ~~the later of~~ the effective date of the provider agreement relating to the independent provider ~~or sixty days after September 26, 2003.~~

"Applicant" means a person who has applied for a provider agreement to provide home and community-based services as an independent provider under a home and community-based medicaid waiver component

administered by the department of medicaid.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

"Independent provider" means a person who has a provider agreement to provide home and community-based services as an independent provider in a home and community-based services medicaid waiver component administered by the department of medicaid. "Independent provider" does not include a person who is employed by an individual enrolled in a participant-directed waiver administered by the department of medicaid.

(B) The department of medicaid or the department's designee shall deny an applicant's application for a provider agreement and shall terminate an independent provider's provider agreement if either of the following applies:

(1) After the applicant or independent provider is given the information and notification required by divisions (D)(2)(a) and (b) of this section, the applicant or independent provider fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the department or the department's designee.

(2) Except as provided in rules authorized by this section, the applicant or independent provider is found by either of the following to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or the date of entry of the guilty plea:

(a) A criminal records check required by this section;

(b) In the case of an independent provider, a notice provided by the bureau of criminal identification and investigation under division (D) of section 109.5721 of the Revised Code.

(C)(1) The department or the department's designee shall inform each applicant, at the time of initial application for a provider agreement, that the applicant is required to provide a set of the applicant's fingerprint impressions and that a criminal records check is required to be conducted as a condition of the department's approving the application.

(2) Unless the department elects to receive notices about independent providers from the bureau of criminal identification and investigation pursuant to division (D) of section 109.5721 of the Revised Code, the

department or the department's designee shall inform each independent provider on or before the time of the anniversary date of the provider agreement that the independent provider is required to provide a set of the independent provider's fingerprint impressions and that a criminal records check is required to be conducted.

(D)(1) The department or the department's designee shall require an applicant to complete a criminal records check prior to entering into a provider agreement with the applicant. The department or the department's designee shall require an independent provider to complete a criminal records check at least annually unless the department elects to receive notices about independent providers from the bureau of criminal identification and investigation pursuant to division (D) of section 109.5721 of the Revised Code. If an applicant or independent provider for whom a criminal records check is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent of the bureau of criminal identification and investigation has requested information about the applicant or independent provider from the federal bureau of investigation in a criminal records check, the department or the department's designee shall request that the applicant or independent provider obtain through the superintendent a criminal records request from the federal bureau of investigation as part of the criminal records check of the applicant or independent provider. Even if an applicant or independent provider for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the department or the department's designee may request that the applicant or independent provider obtain information through the superintendent from the federal bureau of investigation in the criminal records check.

(2) The department or the department's designee shall provide the following to each applicant and independent provider for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or independent provider is to instruct the superintendent to submit the completed report of the criminal records check directly to the department or the department's designee.

(3) Each applicant and independent provider for whom a criminal records check is required by this section shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for the criminal records check conducted of the applicant or independent provider.

(E) Neither the report of any criminal records check conducted by the bureau of criminal identification and investigation in accordance with section 109.572 of the Revised Code and pursuant to a request made under this section nor a notice provided by the bureau under division (D) of section 109.5721 of the Revised Code is a public record for the purposes of section 149.43 of the Revised Code. Such a report or notice shall not be made available to any person other than the following:

(1) The person who is the subject of the criminal records check or the person's representative;

(2) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(3) The department's designee;

(4) An individual receiving or deciding whether to receive home and community-based services from the person who is the subject of the criminal records check or notice from the bureau;

(5) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with either of the following:

(a) A denial, suspension, or termination of a provider agreement, including when related to the criminal records check or notice from the bureau;

(b) A civil or criminal action regarding the medicaid program.

With respect to an administrative hearing dealing with the denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

(F) The medicaid director shall adopt rules under section 5164.02 of the Revised Code to implement this section. The rules shall specify circumstances under which the department or the department's designee may either approve an applicant's application or allow an independent provider to maintain an existing provider agreement even though the applicant or independent provider is found by either of the following to have been convicted of or have pleaded guilty to a disqualifying offense:

(1) A criminal records check required by this section;

(2) In the case of an independent provider, a notice provided by the

bureau of criminal identification and investigation under division (D) of section 109.5721 of the Revised Code.

Sec. 5164.342. (A) As used in this section:

"Applicant" means a person who is under final consideration for employment with a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Community-based long-term care provider" means a provider as defined in section 173.39 of the Revised Code.

"Community-based long-term care subcontractor" means a subcontractor as defined in section 173.38 of the Revised Code.

"Criminal records check" has the same meaning as in section 109.572 of the Revised Code.

"Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

"Employee" means a person employed by a waiver agency in a full-time, part-time, or temporary position that involves providing home and community-based services.

"Waiver agency" means a person or government entity that provides home and community-based services under a home and community-based services medicaid waiver component administered by the department of medicaid, other than such a person or government entity that is certified under the medicare program. "Waiver agency" does not mean an independent provider as defined in section 5164.341 of the Revised Code.

(B) This section does not apply to any individual who is subject to a database review or criminal records check under section 3740.11 of the Revised Code. If a waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor, the waiver agency may provide for any of its applicants and employees who are not subject to database reviews and criminal records checks under section 173.38 of the Revised Code to undergo database reviews and criminal records checks in accordance with that section rather than this section.

(C) No waiver agency shall employ an applicant or continue to employ an employee in a position that involves providing home and community-based services if any of the following apply:

(1) A review of the databases listed in division (E) of this section reveals any of the following:

(a) That the applicant or employee is included in one or more of the databases listed in divisions (E)(1) to (5) of this section;

(b) That there is in the state nurse aide registry established under section 3721.32 of the Revised Code a statement detailing findings by the director

of health that the applicant or employee abused, neglected, or exploited a long-term care facility or residential care facility resident or misappropriated property of such a resident;

(c) That the applicant or employee is included in one or more of the databases, if any, specified in rules authorized by this section and the rules prohibit the waiver agency from employing an applicant or continuing to employ an employee included in such a database in a position that involves providing home and community-based services.

(2) After the applicant or employee is given the information and notification required by divisions (F)(2)(a) and (b) of this section, the applicant or employee fails to do either of the following:

(a) Access, complete, or forward to the superintendent of the bureau of criminal identification and investigation the form prescribed to division (C)(1) of section 109.572 of the Revised Code or the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Instruct the superintendent to submit the completed report of the criminal records check required by this section directly to the chief administrator of the waiver agency.

(3) Except as provided in rules authorized by this section, the applicant or employee is found by a criminal records check required by this section to have been convicted of or have pleaded guilty to a disqualifying offense, regardless of the date of the conviction or date of entry of the guilty plea.

(D) At the time of each applicant's initial application for employment in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall inform the applicant of both of the following:

(1) That a review of the databases listed in division (E) of this section will be conducted to determine whether the waiver agency is prohibited by division (C)(1) of this section from employing the applicant in the position;

(2) That, unless the database review reveals that the applicant may not be employed in the position, a criminal records check of the applicant will be conducted and the applicant is required to provide a set of the applicant's fingerprint impressions as part of the criminal records check.

(E) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall conduct a database review of the applicant in accordance with rules authorized by this section. If rules authorized by this section so require, the chief administrator of a waiver agency shall conduct a database review of an employee in accordance with the rules as a condition of continuing to employ the employee in a position

that involves providing home and community-based services. A database review shall determine whether the applicant or employee is included in any of the following:

(1) The excluded parties list system that is maintained by the United States general services administration pursuant to subpart 9.4 of the federal acquisition regulation and available at the federal web site known as the system for award management;

(2) The list of excluded individuals and entities maintained by the office of inspector general in the United States department of health and human services pursuant to the "Social Security Act," sections 1128 and 1156, 42 U.S.C. 1320a-7 and 1320c-5;

(3) The registry of developmental disabilities employees established under section 5123.52 of the Revised Code;

(4) The internet-based sex offender and child-victim offender database established under division (A)(11) of section 2950.13 of the Revised Code;

(5) The internet-based database of inmates established under section 5120.66 of the Revised Code;

(6) The state nurse aide registry established under section 3721.32 of the Revised Code;

(7) Any other database, if any, specified in rules authorized by this section.

(F)(1) As a condition of employing any applicant in a position that involves providing home and community-based services, the chief administrator of a waiver agency shall require the applicant to request that the superintendent of the bureau of criminal identification and investigation conduct a criminal records check of the applicant. If rules authorized by this section so require, the chief administrator of a waiver agency shall require an employee to request that the superintendent conduct a criminal records check of the employee at times specified in the rules as a condition of continuing to employ the employee in a position that involves providing home and community-based services. However, a criminal records check is not required for an applicant or employee if the waiver agency is prohibited by division (C)(1) of this section from employing the applicant or continuing to employ the employee in a position that involves providing home and community-based services. If an applicant or employee for whom a criminal records check request is required by this section does not present proof of having been a resident of this state for the five-year period immediately prior to the date the criminal records check is requested or provide evidence that within that five-year period the superintendent has requested information about the applicant or employee from the federal

bureau of investigation in a criminal records check, the chief administrator shall require the applicant or employee to request that the superintendent obtain information from the federal bureau of investigation as part of the criminal records check. Even if an applicant or employee for whom a criminal records check request is required by this section presents proof of having been a resident of this state for the five-year period, the chief administrator may require the applicant or employee to request that the superintendent include information from the federal bureau of investigation in the criminal records check.

(2) The chief administrator shall provide the following to each applicant and employee for whom a criminal records check is required by this section:

(a) Information about accessing, completing, and forwarding to the superintendent of the bureau of criminal identification and investigation the form prescribed pursuant to division (C)(1) of section 109.572 of the Revised Code and the standard impression sheet prescribed pursuant to division (C)(2) of that section;

(b) Written notification that the applicant or employee is to instruct the superintendent to submit the completed report of the criminal records check directly to the chief administrator.

(3) A waiver agency shall pay to the bureau of criminal identification and investigation the fee prescribed pursuant to division (C)(3) of section 109.572 of the Revised Code for any criminal records check required by this section. However, a waiver agency may require an applicant to pay to the bureau the fee for a criminal records check of the applicant. If the waiver agency pays the fee for an applicant, it may charge the applicant a fee not exceeding the amount the waiver agency pays to the bureau under this section if the waiver agency notifies the applicant at the time of initial application for employment of the amount of the fee and that, unless the fee is paid, the applicant will not be considered for employment.

(G)(1) A waiver agency may employ conditionally an applicant for whom a criminal records check is required by this section prior to obtaining the results of the criminal records check if both of the following apply:

(a) The waiver agency is not prohibited by division (C)(1) of this section from employing the applicant in a position that involves providing home and community-based services.

(b) The chief administrator of the waiver agency requires the applicant to request a criminal records check regarding the applicant in accordance with division (F)(1) of this section not later than five business days after the applicant begins conditional employment.

(2) A waiver agency that employs an applicant conditionally under

division (G)(1) of this section shall terminate the applicant's employment if the results of the criminal records check, other than the results of any request for information from the federal bureau of investigation, are not obtained within the period ending sixty days after the date the request for the criminal records check is made. Regardless of when the results of the criminal records check are obtained, if the results indicate that the applicant has been convicted of or has pleaded guilty to a disqualifying offense, the waiver agency shall terminate the applicant's employment unless circumstances specified in rules authorized by this section exist that permit the waiver agency to employ the applicant and the waiver agency chooses to employ the applicant.

(H) The report of any criminal records check conducted pursuant to a request made under this section is not a public record for the purposes of section 149.43 of the Revised Code and shall not be made available to any person other than the following:

(1) The applicant or employee who is the subject of the criminal records check or the representative of the applicant or employee;

(2) The chief administrator of the waiver agency that requires the applicant or employee to request the criminal records check or the administrator's representative;

(3) The medicaid director and the staff of the department who are involved in the administration of the medicaid program;

(4) The director of aging or the director's designee if the waiver agency also is a community-based long-term care provider or community-based long-term care subcontractor;

(5) An individual receiving or deciding whether to receive home and community-based services from the subject of the criminal records check;

(6) A court, hearing officer, or other necessary individual involved in a case or administrative hearing dealing with any of the following:

(a) A denial of employment of the applicant or employee;

(b) Employment or unemployment benefits of the applicant or employee;

(c) A civil or criminal action regarding the medicaid program;

(d) A denial, suspension, or termination of a provider agreement.

With respect to an administrative hearing dealing with a denial, suspension, or termination of a provider agreement, the report of a criminal records check may be introduced as evidence at the hearing and if admitted, becomes part of the hearing record. Any such report shall be admitted only under seal and shall maintain its status as not a public record.

(I) The medicaid director shall adopt rules under section 5164.02 of the

Revised Code to implement this section.

(1) The rules may do the following:

(a) Require employees to undergo database reviews and criminal records checks under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, exempt one or more classes of employees from the requirements;

(c) For the purpose of division (E)(7) of this section, specify other databases that are to be checked as part of a database review conducted under this section.

(2) The rules shall specify all of the following:

(a) The procedures for conducting a database review under this section;

(b) If the rules require employees to undergo database reviews and criminal records checks under this section, the times at which the database reviews and criminal records checks are to be conducted;

(c) If the rules specify other databases to be checked as part of a database review, the circumstances under which a waiver agency is prohibited from employing an applicant or continuing to employ an employee who is found by the database review to be included in one or more of those databases;

(d) The circumstances under which a waiver agency may employ an applicant or employee who is found by a criminal records check required by this section to have been convicted of or have pleaded guilty to a disqualifying offense.

(J) The amendments made by H.B. 487 of the 129th general assembly to this section do not preclude the department of medicaid from taking action against a person for failure to comply with former division (H) of this section as that division existed on the day preceding January 1, 2013.

Sec. 5164.35. (A) As used in this section, "owner" means any person having at least five per cent ownership in a medicaid provider.

(B)(1) No medicaid provider shall do any of the following:

(a) By deception, obtain or attempt to obtain payments under the medicaid program to which the provider is not entitled pursuant to the provider's provider agreement, or the rules of the federal government or the medicaid director relating to the program;

(b) Willfully receive payments to which the provider is not entitled;

(c) Willfully receive payments in a greater amount than that to which the provider is entitled;

(d) Falsify any report or document required by state or federal law, rule, or provider agreement relating to medicaid payments.

(2) A medicaid provider engages in "deception" for the purpose of this section when the provider, acting with actual knowledge of the representation or information involved, acting in deliberate ignorance of the truth or falsity of the representation or information involved, or acting in reckless disregard of the truth or falsity of the representation or information involved, deceives another or causes another to be deceived by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act, or omission that creates, confirms, or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact. No proof of specific intent to defraud is required to show, for purposes of this section, that a medicaid provider has engaged in deception.

(C) Any medicaid provider who violates division (B) of this section shall be liable, in addition to any other penalties provided by law, for all of the following civil penalties:

(1) Payment of interest on the amount of the excess payments at the maximum interest rate allowable for real estate mortgages under section 1343.01 of the Revised Code on the date the payment was made to the provider for ~~the~~ a period ~~from~~ determined by the department, not to exceed the period from the date upon which payment was made, to the date upon which repayment is made to the state;

(2) Payment of an amount equal to three times the amount of any excess payments;

(3) Payment of a sum of not less than five thousand dollars and not more than ten thousand dollars for each deceptive claim or falsification;

(4) All reasonable expenses which the court determines have been necessarily incurred by the state in the enforcement of this section.

(D) In addition to the civil penalties provided in division (C) of this section, the medicaid director, upon the conviction of, or the entry of a judgment in either a criminal or civil action against, a medicaid provider or its owner, officer, authorized agent, associate, manager, or employee in an action brought pursuant to section 109.85 of the Revised Code, shall terminate the provider's provider agreement and stop payment to the provider for medicaid services rendered from the date of conviction or entry of judgment. No such medicaid provider, owner, officer, authorized agent, associate, manager, or employee shall own or provide medicaid services ~~to~~ on behalf of any other medicaid provider or risk contractor or arrange for, render, or order medicaid services for medicaid recipients, nor shall such provider, owner, officer, authorized agent, associate, manager, or employee

receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor. The provider agreement shall not be terminated, and payment shall not be terminated, if the medicaid provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code. Nothing in this division prohibits any owner, officer, authorized agent, associate, manager, or employee of a medicaid provider from entering into a provider agreement if the person can demonstrate that the person had no knowledge of an action of the medicaid provider the person was formerly associated with that resulted in the conviction or entry of a judgment in a criminal or civil action brought pursuant to section 109.85 of the Revised Code.

Nursing facility and ICF/IID providers whose provider agreements are terminated pursuant to this section may continue to receive medicaid payments for up to thirty days after the effective date of the termination if the provider makes reasonable efforts to transfer medicaid recipients to another facility or to alternate care and if federal financial participation is provided for the payments.

(E) The attorney general on behalf of the state may commence proceedings to enforce this section in any court of competent jurisdiction; and the attorney general may settle or compromise any case brought under this section with the approval of the department of medicaid. Notwithstanding any other provision of law providing a shorter period of limitations, the attorney general may commence a proceeding to enforce this section at any time within six years after the conduct in violation of this section terminates.

(F) All moneys collected by the state pursuant to this section shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 5164.36. (A) As used in this section:

(1) "Credible allegation of fraud" has the same meaning as in 42 C.F.R. 455.2, except that for purposes of this section any reference in that regulation to the "state" or the "state medicaid agency" means the department of medicaid.

(2) "Disqualifying indictment" means an indictment of a medicaid provider or its officer, authorized agent, associate, manager, employee, or, if the provider is a noninstitutional provider, its owner, if either of the following applies:

(a) The indictment charges the person with committing an act to which both of the following apply:

(i) The act would be a felony or misdemeanor under the laws of this state or the jurisdiction within which the act occurred.

(ii) The act relates to or results from furnishing or billing for medicaid services under the medicaid program or relates to or results from performing management or administrative services relating to furnishing medicaid services under the medicaid program.

(b) ~~If the medicaid provider is an independent provider, the~~ The indictment charges the person with committing an act that would constitute a disqualifying offense.

(3) "Disqualifying offense" means any of the offenses listed or described in divisions (A)(3)(a) to (e) of section 109.572 of the Revised Code.

(4) ~~"Independent provider" has the same meaning as in section 5164.341 of the Revised Code.~~

~~(5)~~ "Noninstitutional medicaid provider" means any person or entity with a provider agreement other than a hospital, nursing facility, or ICF/IID.

~~(6)~~(5) "Owner" means any person having at least five per cent ownership in a noninstitutional medicaid provider.

(B)(1) Except as provided in division (C) of this section and in rules authorized by this section, the department of medicaid shall suspend the provider agreement held by a medicaid provider on determining either of the following:

(a) There is a credible allegation of fraud against any of the following for which an investigation is pending under the medicaid program:

(i) The medicaid provider;

(ii) The medicaid provider's owner, officer, authorized agent, associate, manager, or employee.

(b) A disqualifying indictment has been issued against any of the following:

(i) The medicaid provider;

(ii) The medicaid provider's officer, authorized agent, associate, manager, or employee;

(iii) If the medicaid provider is a noninstitutional provider, its owner.

(2) Subject to division (C) of this section, the department shall also suspend all medicaid payments to a medicaid provider for services rendered, regardless of the date that the services are rendered, when the department suspends the provider's provider agreement under this section.

(3) The suspension of a provider agreement shall continue in effect until

~~either~~ the latest of the following occurs:

(a) If the suspension is the result of a credible allegation of fraud, the department or a prosecuting authority determines that there is insufficient evidence of fraud by the medicaid provider;

(b) Regardless of whether the suspension is the result of a credible allegation of fraud or a disqualifying indictment, the proceedings in any related criminal case are completed through dismissal of the indictment or through sentencing after conviction, or entry of a guilty plea, or through finding of not guilty or, if the department commences a process to terminate the suspended provider agreement, the termination process is concluded;

(c) The medicaid provider pays in full all fines and debts due and owing to the department or makes arrangements satisfactory to the department to fulfill those obligations;

(d) A civil action related to a credible allegation of fraud or disqualifying indictment is not pending against the medicaid provider.

(4)(a) When a provider agreement is suspended under this section, none of the following shall take, during the period of the suspension, any of the actions specified in division (B)(4)(b) of this section:

(i) The medicaid provider;

(ii) If the suspension is the result of an action taken by an officer, authorized agent, associate, manager, or employee of the medicaid provider, that person;

(iii) If the medicaid provider is a noninstitutional provider and the suspension is the result of an action taken by the owner of the provider, the owner.

(b) The following are the actions that persons specified in division (B)(4)(a) of this section cannot take during the suspension of a provider agreement:

(i) ~~Own services provided, or provide services, to~~ any other medicaid provider or risk contractor;

(ii) ~~Arrange for, render to, or order services to~~ on behalf of any other medicaid provider or risk contractor;

(iii) ~~Arrange for, render to, or order services for~~ medicaid recipients or render services to medicaid recipients;

(iv) Receive direct payments under the medicaid program or indirect payments of medicaid funds in the form of salary, shared fees, contracts, kickbacks, or rebates from or through any other medicaid provider or risk contractor.

(C) The department shall not suspend a provider agreement or medicaid payments under division (B) of this section if ~~the~~ either of the following is

the case:

(1) The medicaid provider or, if the provider is a noninstitutional provider, the owner can demonstrate through the submission of written evidence that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the credible allegation of fraud or disqualifying indictment.

(2) The medicaid provider or, if the provider is a noninstitutional provider, the owner can demonstrate that good cause exists not to suspend the provider agreement or payments.

With respect to the evidence described in division (C)(1) of this section, the department shall grant, prior to suspension, the provider or owner an opportunity to submit the written evidence to the department.

With respect to a demonstration of good cause described in division (C)(2) of this section, the department shall specify in rules adopted under section 5164.02 of the Revised Code what constitutes good cause and the information, documents, or other evidence that must be submitted to the department as part of the demonstration.

(D) After suspending a provider agreement under division (B) of this section, the department shall send notice of the suspension to the affected medicaid provider or, if the provider is a noninstitutional provider, the owner in accordance with the following time frames:

(1) Not later than five days after the suspension, unless a law enforcement agency makes a written request to temporarily delay the notice;

(2) If a law enforcement agency makes a written request to temporarily delay the notice, not later than thirty days after the suspension occurs subject to the conditions specified in division (E) of this section.

(E) A written request for a temporary delay described in division (D)(2) of this section may be renewed in writing by a law enforcement agency not more than two times except that under no circumstances shall the notice be issued more than ninety days after the suspension occurs.

(F) The notice required by division (D) of this section shall do all of the following:

(1) State that payments are being suspended in accordance with this section and 42 C.F.R. 455.23;

(2) Set forth the general allegations related to the nature of the conduct leading to the suspension, except that it is not necessary to disclose any specific information concerning an ongoing investigation;

(3) State that the suspension continues to be in effect until ~~either~~ the latest of the circumstances specified in division (B)(3) of this section occur;

(4) Specify, if applicable, the type or types of medicaid claims or

business units of the medicaid provider that are affected by the suspension;

(5) Inform the medicaid provider or owner of the opportunity to submit to the department, not later than thirty days after receiving the notice, a request for reconsideration of the suspension in accordance with division (G) of this section.

(G)(1) Pursuant to the procedure specified in division (G)(2) of this section, a medicaid provider subject to a suspension under this section or, if the provider is a noninstitutional provider, the owner may request a reconsideration of the suspension. The request shall be made not later than thirty days after receipt of a notice required by division (D) of this section. The reconsideration is not subject to an adjudication hearing pursuant to Chapter 119. of the Revised Code.

(2) In requesting a reconsideration, the medicaid provider or owner shall submit written information and documents to the department. The information and documents may pertain to ~~any~~ either of the following issues:

(a) Whether the determination to suspend the provider agreement was based on a mistake of fact, other than the validity of an indictment in a related criminal case.

(b) If there has been an indictment in a related criminal case, whether the indictment is a disqualifying indictment.

~~(c) Whether the provider or owner can demonstrate that the provider or owner did not directly or indirectly sanction the action of its authorized agent, associate, manager, or employee that resulted in the suspension under this section or an indictment in a related criminal case.~~

(H) The department shall review the information and documents submitted in a request made under division (G) of this section for reconsideration of a suspension. After the review, the suspension may be affirmed, reversed, or modified, in whole or in part. The department shall notify the affected provider or owner of the results of the review. ~~The review and notification of its results shall be completed not later than forty five days after receiving the information and documents submitted in a request for reconsideration.~~

(I) Rules adopted under section 5164.02 of the Revised Code may specify circumstances under which the department would not suspend a provider agreement pursuant to this section.

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

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

(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:

(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) The medicaid provider's provider agreement and medicaid payments to the provider are suspended under section 5164.36 or 5164.37 of the Revised Code.

(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 nursing facilities and ICFs/IID.

Sec. 5164.60. Any medicaid provider who, without intent, obtains payments under the medicaid program in excess of the amount to which the provider is entitled is liable for payment of interest on the amount of the excess payments for ~~the a~~ a period determined by the department, but not to exceed the period from the date on which payment was made to the date on which repayment is made to the state. The interest shall be paid at the average bank prime rate in effect on the first day of the calendar quarter during which the provider receives notice of the excess payment. The department of medicaid shall determine the average bank prime rate using statistical release H.15, "selected interest rates," a weekly publication of the federal reserve board, or any successor publication. If statistical release H.15, or its successor, ceases to contain the bank prime rate information or ceases to be published, the department shall request a written statement of the average bank prime rate from the federal reserve bank of Cleveland or the federal reserve board.

Sec. 5164.72. The number of days of inpatient hospital care for which a medicaid payment is made on behalf of a medicaid recipient to a hospital that is not paid under a diagnostic-related-group prospective payment system shall not exceed thirty days during a period beginning on the day of the recipient's admission to the hospital and ending sixty days after the termination of that hospital stay, except that the department of medicaid may make exceptions to this limitation. The limitation does not apply to children and youth participating in the program for ~~medically handicapped~~ children and youth with special health care needs established under section 3701.023 of the Revised Code.

Sec. 5164.78. (A) The medicaid payment rates for the following neonatal and newborn services shall equal not less than seventy-five per cent of the medicare payment rates for the services in effect on the date the services are provided to medicaid recipients eligible for the services:

- (1) Initial care for normal newborns;
- (2) Subsequent day, hospital care for normal newborns;
- (3) Same day, initial history and physical examination and discharge for normal newborns;
- (4) Initial neonatal critical care for children not more than twenty-eight days old;
- (5) Subsequent day, neonatal critical care for children not more than twenty-eight days old;
- (6) Subsequent day, pediatric critical care for children at least twenty-nine days but less than two years old;
- (7) Initial neonatal intensive care;
- (8) Subsequent day, neonatal intensive noncritical care for children weighing less than one thousand five hundred grams;
- (9) Subsequent day, neonatal intensive noncritical care for children weighing at least one thousand five hundred grams but not more than two thousand five hundred grams;
- (10) Subsequent day, neonatal noncritical care for children weighing more than two thousand five hundred grams but not more than five thousand grams.

(B) The medicaid payment rates for other medicaid services selected by the medicaid director shall be less than the amount of the rates in effect on ~~the effective date of this section~~ November 22, 2017, so that the cost of the rates set pursuant to division (A) of this section do not increase medicaid expenditures. The director may not select any medicaid service for which the medicaid payment rate is determined in accordance with state statutes.

Sec. 5164.913. (A)(1) In addition to any other eligibility requirement of this chapter, to be eligible to serve as a personal care aide under the integrated care delivery system, an individual must successfully complete thirty hours of pre-service training acceptable to the department of medicaid.

To maintain eligibility, each personal care aide must successfully complete six hours of in-service training acceptable to the department. Such training must be completed every twelve months.

(2) In administering the integrated care delivery system, the department shall not require a personal care aide to do either of the following:

- (a) Complete more than thirty hours of pre-service training;
- (b) Complete more than six hours of in-service training in a

twelve-month period.

(B) The department of medicaid shall not require an individual serving as a home health aide under the integrated care delivery system to complete more hours of pre-service training or annual in-service training than required by federal law.

(C) Only the following may supervise a home health aide or personal care aide under the integrated care delivery system:

(1) A registered nurse;

(2) A licensed practical nurse under the direction of a registered nurse.

Sec. 5164.96. (A) As used in this section, "ground emergency medical transportation service provider" means a public emergency medical service organization as defined in section 4765.01 of the Revised Code.

(B)(1) The medicaid director shall submit a medicaid state plan amendment to the United States centers for medicare and medicaid services seeking authorization to establish and administer a supplemental payment program to provide supplemental medicaid payments to eligible ground emergency medical transportation service providers. If approved, the medicaid director shall establish and administer the program.

(2) To be eligible to receive payments under the supplemental payment program, a ground emergency medical transportation service provider must hold a valid medicaid provider agreement and provide emergency medical transportation services to medicaid recipients.

(C) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code to implement this section.

Sec. 5165.01. As used in this chapter:

(A) "Affiliated operator" means an operator affiliated with either of the following:

(1) The exiting operator for whom the affiliated operator is to assume liability for the entire amount of the exiting operator's debt under the medicaid program or the portion of the debt that represents the franchise permit fee the exiting operator owes;

(2) The entering operator involved in the change of operator with the exiting operator specified in division (A)(1) of this section.

(B) "Allowable costs" are a nursing facility's costs that the department of medicaid determines are reasonable. Fines paid under sections 5165.60 to 5165.89 and section 5165.99 of the Revised Code are not allowable costs.

(C) "Ancillary and support costs" means all reasonable costs incurred by a nursing facility other than direct care costs, tax costs, or capital costs. "Ancillary and support costs" includes, but is not limited to, costs of activities, social services, pharmacy consultants, habilitation supervisors,

qualified intellectual disability professionals, program directors, medical and habilitation records, program supplies, incontinence supplies, food, enterals, dietary supplies and personnel, laundry, housekeeping, security, administration, medical equipment, utilities, liability insurance, bookkeeping, purchasing department, human resources, communications, travel, dues, license fees, subscriptions, home office costs not otherwise allocated, legal services, accounting services, minor equipment, maintenance and repairs, help-wanted advertising, informational advertising, start-up costs, organizational expenses, other interest, property insurance, employee training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5165.02 of the Revised Code, for personnel listed in this division. "Ancillary and support costs" also means the cost of equipment, including vehicles, acquired by operating lease executed before December 1, 1992, if the costs are reported as administrative and general costs on the nursing facility's cost report for the cost reporting period ending December 31, 1992.

(D) "Applicable calendar year" means the calendar year immediately preceding the ~~calendar year that precedes~~ the first of the state fiscal years for which a rebasing is conducted.

(E) For purposes of calculating a critical access nursing facility's occupancy rate and utilization rate under this chapter, "as of the last day of the calendar year" refers to the occupancy and utilization rates during the calendar year identified in the cost report filed under section 5165.10 of the Revised Code.

(F)(1) "Capital costs" means the actual expense incurred by a nursing facility for all of the following:

(a) Depreciation and interest on any capital assets that cost five hundred dollars or more per item, including the following:

- (i) Buildings;
- (ii) Building improvements;
- (iii) Except as provided in division (D) of this section, equipment;
- (iv) Transportation equipment.

(b) Amortization and interest on land improvements and leasehold improvements;

- (c) Amortization of financing costs;
- (d) Lease and rent of land, buildings, and equipment.

(2) The costs of capital assets of less than five hundred dollars per item may be considered capital costs in accordance with a provider's practice.

(G) "Capital lease" and "operating lease" shall be construed in

accordance with generally accepted accounting principles.

(H) "Case-mix score" means a measure determined under section 5165.192 of the Revised Code of the relative direct-care resources needed to provide care and habilitation to a nursing facility resident.

(I) "Change in control" means either of the following:

(1) Any pledge, assignment, or hypothecation of or lien or other encumbrance on any of the legal or beneficial equity interests in the applicable person;

(2) A change of fifty per cent or more in the legal or beneficial ownership or control of the outstanding voting equity interests of the applicable person necessary at all times to elect a majority of the board of directors or similar governing body and to direct the management policies and decisions.

(J) "Change of operator" means includes circumstances in which an entering operator ~~becoming~~ becomes the operator of a nursing facility in the place of the exiting operator or there is a change in owner of a nursing facility.

(1) Actions that constitute a change of operator include the following:

(a) A change in an exiting operator's or owner's form of legal organization, including the formation of a partnership or corporation from a sole proprietorship;

(b) ~~A transfer of all~~ change of control in the exiting operator's ownership interest in the operation of the nursing facility to the entering operator or owner, regardless of whether ownership of any or all of the real property or personal property associated with the nursing facility is also transferred;

(c) A lease of the nursing facility to the entering operator or owner or the exiting operator's or owner's termination of the exiting operator's or owner's lease;

(d) If the exiting operator or owner is a partnership, dissolution of the partnership, a merger of the partnership into another person that is the survivor of the merger, or a consolidation of the partnership and at least one other person to form a new person;

(e) If the exiting operator or owner 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~~ limited liability company, dissolution of the limited liability company, a merger of the limited liability company into

another person that is the survivor of the merger, or a consolidation of the limited liability company and at least one other person to form a new person.

(f) If the operator or owner is a corporation, dissolution of the corporation, a merger of the corporation into another ~~corporation~~ person that is the survivor of the merger, or a consolidation of the corporation and at least one or more other corporations person to form a new ~~corporation~~ person:

(g) A contract for a person to assume control of the operations and cash flow of a nursing facility as the operator's or owner's agent;

(h) A change in control of the owner of the real property associated with the nursing facility if, within one year of the change of control, there is a material increase in lease payments or other financial obligations of the operator to the owner.

(2) The following, alone, do not constitute a change of operator:

(a) ~~A contract for an entity to manage a nursing facility as the operator's agent, subject to the operator's approval of daily operating and management decisions~~ an employer stock ownership plan created under section 401(a) of the "Internal Revenue Code," 26 U.S.C. 401(a);

~~(b) Except as provided in division (J)(1) of this section, a change of ownership, lease, or termination of a lease of real property or personal property associated with a nursing facility if an entering operator does not become the operator in place of an exiting operator;~~

(c) If the operator or owner is a corporation that has securities publicly traded in a marketplace, 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 or owner;

(d) An initial public offering for which the securities and exchange commission has declared the registration statement effective, and the newly created public company remains the operator or owner.

~~(J)(K)~~ (K) "Cost center" means the following:

- (1) Ancillary and support costs;
- (2) Capital costs;
- (3) Direct care costs;
- (4) Tax costs.

~~(K)(L)~~ (L) "Custom wheelchair" means a wheelchair to which both of the following apply:

- (1) It has been measured, fitted, or adapted in consideration of either of the following:

(a) The body size or disability of the individual who is to use the wheelchair;

(b) The individual's period of need for, or intended use of, the wheelchair.

(2) It has customized features, modifications, or components, such as adaptive seating and positioning systems, that the supplier who assembled the wheelchair, or the manufacturer from which the wheelchair was ordered, added or made in accordance with the instructions of the physician of the individual who is to use the wheelchair.

~~(L)(1)~~(M)(1) "Date of licensure" means the following:

(a) In the case of a nursing facility that was required by law to be licensed as a nursing home under Chapter 3721. of the Revised Code when it originally began to be operated as a nursing home, the date the nursing facility was originally so licensed;

(b) In the case of a nursing facility that was not required by law to be licensed as a nursing home when it originally began to be operated as a nursing home, the date it first began to be operated as a nursing home, regardless of the date the nursing facility was first licensed as a nursing home.

(2) If, after a nursing facility's original date of licensure, more nursing home beds are added to the nursing facility, the nursing facility has a different date of licensure for the additional beds. This does not apply, however, to additional beds when both of the following apply:

(a) The additional beds are located in a part of the nursing facility that was constructed at the same time as the continuing beds already located in that part of the nursing facility;

(b) The part of the nursing facility in which the additional beds are located was constructed as part of the nursing facility at a time when the nursing facility was not required by law to be licensed as a nursing home.

(3) The definition of "date of licensure" in this section applies in determinations of nursing facilities' medicaid payment rates but does not apply in determinations of nursing facilities' franchise permit fees.

~~(M)(N)~~ "Desk-reviewed" means that a nursing facility's costs as reported on a cost report submitted under section 5165.10 of the Revised Code have been subjected to a desk review under section 5165.108 of the Revised Code and preliminarily determined to be allowable costs.

~~(N)(O)~~ "Direct care costs" means all of the following costs incurred by a nursing facility:

(1) Costs for registered nurses, licensed practical nurses, and nurse aides employed by the nursing facility;

(2) Costs for direct care staff, administrative nursing staff, medical directors, respiratory therapists, and except as provided in division ~~(N)(8)(O)(8)~~ of this section, other persons holding degrees qualifying them to provide therapy;

(3) Costs of purchased nursing services;

(4) Costs of quality assurance;

(5) Costs of training and staff development, employee benefits, payroll taxes, and workers' compensation premiums or costs for self-insurance claims and related costs as specified in rules adopted under section 5165.02 of the Revised Code, for personnel listed in divisions ~~(N)(1)(O)(1)~~, (2), (4), and (8) of this section;

(6) Costs of consulting and management fees related to direct care;

(7) Allocated direct care home office costs;

(8) Costs of habilitation staff (other than habilitation supervisors), medical supplies, emergency oxygen, over-the-counter pharmacy products, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, speech therapists, audiologists, habilitation supplies, and universal precautions supplies;

(9) Costs of wheelchairs other than the following:

(a) Custom wheelchairs;

(b) Repairs to and replacements of custom wheelchairs and parts that are made in accordance with the instructions of the physician of the individual who uses the custom wheelchair.

(10) Costs of other direct-care resources that are specified as direct care costs in rules adopted under section 5165.02 of the Revised Code.

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

~~(P)(Q)~~ "Effective date of a change of operator" means the day the entering operator becomes the operator of the nursing facility.

~~(Q)(R)~~ "Effective date of a facility closure" means the last day that the last of the residents of the nursing facility resides in the nursing facility.

~~(R)(S)~~ "Effective date of an involuntary termination" means the date the department of medicaid terminates the operator's provider agreement for the nursing facility.

~~(S)(T)~~ "Effective date of a voluntary withdrawal of participation" means the day the nursing facility ceases to accept new medicaid residents other than the individuals who reside in the nursing facility on the day before the effective date of the voluntary withdrawal of participation.

~~(T)(U)~~ "Entering operator" means the person or government entity that will become the operator of a nursing facility when a change of operator

occurs or following an involuntary termination.

~~(U)~~(V) "Exiting operator" means any of the following:

(1) An operator that will cease to be the operator of a nursing facility on the effective date of a change of operator;

(2) An operator that will cease to be the operator of a nursing facility on the effective date of a facility closure;

(3) An operator of a nursing facility that is undergoing or has undergone a voluntary withdrawal of participation;

(4) An operator of a nursing facility that is undergoing or has undergone an involuntary termination.

~~(V)~~(1)(W)(1) Subject to divisions ~~(V)~~(2)(W)(2) and (3) of this section, "facility closure" means either of the following:

(a) Discontinuance of the use of the building, or part of the building, that houses the facility as a nursing facility that results in the relocation of all of the nursing facility's residents;

(b) Conversion of the building, or part of the building, that houses a nursing facility to a different use with any necessary license or other approval needed for that use being obtained and one or more of the nursing facility's residents remaining in the building, or part of the building, to receive services under the new use.

(2) A facility closure occurs regardless of any of the following:

(a) The operator completely or partially replacing the nursing facility by constructing a new nursing facility or transferring the nursing facility's license to another nursing facility;

(b) The nursing facility's residents relocating to another of the operator's nursing facilities;

(c) Any action the department of health takes regarding the nursing facility's medicaid certification that may result in the transfer of part of the nursing facility's survey findings to another of the operator's nursing facilities;

(d) Any action the department of health takes regarding the nursing facility's license under Chapter 3721. of the Revised Code.

(3) A facility closure does not occur if all of the nursing facility's residents are relocated due to an emergency evacuation and one or more of the residents return to a medicaid-certified bed in the nursing facility not later than thirty days after the evacuation occurs.

~~(W)~~(X) "Franchise permit fee" means the fee imposed by sections 5168.40 to 5168.56 of the Revised Code.

~~(X)~~(Y) "Inpatient days" means both of the following:

(1) All days during which a resident, regardless of payment source,

occupies a licensed bed in a nursing facility;

(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.

~~(Y)~~(Z) "Involuntary termination" means the department of medicaid's termination of the operator's provider agreement for the nursing facility when the termination is not taken at the operator's request.

~~(Z)~~(AA) "Low ~~resource-utilization case-mix~~ resident" means a medicaid recipient residing in a nursing facility who, for purposes of calculating the nursing facility's medicaid payment rate for direct care costs, is placed in either of the two lowest ~~resource-utilization case-mix~~ groups, excluding any ~~resource-utilization case-mix~~ group that is a default group used for residents with incomplete assessment data.

~~(AA)~~(BB) "Maintenance and repair expenses" means a nursing facility's expenditures that are necessary and proper to maintain an asset in a normally efficient working condition and that do not extend the useful life of the asset two years or more. "Maintenance and repair expenses" includes but is not limited to the costs of ordinary repairs such as painting and wallpapering.

~~(BB)~~(CC) "Medicaid-certified capacity" means the number of a nursing facility's beds that are certified for participation in medicaid as nursing facility beds.

~~(CC)~~(DD) "Medicaid days" means both of the following:

(1) All days during which a resident who is a medicaid recipient eligible for nursing facility services occupies a bed in a nursing facility that is included in the nursing facility's medicaid-certified capacity;

(2) Fifty per cent of the days for which payment is made under section 5165.34 of the Revised Code.

~~(DD)~~(+)(EE)(1) "New nursing facility" means a nursing facility for which the provider obtains an initial provider agreement following medicaid certification of the nursing facility by the director of health, including such a nursing facility that replaces one or more nursing facilities for which a provider previously held a provider agreement.

(2) "New nursing facility" does not mean a nursing facility for which the entering operator seeks a provider agreement pursuant to section 5165.511 or 5165.512 or (pursuant to section 5165.515) section 5165.07 of the Revised Code.

~~(EE)~~(FF) "Nursing facility" has the same meaning as in the "Social Security Act," section 1919(a), 42 U.S.C. 1396r(a).

~~(FF)~~(GG) "Nursing facility services" has the same meaning as in the "Social Security Act," section 1905(f), 42 U.S.C. 1396d(f).

~~(GG)~~(HH) "Nursing home" has the same meaning as in section 3721.01 of the Revised Code.

~~(HH)~~(II) "Occupancy rate" means the percentage of licensed beds that, regardless of payer source, are either of the following:

- (1) Reserved for use under section 5165.34 of the Revised Code;
- (2) Actually being used.

~~(H)~~(JJ) "Operator" means the person or government entity responsible for the daily operating and management decisions for a nursing facility.

~~(JJ)~~(1)~~(KK)~~(1) "Owner" means any person or government entity that has at least five per cent ownership or interest, either directly, indirectly, or in any combination, in any of the following regarding a nursing facility:

- (a) The land on which the nursing facility is located;
- (b) The structure in which the nursing facility is located;
- (c) Any mortgage, contract for deed, or other obligation secured in whole or in part by the land or structure on or in which the nursing facility is located;
- (d) Any lease or sublease of the land or structure on or in which the nursing facility is located.

(2) "Owner" does not mean a holder of a debenture or bond related to the nursing facility and purchased at public issue or a regulated lender that has made a loan related to the nursing facility unless the holder or lender operates the nursing facility directly or through a subsidiary.

~~(KK)~~(LL) "Per diem" means a nursing facility's actual, allowable costs in a given cost center in a cost reporting period, divided by the nursing facility's inpatient days for that cost reporting period.

~~(LL)~~(MM) "Person" has the same meaning as in section 1.59 of the Revised Code.

(NN) "Private room" means a nursing facility bedroom that meets all of the following criteria:

- (1) It has four permanent, floor-to-ceiling walls and a full door.
- (2) It contains one licensed or certified bed that is occupied by one individual.
- (3) It has access to a hallway without traversing another bedroom.
- (4) It has access to a toilet and sink shared by not more than one other resident without traversing another bedroom.
- (5) It meets all applicable licensure or other standards pertaining to furniture, fixtures, and temperature control.

(OO) "Provider" means an operator with a provider agreement.

~~(MM)~~(PP) "Provider agreement" means a provider agreement, as defined in section 5164.01 of the Revised Code, that is between the

department of medicaid and the operator of a nursing facility for the provision of nursing facility services under the medicaid program.

~~(NN)~~(QQ) "Purchased nursing services" means services that are provided in a nursing facility by registered nurses, licensed practical nurses, or nurse aides who are not employees of the nursing facility.

~~(OO)~~(RR) "Reasonable" means that a cost is an actual cost that is appropriate and helpful to develop and maintain the operation of patient care facilities and activities, including normal standby costs, and that does not exceed what a prudent buyer pays for a given item or services. Reasonable costs may vary from provider to provider and from time to time for the same provider.

~~(PP)~~(SS) "Rebasing" means a redetermination of each of the following using information from cost reports for an applicable calendar year that is later than the applicable calendar year used for the previous rebasing:

(1) Each peer group's rate for ancillary and support costs as determined pursuant to division (C) of section 5165.16 of the Revised Code;

(2) Each peer group's rate for capital costs as determined pursuant to division (C) of section 5165.17 of the Revised Code;

(3) Each peer group's cost per case-mix unit as determined pursuant to division (C) of section 5165.19 of the Revised Code;

(4) Each nursing facility's rate for tax costs as determined pursuant to section 5165.21 of the Revised Code.

~~(QQ)~~(TT) "Related party" means an individual or organization that, to a significant extent, has common ownership with, is associated or affiliated with, has control of, or is controlled by, the provider.

(1) An individual who is a relative of an owner is a related party.

(2) Common ownership exists when an individual or individuals possess significant ownership or equity in both the provider and the other organization. Significant ownership or equity exists when an individual or individuals possess five per cent ownership or equity in both the provider and a supplier. Significant ownership or equity is presumed to exist when an individual or individuals possess ten per cent ownership or equity in both the provider and another organization from which the provider purchases or leases real property.

(3) Control exists when an individual or organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization.

(4) An individual or organization that supplies goods or services to a provider shall not be considered a related party if all of the following conditions are met:

(a) The supplier is a separate bona fide organization.

(b) A substantial part of the supplier's business activity of the type carried on with the provider is transacted with others than the provider and there is an open, competitive market for the types of goods or services the supplier furnishes.

(c) The types of goods or services are commonly obtained by other nursing facilities from outside organizations and are not a basic element of patient care ordinarily furnished directly to patients by nursing facilities.

(d) The charge to the provider is in line with the charge for the goods or services in the open market and no more than the charge made under comparable circumstances to others by the supplier.

~~(RR)~~(UU) "Relative of owner" means an individual who is related to an owner of a nursing facility by one of the following relationships:

- (1) Spouse;
- (2) Natural parent, child, or sibling;
- (3) Adopted parent, child, or sibling;
- (4) Stepparent, stepchild, stepbrother, or stepsister;
- (5) Father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law;
- (6) Grandparent or grandchild;
- (7) Foster caregiver, foster child, foster brother, or foster sister.

~~(SS)~~(VV) "Residents' rights advocate" has the same meaning as in section 3721.10 of the Revised Code.

~~(TT)~~(WW) "Skilled nursing facility" has the same meaning as in the "Social Security Act," section 1819(a), 42 U.S.C. 1395i-3(a).

~~(UU)~~(XX) "State fiscal year" means the fiscal year of this state, as specified in section 9.34 of the Revised Code.

~~(VV)~~(YY) "Sponsor" has the same meaning as in section 3721.10 of the Revised Code.

~~(ZZ)~~ "Surrender" has the same meaning as in section 5168.40 of the Revised Code.

~~(WW)~~(AAA) "Tax costs" means the costs of taxes imposed under Chapter 5751. of the Revised Code, real estate taxes, personal property taxes, and corporate franchise taxes.

~~(XX)~~(BBB) "Title XIX" means Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq.

~~(YY)~~(CCC) "Title XVIII" means Title XVIII of the "Social Security Act," 42 U.S.C. 1395 et seq.

~~(ZZ)~~(DDD) "Voluntary withdrawal of participation" means an operator's voluntary election to terminate the participation of a nursing

facility in the medicaid program but to continue to provide service of the type provided by a nursing facility.

Sec. 5165.109. (A) The department of medicaid may conduct an audit, as defined in rules adopted under section 5165.02 of the Revised Code, of any cost report filed under section 5165.10 or 5165.522 of the Revised Code. The decision whether to conduct an audit and the scope of the audit, which may be a desk or field audit, may be determined based on prior performance of the provider, a risk analysis, or other evidence that gives the department reason to believe that the provider has reported costs improperly. A desk or field audit may be performed annually, but is required whenever a provider does not pass the risk analysis tolerance factors.

(B) Audits shall be conducted by auditors under contract with the department, auditors working for firms under contract with the department, or auditors employed by the department.

The department may establish a contract for the auditing of nursing facilities by outside firms. Each contract entered into by bidding shall be effective for one to two years.

(C) The department shall notify a provider of the findings of an audit of a cost report by issuing an audit report. The audit report shall include notice of any fine imposed under section 5165.1010 of the Revised Code. The department shall issue the audit report not later than three years after the earlier of the following:

(1) The date the cost report is filed;

(2) The date a desk or field audit of the cost report or a cost report for a subsequent cost reporting period is completed.

(D) The department shall prepare a written summary of any audit disallowance that is made after the effective date of the rate that is based on the cost. Where the provider is pursuing judicial or administrative remedies in good faith regarding the disallowance, the department shall not withhold from the provider's current payments any amounts the department claims to be due from the provider pursuant to section 5165.41 of the Revised Code.

~~(E)(1) The department shall establish an audit manual and program for field audits conducted under this section. Each auditor conducting a field audit under this section shall follow the audit manual and program, regardless of whether the auditor is under contract with the department, works for a firm under contract with the department, or is employed by the department. The manual and program shall do both of the following: If an audit is conducted by an auditor under contract with the department, the audit shall be conducted in accordance with procedures agreed upon between the department and the auditor.~~

(2) If an audit is conducted by the department, the department shall develop an audit plan or approach before the audit begins. The scope of the audit may change during the course of the audit based on observations and findings during the audit.

(a) Require (3) All of the following apply to each field audit to be conducted by an auditor to whom all of the following apply under contract with the department:

(i)(a) During the period of the auditor's contract, firm's contract, or auditor's employment with the department, the auditor or firm does not have and is not committed to acquire any direct or indirect financial interest in the ownership, financing, or operation of nursing facilities in this state.

(ii)(b) The auditor does not audit any provider that has been a client of the auditor or the auditor's firm.

(iii)(c) The auditor is otherwise independent as determined by the standards of independence included in the government auditing standards produced by the United States government accountability office.

(b) Require each auditor conducting a field audit to do all of the following:

(i) Comply with applicable rules prescribed pursuant to Title XVIII and Title XIX;

(ii) Consider generally accepted auditing standards prescribed by the American institute of certified public accountants;

(iii) Include a written summary as to whether the costs included in the cost report examined during the audit are allowable and are presented in accordance with state and federal laws and regulations, and whether, in all material respects, allowable costs are documented, reasonable, and related to patient care;

(iv) Complete the audit within the time period specified by the department;

(v) Provide to the provider complete written interpretations that explain in detail the application of all relevant contract provisions, regulations, auditing standards, rate formulae, and departmental policies, with explanations and examples, that are sufficient to permit the provider to calculate with reasonable certainty those costs that are allowable and the rate to which the provider's nursing facility is entitled.

(2) For the purpose of division (E)(1)(a)(i) of this section, employment of a member of an auditor's family by a nursing facility that the auditor does not audit does not constitute a direct or indirect financial interest in the ownership, financing, or operation of the nursing facility.

Sec. 5165.15. Except as otherwise provided by sections 5165.151 to

~~5165.157~~ 5165.158 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 state fiscal year shall 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 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.

(B) To the sum determined under division (A) of this section, add sixteen dollars and forty-four cents.

~~(C) From the sum determined under division (B) of this section, subtract one dollar and seventy-nine cents.~~

~~(D) To the sum determined under division (C) of this section, add, for state fiscal year 2022 and for state fiscal year 2023, the per medicaid day quality incentive payment rate determined for the nursing facility under section 5165.26 of the Revised Code.~~

(D) If the nursing facility qualifies as a low occupancy nursing facility, subtract from the sum determined under division (C) of this section the nursing facility's low occupancy deduction determined under section 5165.23 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 (C) 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 (C) 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 (C) 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 following:

(a) If the provider of the new nursing facility submits to the department of medicaid the nursing facility's projected tax costs for the calendar year in which the provider obtains an initial provider agreement for the new nursing facility, an amount determined by dividing those projected tax costs by the number of inpatient days the nursing facility would have for that calendar year if its occupancy rate were one hundred per cent;

(b) If division (A)(4)(a) of this section does not apply, the median rate for tax costs for the new nursing facility's peer group in which the nursing facility is placed under division (B) of section 5165.16 of the Revised Code.

(5) Fourteen The initial quality incentive payment rate for the new nursing facility shall be the amount determined under section 5165.26 of the Revised Code.

(6) Sixteen dollars and sixty-five ~~forty-four~~ cents shall be added to the sum of the rates and payment specified in divisions (A)(1) to ~~(4)~~(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 of medicaid 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~~ case-mix residents. Instead, the total rate for such nursing facility services shall be one hundred fifteen dollars per medicaid day.

Sec. 5165.157. (A) As used in this section, "SFF list" and "CMS" have the same meanings as in section 5165.26 of the Revised Code.

(B) The medicaid director 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. 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; Beginning July 1, 2023, the director shall not approve an application for a discrete unit of a nursing facility that provides ventilator services if, at the time of the application, the nursing facility is listed on table A or table D of the SFF list or is designated as having a one-star overall rating in CMS's nursing facility five-star rating system known as care compare.

(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 by designated discrete units of nursing facilities under the alternative purchasing model at either of the following:

(a) Thirty-four 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)(C)~~ The criteria established under division ~~(A)(1)(B)(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 discrete unit designated for participation in the alternative purchasing model to report health outcome measurement data to the department of medicaid.

~~(C)-A(D)~~ Except as provided in division (E) of this section, 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)(B)(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.

(E) Beginning January 1, 2024, a discrete unit of a nursing facility that provides ventilator services and that is listed on table A or table D of the SFF list or is designated as having a one-star overall rating by CMS under CMS's nursing facility five-star rating system known as care compare shall be paid the total per medicaid day payment rate determined under section 5165.15, 5165.153, 5165.154, or 5165.156 of the Revised Code for those services instead of the rate determined in accordance with division (B)(3) of this section. The rate determined under this division applies to any resident who was admitted to the discrete unit on or after the later of January 1, 2024, or the date on which the nursing facility is added to table A or table D or receives a one-star overall rating. If the nursing facility is removed from table A or table D or no longer has a one-star overall rating, it shall be paid the rate determined in accordance with division (B)(3) of this section for ventilator residents in the discrete unit on or after the date on which the nursing facility is removed from table A or table D or no longer has a

one-star overall rating. The director may waive the requirements of this division for a discrete unit of a nursing facility if the director determines that the waiver is necessary to ensure access to ventilator services in the area served by the discrete unit.

Sec. 5165.158. (A) As used in this section:

(1) "Category one private room" means a private room that has unshared access to a toilet and sink.

(2) "Category two private room" means a private room that has shared access to a toilet and sink.

(B) Beginning six months following approval by the United States centers for medicare and medicaid services or on the effective date of applicable department of medicaid rules, whichever is later, but not sooner than April 1, 2024, the total per medicaid day payment rate for nursing facility services provided on or after that date in private rooms approved by the department of medicaid under division (C) of this section shall be the sum of both of the following:

(1) The total per medicaid day payment rate determined for the nursing facility under section 5165.15 of the Revised Code;

(2) The private room incentive payment. The private room incentive payment shall be thirty dollars per day for a category one private room and twenty dollars per day for a category two private room, beginning in state fiscal year 2024. The department may increase the payment amount for subsequent fiscal years.

(C)(1) The department shall approve rooms in nursing facilities to qualify for the rate described in division (B) of this section. A nursing facility provider shall apply for approval of its private rooms by submitting an application in the form and manner prescribed by the department. The department shall begin accepting applications for approval of category one private rooms on January 1, 2024, and category two private rooms on March 1, 2024. The department may specify evidence that an applicant must supply to demonstrate that a room meets the definition of a private room under section 5165.01 of the Revised Code and may conduct an on-site inspection of the room to verify that it meets the definition. Subject to division (C)(2) of this section, the department shall approve an application if the rooms included in the application meet the definition of a private room under section 5165.01 of the Revised Code.

(2) The department shall only consider applications that meet the following criteria:

(a) Private rooms that are in existence on July 1, 2023, in facilities where all of the licensed beds are in service on the application date;

(b) Private rooms created by surrendering licensed beds from its licensed capacity, or, if the facility does not hold a license, surrendering beds that have been certified by CMS. A nursing facility where the beds are owned by a county and the facility is operated by a person other than the county may satisfy this requirement by removing beds from service.

(c) Private rooms created by adding space to the nursing facility or renovating nonbedroom space, without increasing the total licensed bed capacity;

(d) A nursing facility licensed after July 1, 2023, in which all licensed beds are in service on the application date or in which private rooms were created by surrendering licensed beds from its licensed capacity.

(3) The department may specify evidence that an applicant must supply to demonstrate that it meets the conditions specified in division (C)(2) of this section and may conduct an on-site inspection to verify that the conditions are met.

(4) The department may deny an application if the department determines that any of the following circumstances apply:

(a) The rooms included in the application do not meet the definition of a private room under section 5165.01 of the Revised Code;

(b) The rooms included in the application do not meet the criteria specified in division (C)(2) of this section;

(c) The applicant created private rooms by reducing the number of available beds without surrendering the beds, and surrender of the beds is required by this section;

(d) Approval of the room would cause projected expenditures for private room incentive payments under this section for the fiscal year to exceed forty million dollars in fiscal year 2024 or one hundred sixty million dollars in fiscal year 2025 or subsequent fiscal years. In projecting expenditures for private room incentive payments, the department shall use a medicaid utilization percentage of fifty per cent. If the department determines that there are more approvable eligible applications submitted than can be accommodated within the applicable spending limit specified in this division, the department shall prioritize category one private rooms.

(e) On the application date, the nursing facility is listed on table A or table D of the SFF list, as defined in section 5165.01 of the Revised Code or is designated as having a one-star overall rating in the United States centers for medicare and medicaid services nursing facility five-star quality rating system known as care compare.

(5) Beginning July 1, 2025, to retain eligibility for private room rates, a nursing facility must do both of the following:

(a) Have a policy in place to prioritize placement in a private room based on the medical and psychosocial needs of the resident;

(b) Participate in the resident or family satisfaction survey performed pursuant to section 173.47 of the Revised Code.

(6) The department shall hold all applications for a private room incentive payment in a pending status until the United States centers for medicare and medicaid services approves private room incentive payments and the department determines a facility is qualified for the payment. An application in pending status shall be included in the payment cap described in division (C)(4)(d) of this section as if the application were approved.

(7) An applicant may request reconsideration of a denial under division (C) of this section.

Sec. 5165.16. (A) 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 (C) of this section for the nursing facility's peer group.

(B) For the purpose of determining nursing facilities' rates for ancillary and support costs, the department shall establish six peer groups composed as follows:

(1) 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.

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

(3) Each nursing facility located in any of the following counties shall be placed in peer group five or six: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan,

Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, 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.

(C)(1) The department shall determine the rate for ancillary and support costs for each peer group established under division (B) of this section. The rate for ancillary and support costs determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's rate for ancillary and support costs, the department shall do ~~all~~ both of the following:

(a) 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 (C)(2) 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 (C)(1)(a) of this section;

~~(c) Multiply the rate for ancillary and support costs determined under division (C)(1)(a) of this section for the nursing facility identified under division (C)(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) Except as provided in division (C)(1)(c)(ii) 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;~~

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

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

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

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

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

(3) 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. 5165.19. ~~(A)(A)(1)~~ Semiannually, except as provided in division (A)(2) of this section, 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 (C) of this section for the facility's peer group.

(2) Beginning January 1, 2024, during state fiscal years 2024 and 2025, the department shall determine each nursing facility's per medicaid day payment rate for direct care costs by multiplying the cost per case-mix unit determined under division (C) of this section for the facility's peer group by the case-mix score specified in division (A)(2)(a) or (b) of this section, as selected by the nursing facility not later than October 1, 2023. If the nursing facility does not make a selection by October 1, 2023, the case-mix score specified in division (A)(2)(a) of this section shall apply. The case-mix score may be either of the following:

(a) The semiannual case-mix score determined for the facility under division (A)(1) of this section;

(b) The facility's quarterly case-mix score from March 31, 2023, which shall apply to the facility's direct care rate from January 1, 2024, to June 30, 2025.

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

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

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

(3) Each nursing facility located in any of the following counties shall be placed in peer group three: Adams, Ashland, Athens, Auglaize, Belmont, Carroll, Columbiana, Coshocton, Crawford, Defiance, Erie, Gallia, Guernsey, Hardin, Harrison, Henry, Highland, Hocking, Holmes, Huron, Jackson, Jefferson, Lawrence, Logan, Meigs, Mercer, Monroe, Morgan, Muskingum, Noble, Paulding, Perry, Pike, Putnam, Richland, Scioto, Shelby, Tuscarawas, Van Wert, Vinton, Washington, Wayne, Williams, and Wyandot.

(C)(1) The department shall determine a cost per case-mix unit for each peer group established under division (B) of this section. The cost per case-mix unit determined under this division for a peer group shall be used for subsequent years until the department conducts a rebasing. To determine a peer group's cost per case-mix unit, the department shall do ~~all~~ both 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 (C)(2) of this section, identify which nursing facility in the peer group is at the ~~twenty-fifth~~ seventieth percentile of the cost per case-mix units determined under division (C)(1)(a) of this section;

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

~~(d) Using the index specified in division (C)(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 (C)(1)(c) of this section.~~

(2) In making the identification under division (C)(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 (C)(1)(d) of this section:~~

~~(a) Except as provided in division (C)(3)(b) 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;~~

~~(b) If the United States bureau of labor statistics ceases to publish the index specified in division (C)(3)(a) 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~~ case-mix resident;

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

(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, by the United States department of health and human services for prospective payment of skilled nursing

facilities under the medicare program.

(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 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) Allow 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;

(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 state 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 state 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 state 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 state fiscal year.

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

(C) Each state fiscal year, the department shall determine the low occupancy deduction for each nursing facility that qualifies as a low occupancy nursing facility. To qualify as a low occupancy nursing facility for a state fiscal year, a nursing facility must have an occupancy rate lower than sixty-five per cent. For purposes of this division, the department shall utilize a nursing facility's occupancy rate for the licensed beds reported on the facility's cost report for the calendar year preceding the fiscal year for which the rate is determined, or if the facility is not required to be licensed, the facility's occupancy rate for its certified beds. If the facility surrenders licensed or certified beds before the first day of July of the calendar year in which the fiscal year begins, the department shall calculate a nursing facility's occupancy rate by dividing the inpatient days reported on the facility's cost report for the calendar year preceding the fiscal year for which the rate is determined by the product of the number of days in the calendar year and the facility's number of licensed, or if applicable, certified beds on the first day of July of the calendar year in which the fiscal year begins.

A low occupancy nursing facility's low occupancy deduction for a state fiscal year shall equal five per cent of the nursing facility's total per medicaid day payment rate for the state fiscal year identified in division (D) of section 5165.15 of the Revised Code, for the state fiscal year.

This division does not apply to any of the following:

(1) A nursing facility where the beds are owned by a county and the facility is operated by a person other than the county;

(2) A nursing facility that opened during the calendar year preceding the

fiscal year for which the rate is determined or the preceding fiscal year:

(3) A nursing facility that underwent a renovation during the calendar year preceding the fiscal year for which the rate is determined if both of the following apply:

(a) The renovation involved a capital expenditure of one hundred fifty thousand dollars or more, excluding expenditures for equipment;

(b) The renovation included one or more rooms housing beds that are part of the nursing facility's licensed capacity and that were taken out of service for at least thirty days while the rooms were being renovated.

Sec. 5165.26. (A) As used in this section:

(1) "Base rate" means the portion of a nursing facility's total per medicaid day payment rate determined under divisions (A); and (B); ~~and (C)~~ of section 5165.15 of the Revised Code.

(2) "CMS" means the United States centers for medicare and medicaid services.

~~(3) "Force majeure event" means an uncontrollable force or natural disaster not within the power of a nursing facility's operator.~~

~~(4)~~ (4) "Long-stay resident" means an individual who has resided in a nursing facility for at least one hundred one days.

~~(5)~~ (4) "Nursing facilities for which a quality score was determined" includes nursing facilities that are determined to have a quality score of zero.

~~(6)~~ (5) "SFF list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program.

~~(7)~~ (6) "Special focus facility program" means the program conducted by the United States secretary of health and human services pursuant to section 1919(f)(10) of the "Social Security Act," 42 U.S.C. 1396r(f)(10).

(B) ~~For state fiscal year 2022 and state fiscal year 2023, and subject~~ Subject to divisions (D); and (E); ~~and (F)~~; and except as provided in division ~~(G)~~ (F) of this section, the department of medicaid shall determine each nursing facility's per medicaid day quality incentive payment rate as follows:

(1) Determine the sum of the quality scores determined under division (C) of this section for all nursing facilities.

(2) Determine the average quality score by dividing the sum determined under division (B)(1) of this section by the number of nursing facilities for which a quality score was determined.

(3) Determine the sum of the total number of medicaid days for all of the calendar year preceding the fiscal year for which the rate is determined

for all nursing facilities for which a quality score was determined.

(4) Multiply the average quality score determined under division (B)(2) of this section by the sum determined under division (B)(3) of this section.

(5) Determine the value per quality point by determining the quotient of the following:

(a) The sum determined under division ~~(F)(2)~~(E)(2) of this section.

(b) The product determined under division (B)(4) of this section.

(6) Multiply the value per quality point determined under division (B)(5) of this section by the nursing facility's quality score determined under division (C) of this section.

(C)(1) Except as provided in ~~division~~ divisions (C)(2) and (3) of this section, a nursing facility's quality score for a state fiscal year ~~2022 and state fiscal year 2023~~ shall be the sum of the ~~total~~ following:

(a) The total number of points that CMS assigned to the nursing facility under CMS's nursing facility five-star quality rating system for the following quality metrics, or CMS's successor metrics as described below, based on the most recent four-quarter average data, or the average data for fewer quarters in the case of successor metrics, available in the database maintained by CMS and known as nursing home compare in the most recent month of the calendar year during which the fiscal year for which the rate is determined begins:

~~(a)~~(i) The percentage of the nursing facility's long-stay residents at high risk for pressure ulcers who had pressure ulcers;

~~(b)~~(ii) The percentage of the nursing facility's long-stay residents who had a urinary tract infection;

~~(c)~~(iii) The percentage of the nursing facility's long-stay residents whose ability to move independently worsened;

~~(d)~~(iv) The percentage of the nursing facility's long-stay residents who had a catheter inserted and left in their bladder.

If CMS ceases to publish any of the metrics specified in division (C)(1)(a) of this section, the department shall use the nursing facility quality metrics on the same topics that CMS subsequently publishes.

(b) Seven and five-tenths points for fiscal year 2024 and three points for fiscal year 2025 and subsequent fiscal years if the nursing facility's occupancy rate is greater than seventy-five per cent. For purposes of this division, the department shall utilize the facility's occupancy rate for licensed beds reported on its cost report for the calendar year preceding the fiscal year for which the rate is determined or, if the facility is not required to be licensed, the facility's occupancy rate for certified beds. If the facility surrenders licensed or certified beds before the first day of July of the

calendar year in which the fiscal year begins, the department shall calculate a nursing facility's occupancy rate by dividing the inpatient days reported on the facility's cost report for the calendar year preceding the fiscal year for which the rate is determined by the product of the number of days in the calendar year and the facility's number of licensed, or if applicable, certified beds on the first day of July of the calendar year in which the fiscal year begins.

(c) Beginning with state fiscal year 2025, the total number of points that CMS assigned to the nursing facility under CMS's nursing facility five-star quality rating system for the following quality metrics, or successor metrics designated by CMS, based on the most recent four-quarter average data available in the database maintained by CMS and known as nursing home compare in the most recent month of the calendar year during which the fiscal year for which the rate is determined begins:

(i) The percentage of the nursing facility's long-stay residents whose need for help with daily activities has increased;

(ii) The percentage of the nursing facility's long-stay residents experiencing one or more falls with major injury;

(iii) The percentage of the nursing facility's long-stay residents who were administered an antipsychotic medication;

(iv) Adjusted total nurse staffing hours per resident per day using quintiles instead of deciles by using the points assigned to the higher of the two deciles that constitute the quintile.

If CMS ceases to publish any of the metrics specified in division (C)(1)(c) of this section, the department shall use the nursing facility quality metrics on the same topics CMS subsequently publishes.

(2) In determining a nursing facility's quality score for a state fiscal year ~~2022 and state fiscal year 2023~~, the department shall make the following adjustment to the number of points that CMS assigned to the nursing facility for each of the quality metrics specified in ~~division (C)(1)~~ divisions (C)(1)(a) and (c) of this section:

(a) Unless division (C)(2)(b) or (c) of this section applies, divide the number of the nursing facility's points for the quality metric by twenty.

(b) If CMS assigned the nursing facility to the lowest percentile for the quality metric, reduce the number of the nursing facility's points for the quality metric to zero.

(c) If the nursing facility's total number of points calculated for or during a state fiscal year ~~2022 or for state fiscal year 2023~~ for all of the quality metrics specified in ~~division (C)(1)~~ divisions (C)(1)(a), and if applicable, division (C)(1)(c) of this section is less than a number of points

that is equal to the twenty-fifth percentile of all nursing facilities, calculated using the points for the July 1 rate setting of that fiscal year reduce the nursing facility's points to zero ~~for that fiscal year~~. until the next point calculation. If a facility's recalculated points under division (C)(3) of this section are below the number of points determined to be the twenty-fifth percentile for that fiscal year, the facility shall receive zero points for the remainder of that fiscal year.

(3) A nursing facility's quality score shall be ~~zero~~ recalculated for the second half of the state fiscal year 2021 if it is not to receive a quality incentive payment for that state fiscal year because of division (D) of this section based on the most recent four quarter average data, or the average data for fewer quarters in the case of successor metrics, available in the database maintained by CMS and known as the care compare, in the most recent month of the calendar year during which the fiscal year for which the rate is determined begins. The metrics specified by division (C)(1)(b) of this section shall not be recalculated. In redetermining the quality payment for each facility based on the recalculated points, the department shall use the same per point value determined for the quality payment at the start of the fiscal year.

~~(D)(1) Except as provided in division (D)(2) of this section, a nursing facility shall not receive a quality incentive payment for state fiscal year 2021 if the nursing facility's licensed occupancy percentage is less than eighty per cent.~~

~~(2) Division (D)(1) of this section does not apply to a nursing facility if any of the following apply:~~

~~(a) The nursing facility has a quality score under division (C) of this section for state fiscal year 2021 of at least fifteen points;~~

~~(b) The nursing facility was initially certified for participation in the medicaid program on or after January 1, 2019;~~

~~(c) Subject to division (D)(4) of this section, one or more of the beds that are part of the nursing facility's licensed capacity could not be used for resident care during calendar year 2019 due to causes beyond the reasonable control of the nursing facility's operator, including a force majeure event;~~

~~(d) Subject to division (D)(5) of this section, the nursing facility underwent a renovation during the period beginning January 1, 2018, and ending January 1, 2020, to which both of the following apply:~~

~~(i) The renovation involved capital expenditures of at least fifty thousand dollars, excluding expenditures for equipment, staffing, or operational costs.~~

~~(ii) The renovation directly impacted the area of the nursing facility in~~

~~which the beds that are part of the nursing facility's licensed capacity are located.~~

~~(3) A nursing facility's licensed occupancy percentage for the purpose of division (D)(1) of this section shall be determined as follows:~~

~~(a) Determine the product of the following:~~

~~(i) The nursing facility's licensed capacity as of December 31, 2019, as identified on the nursing facility's cost report filed with the department pursuant to section 5165.10 of the Revised Code;~~

~~(ii) Three hundred sixty-five.~~

~~(b) Determine the quotient of the following:~~

~~(i) The total number of the nursing facility's inpatient days for calendar year 2019, as identified on the nursing facility's cost report filed with the department pursuant to section 5165.10 of the Revised Code;~~

~~(ii) The product determined under division (D)(3)(a) of this section.~~

~~(c) Multiply the quotient determined under division (D)(3)(b) of this section by one hundred.~~

~~(4) For a nursing facility to be exempt from division (D)(1) of this section on account of division (D)(2)(e) of this section, the nursing facility's operator must provide to the department written documentation of the number of days during calendar year 2019 that one or more of the beds that are part of the nursing facility's licensed capacity could not be used and the specific reason why they could not be used.~~

~~(5) For a nursing facility to be exempt from division (D)(1) of this section on account of division (D)(2)(d) of this section, the nursing facility's operator must provide to the department written documentation that confirms the renovation and capital expenditures.~~

~~(E)(D)~~ A nursing facility shall not receive a quality incentive payment for state fiscal year 2022 or state fiscal year 2023 if the Department of Health assigned the nursing facility to the SFF list under the special focus facility program and the nursing facility is listed in table A, ~~table B, or table C~~ on the first day of May of the calendar year for which the rate is being determined.

~~(F)(E)~~ The total amount to be spent on quality incentive payments under division (B) of this section for ~~each a~~ fiscal year ~~during state fiscal years 2022 and 2023~~ shall be determined as follows:

~~(1) Determine the following amount for each nursing facility, including those that do not receive a quality incentive payment because of division (D) of this section:~~

~~(a) The amount that is five and two-tenths per cent of the nursing facility's base rate for nursing facility services provided on the first day of~~

the state fiscal year plus one dollar and seventy-nine cents; plus sixty per cent of the per diem amount by which the nursing facility's rate for direct care costs determined for the fiscal year under section 5165.19 of the Revised Code changed as a result of the rebasing conducted under section 5165.36 of the Revised Code.

(b) Multiply the amount determined under division ~~(F)(1)(a)~~(E)(1)(a) of this section by the number of the nursing facility's medicaid days for the calendar year preceding the fiscal year for which the rate is determined.

(2) Determine the sum of the products determined under division ~~(F)(1)(b)~~(E)(1)(b) of this section for all nursing facilities for which the product was determined for the state fiscal year.

(3) To the sum determined under division ~~(F)(2)~~(E)(2) of this section, add ~~twenty-five million dollars for fiscal year 2022 and one hundred twenty-five million dollars for fiscal year 2023.~~

~~(G) A (F)(1) Beginning July 1, 2023, a new nursing facility or a nursing facility that undergoes a change of operator during fiscal year 2022 or fiscal year 2023 shall not receive a quality incentive payment for the fiscal year in which the new facility obtains an initial provider agreement or and the immediately following fiscal year equal to the median quality incentive payment determined for nursing facilities for the fiscal year. For the state fiscal year after the immediately following fiscal year and subsequent fiscal years, the quality incentive payment shall be determined under division (C) of this section.~~

~~(2) A nursing facility that undergoes a change of operator with an effective date of July 1, 2023, or later occurred, whichever July applicable shall not receive a quality incentive payment until the earlier of the first day of January or the first day of July that is at least six months after the effective date of the change of operator. For the immediately following state fiscal year, the Thereafter quality incentive payment shall be determined under division (C) of this section.~~

~~(H) Divisions (C)(3) and (D) of this section are suspended beginning July 1, 2021, and ending June 30, 2023.~~

Sec. 5165.36. ~~The Beginning with state fiscal year 2024, the department of medicaid shall conduct a rebasing at least once every five state fiscal years. When the department conducts a the rebasing for a state fiscal year, it shall conduct the rebasing for only the direct care, ancillary and support, and tax cost centers. A nursing facility provider shall spend money received from the rebasing conducted in state fiscal year 2022 on the direct care, ancillary and support, and tax cost centers only.~~

Sec. 5165.52. (A) On receipt of a written notice under section 5165.50

of the Revised Code of a facility closure or voluntary withdrawal of participation, on receipt of a written notice under section 5165.51 of the Revised Code of a change of operator, or on the effective date of an involuntary termination, the department of medicaid shall estimate the amount of any overpayments made under the medicaid program to the exiting operator, including overpayments the exiting operator disputes, and other actual and potential debts the exiting operator owes or may owe to the department ~~and United States centers for medicare and medicaid services~~ under the medicaid program, including a franchise permit fee.

(B) In estimating the exiting operator's other actual and potential debts to the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program, the department shall use a debt estimation methodology the medicaid director shall establish in rules authorized by section 5165.53 of the Revised Code. The methodology shall provide for estimating all of the following that the department determines are applicable:

(1) Refunds due the department under section 5165.41 of the Revised Code;

(2) Interest owed to the department ~~and United States centers for medicare and medicaid services~~;

(3) ~~Final civil monetary and other penalties for which all right of appeal has been exhausted;~~

(4) Money owed the department ~~and United States centers for medicare and medicaid services~~ from any outstanding final fiscal audit, including a final fiscal audit for the last state fiscal year or portion thereof in which the exiting operator participated in the medicaid program;

~~(5)~~(4) Other amounts the department determines are applicable.

(C) The department shall provide the exiting operator written notice of the department's estimate under division (A) of this section not later than thirty days after whichever of the following applies: the department receives the notice under section 5165.50 of the Revised Code of the facility closure or voluntary withdrawal of participation; the department receives the notice under section 5165.51 of the Revised Code of the change of operator; or the effective date of the involuntary termination. The department's written notice shall include the basis for the estimate.

Sec. 5165.521. (A) Except as provided in divisions (B), (C), and (D) of this section, the department of medicaid may withhold from payment due an exiting operator under the medicaid program the total amount specified in the notice provided under division (C) of section 5165.52 of the Revised Code that the exiting operator owes or may owe to the department ~~and~~

~~United States centers for medicare and medicaid services~~ under the medicaid program.

(B) In the case of a change of operator and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or entering operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program as determined under section 5165.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (B)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5165.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(C) In the case of a voluntary withdrawal of participation or facility closure and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator or an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section:

(1) If the exiting operator or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program as determined under section 5165.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator or affiliated operator assumes liability for only the portion of the amount specified in division (C)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5165.52 of the Revised Code and the amount for which the exiting operator or affiliated operator assumes liability.

(D) In the case of an involuntary termination and subject to division (E) of this section, the following shall apply regarding a withholding under division (A) of this section if the exiting operator, the entering operator, or

an affiliated operator executes a successor liability agreement meeting the requirements of division (F) of this section and the department approves the successor liability agreement:

(1) If the exiting operator, entering operator, or affiliated operator assumes liability for the total, actual amount of debt the exiting operator owes the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program as determined under section 5165.525 of the Revised Code, the department shall not make the withholding.

(2) If the exiting operator, entering operator, or affiliated operator assumes liability for only the portion of the amount specified in division (D)(1) of this section that represents the franchise permit fee the exiting operator owes, the department shall withhold not more than the difference between the total amount specified in the notice provided under division (C) of section 5165.52 of the Revised Code and the amount for which the exiting operator, entering operator, or affiliated operator assumes liability.

(E) For an exiting operator or affiliated operator to be eligible to enter into a successor liability agreement under division (B), (C), or (D) of this section, both of the following must apply:

(1) The exiting operator or affiliated operator must have one or more valid provider agreements, other than the provider agreement for the nursing facility that is the subject of the involuntary termination, voluntary withdrawal of participation, facility closure, or change of operator;

(2) During the twelve-month period preceding either the effective date of the involuntary termination or the month in which the department receives the notice of the voluntary withdrawal of participation or facility closure under section 5165.50 of the Revised Code or the notice of the change of operator under section 5165.51 of the Revised Code, the average monthly medicaid payment made to the exiting operator or affiliated operator pursuant to the exiting operator's or affiliated operator's one or more provider agreements, other than the provider agreement for the nursing facility that is the subject of the involuntary termination, voluntary withdrawal of participation, facility closure, or change of operator, must equal at least ninety per cent of the sum of the following:

(a) The average monthly medicaid payment made to the exiting operator pursuant to the exiting operator's provider agreement for the nursing facility that is the subject of the involuntary termination, voluntary withdrawal of participation, facility closure, or change of operator;

(b) Whichever of the following apply:

(i) If the exiting operator or affiliated operator has assumed liability

under one or more other successor liability agreements, the total amount for which the exiting operator or affiliated operator has assumed liability under the other successor liability agreements;

(ii) If the exiting operator or affiliated operator has not assumed liability under any other successor liability agreements, zero.

(F) A successor liability agreement executed under this section must comply with all of the following:

(1) It must provide for the operator who executes the successor liability agreement to assume liability for either of the following as specified in the agreement:

(a) The total, actual amount of debt the exiting operator owes the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program as determined under section 5165.525 of the Revised Code;

(b) The portion of the amount specified in division (F)(1)(a) of this section that represents the franchise permit fee the exiting operator owes.

(2) It may not require the operator who executes the successor liability agreement to furnish a surety bond.

(3) It must provide that the department, after determining under section 5165.525 of the Revised Code the actual amount of debt the exiting operator owes the department ~~and United States centers for medicare and medicaid services~~ under the medicaid program, may deduct the lesser of the following from medicaid payments made to the operator who executes the successor liability agreement:

(a) The total, actual amount of debt the exiting operator owes the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program as determined under section 5165.525 of the Revised Code;

(b) The amount for which the operator who executes the successor liability agreement assumes liability under the agreement.

(4) It must provide that the deductions authorized by division (F)(3) of this section are to be made for a number of months, not to exceed six, agreed to by the operator who executes the successor liability agreement and the department or, if the operator who executes the successor liability agreement and department cannot agree on a number of months that is less than six, a greater number of months determined by the attorney general pursuant to a claims collection process authorized by statute of this state.

(5) It must provide that, if the attorney general determines the number of months for which the deductions authorized by division (F)(3) of this section are to be made, the operator who executes the successor liability

agreement shall pay, in addition to the amount collected pursuant to the attorney general's claims collection process, the part of the amount so collected that, if not for division (H) of this section, would be required by section 109.081 of the Revised Code to be paid into the attorney general claims fund.

(G) Execution of a successor liability agreement does not waive an exiting operator's right to contest the amount specified in the notice the department provides the exiting operator under division (C) of section 5165.52 of the Revised Code.

(H) Notwithstanding section 109.081 of the Revised Code, the entire amount that the attorney general, whether by employees or agents of the attorney general or by special counsel appointed pursuant to section 109.08 of the Revised Code, collects under a successor liability agreement, other than the additional amount the operator who executes the agreement is required by division (F)(5) of this section to pay, shall be paid to the department of medicaid for deposit into the appropriate fund. The additional amount that the operator is required to pay shall be paid into the state treasury to the credit of the attorney general claims fund created under section 109.081 of the Revised Code.

Sec. 5165.525. The department of medicaid shall determine the actual amount of debt an exiting operator owes the department ~~and the United States centers for medicare and medicaid services~~ under the medicaid program by completing all final fiscal audits not already completed and performing all other appropriate actions the department determines to be necessary. The department shall issue an initial debt summary report on this matter not later than sixty days after the date the exiting operator files the properly completed cost report required by section 5165.522 of the Revised Code with the department or, if the department waives the cost report requirement for the exiting operator, sixty days after the date the department waives the cost report requirement. ~~The initial debt summary report becomes the~~ A final debt summary report shall be issued thirty-one days after the department issues the initial debt summary report unless the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, requests a review before that date.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, may request a review to contest any of the department's findings included in the initial debt summary report. The request for the review must be submitted to the department not later than thirty days after the date the

department issues the initial debt summary report. The department shall conduct the review on receipt of a timely request and issue a revised debt summary report. If the department has withheld money from payment due the exiting operator under division (A) of section 5165.521 of the Revised Code, the department shall issue the revised debt summary report not later than ninety days after the date the department receives the timely request for the review unless the department and exiting operator or affiliated operator agree to a later date. The exiting operator or affiliated operator may submit information to the department explaining what the operator contests before and during the review, including documentation of the amount of any debt the department owes the operator. The exiting operator or affiliated operator may submit additional information to the department not later than thirty days after the department issues the revised debt summary report. ~~The revised debt summary report becomes the~~ A final debt summary report shall be issued thirty-one days after the department issues the revised debt summary report unless the exiting operator or affiliated operator timely submits additional information to the department. If the exiting operator or affiliated operator timely submits additional information to the department, the department shall consider the additional information and issue a final debt summary report not later than sixty days after the department issues the revised debt summary report unless the department and exiting operator or affiliated operator agree to a later date.

Each debt summary report the department issues under this section shall include the department's findings and the amount of debt the department determines the exiting operator owes the department ~~and United States centers for medicare and medicaid services~~ under the medicaid program. The department shall explain its findings and determination in each debt summary report.

The exiting operator, and an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, may request, in accordance with Chapter 119. of the Revised Code, an adjudication regarding a finding in a final debt summary report that pertains to an audit or alleged overpayment made under the medicaid program to the exiting operator. The adjudication shall be consolidated with any other uncompleted adjudication that concerns a matter addressed in the final debt summary report.

Sec. 5165.526. The department of medicaid shall release the actual amount withheld under division (A) of section 5165.521 of the Revised Code, less any amount the exiting operator owes the department ~~and United States centers for medicare and medicaid services~~ under the medicaid

program, as follows:

(A) Unless the department issues the initial debt summary report required by section 5165.525 of the Revised Code not later than sixty days after the date the exiting operator files the properly completed cost report required by section 5165.522 of the Revised Code, sixty-one days after the date the exiting operator files the properly completed cost report;

(B) If the department issues the initial debt summary report required by section 5165.525 of the Revised Code not later than sixty days after the date the exiting operator files a properly completed cost report required by section 5165.522 of the Revised Code, not later than the following:

(1) Thirty days after the deadline for requesting an adjudication under section 5165.525 of the Revised Code regarding the final debt summary report if the exiting operator, and an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, fail to request the adjudication on or before the deadline;

(2) Thirty days after the completion of an adjudication of the final debt summary report if the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, requests the adjudication on or before the deadline for requesting the adjudication.

(C) Unless the department issues the initial debt summary report required by section 5165.525 of the Revised Code not later than sixty days after the date the department waives the cost report requirement of section 5165.522 of the Revised Code, sixty-one days after the date the department waives the cost report requirement;

(D) If the department issues the initial debt summary report required by section 5165.525 of the Revised Code not later than sixty days after the date the department waives the cost report requirement of section 5165.522 of the Revised Code, not later than the following:

(1) Thirty days after the deadline for requesting an adjudication under section 5165.525 of the Revised Code regarding the final debt summary report if the exiting operator, and an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, fail to request the adjudication on or before the deadline;

(2) Thirty days after the completion of an adjudication of the final debt summary report if the exiting operator, or an affiliated operator who executes a successor liability agreement under section 5165.521 of the Revised Code, requests the adjudication on or before the deadline for requesting the adjudication.

Sec. 5165.528. (A) All amounts withheld under section 5165.521 of the

Revised Code from payment due an exiting operator under the medicaid program shall be deposited into the medicaid payment withholding fund created by the controlling board pursuant to section 131.35 of the Revised Code. Money in the fund shall be used as follows:

(1) To pay an exiting operator when a withholding is released to the exiting operator under section 5165.526 or 5165.527 of the Revised Code;

(2) To pay the department of medicaid ~~and United States centers for medicare and medicaid services~~ the amount an exiting operator owes the department ~~and United States centers~~ under the medicaid program.

(B) Amounts paid from the medicaid payment withholding fund pursuant to division (A)(2) of this section shall be deposited into the appropriate department fund.

Sec. 5165.771. (A) As used in this section:

(1) ~~"SFF list" means the list of nursing facilities that the United States department of health and human services creates under the special focus facility program.~~

(2) ~~"Special focus facility program" means the program conducted by the United States secretary of health and human services pursuant to the "Social Security Act," section 1919(f)(10), 42 U.S.C. 1396r(f)(10).~~

(3) ~~"Table A" means the table included in the SFF list that identifies nursing facilities that are newly added to the SFF list.~~

(4) ~~"Table B" means the table included in the SFF list that identifies nursing facilities that have not improved.~~

(5) ~~"Table C" means the table included in the SFF list that identifies nursing facilities that have shown improvement.~~

(6) ~~"Table D" means the table included in the SFF list that identifies nursing facilities that have recently graduated from~~ (2) "Standard health surveys" mean the comprehensive on-site inspections conducted by the department of health on behalf of the United States centers for medicare and medicaid services every six months to evaluate the safety and quality of care provided by a nursing facility as required under the special focus facility program.

(B) The department of medicaid shall issue an order terminating a nursing facility's participation in the medicaid program if ~~any~~ either of the following apply:

(1) ~~The nursing facility is placed in table A or table B and fails to be placed in table C not later than twelve months after the facility is placed in table A or table B.~~

(2) ~~The nursing facility is placed in table A, table B, or table C and fails to be placed in table D not later than twenty four months after the facility is~~

~~placed in table A, table B, or table C.~~

~~(3) The nursing facility is placed in table A and fails to be placed in table C not later than twelve months after the nursing facility is placed in table A graduate from the special focus facility program after two standard health surveys while in the program.~~

~~(4)(2) The nursing facility is placed in table A and fails to be placed in table D not later than twenty-four months after the nursing facility is placed in table A terminated from participation in the medicare or medicaid program by the United States centers for medicare and medicaid services or voluntarily chooses not to continue participation in either of those programs.~~

~~(C) A Except as provided division (C)(1) or (2) of this section, a nursing facility may appeal, under Chapter 119. of the Revised Code, the length of time the facility is listed in a table as described a termination order issued by the department under division (B) of this section. The~~

~~(1) A nursing facility shall not appeal to the department of medicaid any standard health survey findings that form the basis, in whole or in part, for an order issued pursuant to division (B) of this section terminating a nursing facility's participation in the medicaid program. Any challenges to standard health survey findings shall be made to the department of health.~~

~~(2) A nursing facility shall not appeal to the department of medicaid a determination by the United States centers for medicare and medicaid services to terminate a nursing facility's participation in the medicare or medicaid program. Any challenge to such a determination shall be made to the centers for medicare and medicaid services.~~

~~(3) The medicaid director shall adopt rules under section 5165.02 of the Revised Code as necessary to provide for an appeal under this division. Notwithstanding the timeframes listed in section 119.07 of the Revised Code, the rules may provide for an expedited appeal under this division.~~

~~(D) A nursing facility shall take all steps necessary to improve its quality of care to avoid having its participation in the medicaid program terminated pursuant to division (B) of this section. Technical assistance and quality improvement initiatives to help a nursing facility avoid having its participation in the medicaid program terminated pursuant to division (B) of this section are available through the nursing home quality initiative established under section 173.60 of the Revised Code or initiatives offered through a quality improvement organization under contract with the United States secretary of health and human services to carry out in this state the functions described in section 1154 of the "Social Security Act," 42 U.S.C. 1320c-3.~~

Sec. 5165.87. (A) Except as provided in division (B) of this section, the

following remedies are subject to appeal under Chapter 119. of the Revised Code:

(1) An order issued under section 5165.71, 5165.72, 5165.77, or 5165.85 of the Revised Code terminating a nursing facility's participation in the medicaid program;

(2) Appointment of a temporary manager of a facility under division (A)(1)(b) or (2)(b) of section 5165.72, or division (A)(1)(d) of section 5165.77 of the Revised Code;

(3) An order issued under section 5165.72, 5165.73, 5165.74, 5165.77, or 5165.84 of the Revised Code denying medicaid payments to a facility for all medicaid eligible residents admitted after the effective date of the order;

(4) An order issued under section 5165.72, 5165.73, or 5165.74 of the Revised Code denying medicaid payments to a facility for medicaid eligible residents admitted after the effective date of the order who have certain diagnoses or special care needs specified by the department or agency;

(5) A fine imposed under section 5165.72, 5165.73, or 5165.74 of the Revised Code.

(B) The department of medicaid or contracting agency may do any of the following prior to or during the pendency of any proceeding under Chapter 119. of the Revised Code:

(1) Issue and execute an order under section 5165.72, 5165.77, or 5165.85 of the Revised Code terminating a nursing facility's participation in the medicaid program;

(2) Appoint a temporary manager under division (A)(1)(b) or (2)(b) of section 5165.72 or division (A)(1)(d) of section 5165.77 of the Revised Code;

(3) Issue and execute an order under section 5165.72, 5165.73, 5165.77, or 5165.84 of the Revised Code denying medicaid payments to a facility for all medicaid eligible residents admitted after the effective date of the order;

(4) Issue and execute an order under section 5165.72 or 5165.73 or division (A), (B), or (C) of section 5165.74 of the Revised Code denying medicaid payments to a facility for medicaid eligible residents admitted after the effective date of the order who have specified diagnoses or special care needs.

(C) Whenever the department or agency imposes a remedy listed in division (B) of this section prior to or during the pendency of a proceeding, all of the following apply:

(1) The provider against whom the action is taken shall have ten days after the date the facility actually ~~receives the notice specified~~ is served in section accordance with sections 119.05 and 119.07 of the Revised Code to

request a hearing.

(2) The hearing shall commence within thirty days after the date the department or agency receives the provider's request for a hearing.

(3) The hearing shall continue uninterrupted from day to day, except for Saturdays, Sundays, and legal holidays, unless other interruptions are agreed to by the provider and the department or agency.

(4) If the hearing is conducted by a hearing examiner, the hearing examiner shall file a report and recommendations within ten days after the close of the hearing.

(5) The provider shall have five days after the date the hearing officer files the report and recommendations within which to file objections to the report and recommendations.

(6) Not later than fifteen days after the date the hearing officer files the report and recommendations, the medicaid director or the director of the contracting agency shall issue an order approving, modifying, or disapproving the report and recommendations of the hearing examiner.

(D) If the department or agency imposes more than one remedy as the result of deficiencies cited in a single survey, the proceedings for all of the remedies shall be consolidated. If any of the remedies are imposed during the pendency of a hearing, as permitted by division (B) of this section, the consolidated hearing shall be conducted in accordance with division (C) of this section. The consolidation of the remedies for purposes of a hearing does not affect the effective dates prescribed in sections 5165.60 to 2165.85 of the Revised Code.

(E) If a contracting agency conducts administrative proceedings pertaining to remedies imposed under sections 5165.60 to 5165.89 of the Revised Code, the department of medicaid shall not be considered a party to the proceedings.

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" has the same meaning as in section 5167.01

of the Revised Code.

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

"Enrollee" has the same meaning as in section 5167.01 of the Revised Code.

"Expansion eligibility group" has the same meaning as in section 5163.01 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 MCO plan" has the same meaning as in section 5167.01 of the Revised Code.

"Medicaid provider" has the same meaning as in section 5164.01 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 section 1115 or 1915 of the "Social

Security Act," 42 U.S.C. 1315 or 1396n. "Medicaid waiver component" does not include the care management system or services delivered under a prepaid inpatient health plan, as defined in 42 C.F.R. 438.2.

"Medically fragile child" means an individual who is under eighteen years of age, has intensive health care needs, and is considered blind or disabled under section 1614(a)(2) or (3) of the "Social Security Act," 42 U.S.C. 1382c(a)(2) or (3).

"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.

"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. 5166.02. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code governing medicaid waiver components. The rules may establish all of the following:

- (1) Eligibility requirements for the medicaid waiver components;
- (2) The type, amount, duration, and scope of medicaid services the medicaid waiver components cover;
- (3) The conditions under which the medicaid waiver components cover medicaid services;
- (4) The amounts the medicaid waiver components pay for medicaid services or the methods by which the amounts are determined;
- (5) The manners in which the medicaid waiver components pay for medicaid services;
- (6) Safeguards for the health and welfare of medicaid recipients

receiving medicaid services under a medicaid waiver component;

(7) Procedures for prioritizing and approving for enrollment individuals who are eligible for a home and community-based services medicaid waiver component and choose to be enrolled in the component;

(8) Procedures for enforcing the rules, including establishing corrective action plans for, and imposing financial and administrative sanctions on, persons and government entities that violate the rules. Sanctions shall include terminating provider agreements. The procedures shall include due process protections.

(9) Other policies necessary for the efficient administration of the medicaid waiver components.

(B) The director may adopt different rules for the different medicaid waiver components. The rules shall be consistent with the terms of the waiver authorizing the medicaid waiver component.

(C) The following apply to procedures established under division (A)(7) of this section:

(1) Any such procedures established for the medicaid-funded component of the PASSPORT program shall be consistent with section 173.521 of the Revised Code.

(2) Any such procedures established for the medicaid-funded component of the assisted living program shall be consistent with section 173.542 of the Revised Code.

(3) Any such procedures established for the Ohio home care waiver program shall be consistent with section 5166.121 of the Revised Code.

~~(4) Any such procedures established for the unified long term services and support medicaid waiver program shall be consistent with section 5166.141 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 medicaid-funded component of the assisted living program, ~~unless it is terminated pursuant to division (C) of section 173.54 of the Revised Code;~~

(3) The Ohio home care waiver program, ~~unless it is terminated pursuant to section 5166.12 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 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. 5166.30. (A) As used in sections 5166.30 to 5166.3010 of the Revised Code:

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

(2) "Appropriate director" means the following:

(a) The medicaid director in the context of both of the following:

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

(ii) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code.

(b) The director of aging in the context of the medicaid-funded component of the PASSPORT program, ~~unless it is terminated pursuant to division (C) of section 173.52 of the Revised Code.~~

(3) "Authorized representative" means the following:

(a) In the case of a consumer who is a minor, the consumer's parent, custodian, or guardian;

(b) In the case of a consumer who is an adult, an individual selected by the consumer pursuant to section 5166.3010 of the Revised Code to act on

the consumer's behalf for purposes regarding home care attendant services.

(4) "Authorizing health care professional" means a health care professional who, pursuant to section 5166.307 of the Revised Code, authorizes a home care attendant to assist a consumer with self-administration of medication, nursing tasks, or both.

(5) "Consumer" means an individual to whom all of the following apply:

(a) The individual is enrolled in a participating medicaid waiver component.

(b) The individual has a medically determinable physical impairment to which both of the following apply:

(i) It is expected to last for a continuous period of not less than twelve months.

(ii) It causes the individual to require assistance with activities of daily living, self-care, and mobility, including either assistance with self-administration of medication or the performance of nursing tasks, or both.

(c) In the case of an individual who is an adult, the individual is mentally alert and is, or has an authorized representative who is, capable of selecting, directing the actions of, and dismissing a home care attendant.

(d) In the case of an individual who is a minor, the individual has an authorized representative who is capable of selecting, directing the actions of, and dismissing a home care attendant.

(6) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(7) "Custodian" has the same meaning as in section 2151.011 of the Revised Code.

(8) "Gastrostomy tube" means a percutaneously inserted catheter that terminates in the stomach.

(9) "Guardian" has the same meaning as in section 2111.01 of the Revised Code.

(10) "Health care professional" means a physician or registered nurse.

(11) "Home care attendant" means an individual holding a valid provider agreement in accordance with section 5166.301 of the Revised Code that authorizes the individual to provide home care attendant services to consumers.

(12) "Home care attendant services" means all of the following as provided by a home care attendant:

(a) Personal care aide services;

(b) Assistance with the self-administration of medication;

(c) Assistance with nursing tasks.

(13) "Jejunostomy tube" means a percutaneously inserted catheter that terminates in the jejunum.

(14) "Medication" means a drug as defined in section 4729.01 of the Revised Code.

(15) "Minor" means an individual under eighteen years of age.

(16) "Participating medicaid waiver component" means all of the following:

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

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

(c) The integrated care delivery system medicaid waiver component authorized by section 5166.16 of the Revised Code.

(17) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(18) "Practice of nursing as a registered nurse," "practice of nursing as a licensed practical nurse," and "registered nurse" have the same meanings as in section 4723.01 of the Revised Code. "Registered nurse" includes an advanced practice registered nurse, as defined in section 4723.01 of the Revised Code.

(19) "Schedule II," "schedule III," "schedule IV," and "schedule V" have the same meanings as in section 3719.01 of the Revised Code.

(B) Participating medicaid waiver components may cover home care attendant services in accordance with sections 5166.30 to 5166.3010 of the Revised Code and rules adopted under section 5166.02 of the Revised Code.

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 and youth with special health care needs 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. 5166.37. ~~The (A) The~~ medicaid director shall establish a medicaid waiver component under which an individual eligible for medicaid on the basis of being included in the expansion eligibility group must satisfy at least one of the following requirements to be able to enroll in medicaid as

part of the expansion eligibility group:

- ~~(A)~~(1) Be at least fifty-five years of age;
- ~~(B)~~(2) Be employed;
- ~~(C)~~(3) Be enrolled in school or an occupational training program;
- ~~(D)~~(4) Be participating in an alcohol and drug addiction treatment program;
- ~~(E)~~(5) Have intensive physical health care needs or serious mental illness.

(B) Not earlier than February 1, 2025, and not later than March 1, 2025, the director shall seek approval from the United States centers for medicare and medicaid services to implement the medicaid waiver component described in this section.

Sec. 5166.45. (A) As used in this section, "medical assistance program" and "refugee medical assistance program" have the same meanings as in section 5160.01 of the Revised Code.

(B) The medicaid director shall establish a medicaid waiver component to provide continuous medicaid enrollment for children from birth through three years of age. A child who is determined eligible for medical assistance under Title XIX of the "Social Security Act" or child health assistance under Title XXI of the "Social Security Act" shall remain eligible for those benefits until the earlier of:

(1) The end of a period, not to exceed forty-eight months, following the determination;

(2) The date when the individual exceeds four years of age.

(C) The waiver component described in division (B) of this section does not apply to a child who is eligible for a medical assistance program on the basis of being any of the following:

(1) Deemed presumptively eligible for medicaid pursuant to section 5163.101 of the Revised Code;

(2) Eligible for alien emergency medical assistance, as specified in section 1903(v)(2) of the "Social Security Act," 42 U.S.C. 1396b(v)(2);

(3) Eligible for the refugee medical assistance program administered pursuant to section 5160.50 of the Revised Code.

Sec. 5167.12. If prescribed drugs are included in the care management system:

(A) Medicaid MCO plans may include strategies for the management of drug utilization, but any such strategies are subject to the limitations and requirements of this section and the approval of the department of medicaid.

(B) A medicaid MCO plan shall not impose a prior authorization requirement in the case of a drug to which all of the following apply:

(1) The drug is an antidepressant or antipsychotic.
(2) The drug is administered or dispensed in a standard tablet or capsule form, except that in the case of an antipsychotic, the drug also may be administered or dispensed in a long-acting injectable form.

(3) The drug is prescribed by any of the following:

(a) A physician ~~whom the medicaid managed care organization that offers the plan allows to provide care as a psychiatrist through its credentialing process who has registered the physician's psychiatric specialty with the department;~~

(b) A psychiatrist who is practicing at a location on behalf of a community mental health services provider whose mental health services are certified by the department of mental health and addiction services under section 5119.36 of the Revised Code;

(c) A certified nurse practitioner, as defined in section 4723.01 of the Revised Code, who is certified in psychiatric mental health by a national certifying organization approved by the board of nursing under section 4723.46 of the Revised Code;

(d) A clinical nurse specialist, as defined in section 4723.01 of the Revised Code, who is certified in psychiatric mental health by a national certifying organization approved by the board of nursing under section 4723.46 of the Revised Code.

(4) The drug is prescribed for a use that is indicated on the drug's labeling, as approved by the federal food and drug administration.

(C) The department shall authorize a medicaid MCO plan to include a pharmacy utilization management program under which prior authorization through the program is established as a condition of obtaining a controlled substance pursuant to a prescription.

(D) Each medicaid managed care organization and medicaid MCO plan shall comply with sections 5164.091, 5164.10, 5164.7511, 5164.7512, and 5164.7514 of the Revised Code as if the organization were the department and the plan were the medicaid program.

Sec. 5167.35. (A) Consistent with the requirements of the care management system implemented on February 1, 2023, to address medicaid population health and social determinants of health and encourage optimal health and self-sufficiency of medicaid enrollees, the department of medicaid, in collaboration with the department of job and family services, shall develop a program to assist medicaid enrollees with securing meaningful employment.

(B) As part of that program, each medicaid managed care organization shall develop a specialized component of its medicaid MCO plan to provide

referral and support to medicaid enrollees in obtaining and maintaining meaningful employment. Each medicaid managed care organization shall give priority to identified enrollees who are of working age and are able-bodied, or who would benefit from assistance to overcome unemployment or underemployment. In carrying out the requirements of this section, each medicaid managed care organization shall do all of the following:

(1) Identify any barriers that an identified enrollee has to achieving greater financial independence, including the following:

- (a) Education;
- (b) Employment;
- (c) Physical and behavioral health care;
- (d) Transportation;
- (e) Childcare;
- (f) Housing;
- (g) Legal history, including prior conviction of a criminal offense.

(2) Develop state and local relationships that link and refer identified enrollees to assessments, resources, and supports that assist with obtaining and maintaining meaningful employment.

(3) Utilize a standard health risk assessment form established by the medicaid director to identify enrollees to receive assistance under the program established by this section.

(C)(1) Not later than six months after the effective date of this section, the medicaid director and the director of job and family services shall convene a workgroup. The workgroup shall consist of the following members, selected by the directors:

(a) Representatives of the director of opportunities for Ohioans with disabilities, the director of developmental disabilities, and director of mental health and addiction services;

(b) Representatives of the Ohio job and family services directors' association and workforce development agencies;

(c) Representatives of technical, career, and higher education;

(d) Representatives of each medicaid managed care organization;

(e) Representatives of other organizations with expertise and resources involved in career and job development, as determined by the medicaid director and director of job and family services.

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

(a) Identify state and local resources that provide job skills and career development, including available resources to support identified enrollees to seek employment and develop needed skills;

(b) Develop models for local agreements or protocols for collaboration between medicaid managed care organizations and other community agencies;

(c) Identify conflicts among program requirements that should be addressed by state agencies and the general assembly to facilitate identified enrollees' ability to secure and maintain employment.

(D) The medicaid director may do any of the following with respect to the program established under this section:

(1) Establish additional requirements for medicaid managed care organizations;

(2) Create supplemental assessments to assist in identifying barriers to achieving financial independence, in addition to the barriers identified in division (B)(1) of this section;

(3) Adopt rules, in accordance with Chapter 119. of the Revised Code, as necessary to implement these provisions.

(E) The medicaid director and the director of job and family services shall report to the governor, the senate medicaid committee, and any other standing legislative committee having jurisdiction over medicaid regarding the implementation and operation of the program. The directors shall report on a periodic basis during the first year of the program. Thereafter, the directors shall report not less than annually.

Sec. 5168.02. (A) The medicaid director shall adopt rules in accordance with Chapter 119. of the Revised Code for the purpose of administering sections 5168.01 to 5168.14 of the Revised Code, including rules that do all of the following:

(1) Define as a "disproportionate share hospital" any hospital included under the "Social Security Act," section 1923(b), 42 U.S.C. 1396r-4(b), and any other hospital the director determines appropriate;

(2) Prescribe the form for submission of cost reports under section 5168.05 of the Revised Code;

(3) Establish, in accordance with division (A) of section 5168.06 of the Revised Code, the assessment rate or rates to be applied to hospitals under that section;

(4) Establish schedules for hospitals to pay installments on their assessments under section 5168.06 of the Revised Code and for governmental hospitals to pay installments on their intergovernmental transfers under section 5168.07 of the Revised Code;

(5) Establish procedures to notify hospitals of adjustments made under division (B)(2)(b) of section 5168.06 of the Revised Code in the amount of installments on their assessment;

(6) Establish procedures to notify hospitals of adjustments made under division (D) of section 5168.08 of the Revised Code in the total amount of their assessment and to adjust for the remainder of the program year the amount of the installments on the assessments;

(7) Establish, in accordance with section 5168.09 of the Revised Code, the methodology for paying hospitals under that section.

The director shall consult with hospitals when adopting the rules required by divisions (A)(4) and (5) of this section in order to minimize hospitals' cash flow difficulties.

(B) Rules adopted under this section may provide that "total facility costs" excludes costs associated with any of the following:

- (1) Medicaid recipients;
- (2) Recipients of the program for ~~medically handicapped~~ children and youth with special health care needs established under section 3701.023 of the Revised Code;
- (3) Medicare beneficiaries;
- (4) Recipients of Title V of the "Social Security Act," 42 U.S.C. 701 et seq.;

(5) Any other category of costs deemed appropriate by the director in accordance with Title XIX of the "Social Security Act," 42 U.S.C. 1396 et seq., and the rules adopted under that title.

Sec. 5168.14. (A) Each hospital that receives funds distributed under sections 5168.01 to 5168.14 of the Revised Code shall provide, without charge to the individual, basic, medically necessary hospital-level services to individuals who are residents of this state, are not medicaid recipients, and whose income is at or below the federal poverty line. The medicaid director shall adopt rules under section 5168.02 of the Revised Code specifying the hospital services to be provided under this section.

(B) Nothing in this section shall be construed to prevent a hospital from requiring an individual to apply for the medicaid program before the hospital processes an application under this section. Hospitals may bill any third-party payer for services rendered under this section. Hospitals may bill the medicaid program, in accordance with state statutes governing the medicaid program and rules adopted under those statutes, for medicaid services rendered under this section if the individual becomes a medicaid recipient. Hospitals may bill individuals for services under this section if all of the following apply:

- (1) The hospital has an established post-billing procedure for determining the individual's income and canceling the charges if the individual is found to qualify for services under this section.

(2) The initial bill, and at least the first follow-up bill, is accompanied by a written statement that does all of the following:

(a) Explains that individuals with income at or below the federal poverty line are eligible for services without charge;

(b) Specifies the federal poverty line for individuals and families of various sizes at the time the bill is sent;

(c) Describes the procedure required by division (C)(1) of this section.

(3) The hospital complies with any additional rules adopted under section 5168.02 of the Revised Code.

Notwithstanding division (B) of this section, a hospital providing care to an individual under this section is subrogated to the rights of any individual to receive compensation or benefits from any person or governmental entity for the hospital goods and services rendered.

(C) Each hospital shall collect and report to the department of medicaid, in the form and manner prescribed by the department, information on the number and identity of patients served pursuant to this section.

(D) This section applies beginning May 22, 1992, regardless of whether rules specifying the services to be provided have been adopted. Nothing in this section alters the scope or limits the obligation of any governmental entity or program, including the program awarding reparations to victims of crime under sections 2743.51 to 2743.72 of the Revised Code and the program for ~~medically handicapped~~ children and youth with special health care needs established under section 3701.023 of the Revised Code, to pay for hospital services in accordance with state or local law.

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 program for ~~medically handicapped~~ children and youth with special health care needs established under section 3701.023 of the Revised Code;

(iv) 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.

(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 has the same meaning as in section 5165.01 of the Revised Code.~~

(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. 5168.54. (A) There is hereby created in the state treasury the nursing home franchise permit fee fund. All payments and penalties paid by nursing homes and hospitals under sections 5168.47, 5168.48, and 5168.51 of the Revised Code shall be deposited into the fund. The fund shall also consist of money deposited into it pursuant to sections 3769.08 and 3769.26 of the Revised Code. Subject to division (B) of section 3769.08 of the Revised Code, the department of medicaid shall use the money in the fund

to make medicaid payments to providers of nursing facility services and providers of home and community-based services, and to fund expanding the state ombudsman long-term care program and resident and family surveys at the department of aging, the addition of surveyors at the department of health, and to fund quality and consumer information resources. Money in the fund may also be used for the residential state supplement program established under section 5119.41 of the Revised Code.

(B) Any money remaining in the nursing home franchise permit fee fund after payments specified in division (A) of this section are made shall be retained in the fund. Any interest or other investment proceeds earned on money in the fund shall be credited to the fund and used to make medicaid payments in accordance with division (A) of this section.

Sec. 5301.256. (A) As used in this section:

(1) "Agriculture" has the same meaning as in section 1.61 of the Revised Code.

(2) "Agricultural land" means land suitable for use in agriculture and includes water on and upon and air space over and above the land and natural products and deposits that are unsevered from the land.

(3) "Real property" means land and improvements to land and includes water on and upon and air space over and above the land and natural products and deposits that are unsevered from the land.

(4) "Armed forces" has the same meaning as in section 5903.01 of the Revised Code.

(5) "Person" includes all of the following:

(a) Individuals;

(b) Firms, companies, business trusts, estates, trusts, sole proprietorships, partnerships, general partnerships, limited liability companies, associations, corporations, and any other business entities;

(c) Governments other than the government of the United States, its states, subdivisions, territories, or possessions;

(d) Legal or commercial entities, organizations, joint ventures, and nonprofits.

(B)(1) On or after the effective date of this section, no person listed in the registry published by the secretary of state under division (G) of this section, and no agent, trustee, or fiduciary of such a person, shall purchase or otherwise acquire either of the following:

(a) Agricultural land in this state.

(b) Real property within a twenty-five-mile radius of any military base, camp, airport, or similar installation in this state under the jurisdiction of the armed forces.

The above boxed and initialed text was disapproved.

JUL 4, 2023
Date: _____

Mike DeWine

Mike DeWine, Governor

Rmd Rmd
 (2) A person, agent, trustee or fiduciary subject to division (B)(1) of this section that owns or holds agricultural land or real property in this state as described in division (B)(1) (a) or (b) of this section before the effective date of this section may continue to own or hold the agricultural land or real property, but shall not purchase or otherwise acquire additional agricultural land or real property in this state that is subject to the restriction in division (B)(1) of this section unless an exception described in division (C) of this section applies.

Rmd
 (C) The restriction on acquiring agricultural land and real property set forth in division (B)(1) of this section does not apply to any of the following:

Rmd
 (1) Agricultural land and real property acquired by devise or descent. However, a person listed in the registry published by the secretary of state under division (G) of this section, or an agent, trustee, or fiduciary thereof that acquires the agricultural land or real property, or an interest in agricultural land or real property, by devise or descent on or after the effective date of this section shall divest itself of all right, title, and interest in the agricultural land or real property within two years from the date of acquisition.

Rmd Rmd Rmd Rmd Rmd
 (2) Agricultural land or real property that is acquired by a process of law in the collection of debts, by a deed in lieu of foreclosure, pursuant to a forfeiture of a contract for deed, or by any procedure for the enforcement of a lien or claim on the agricultural land or real property, whether created by mortgage or otherwise. However, agricultural land or real property so acquired shall be sold or otherwise disposed of within two years after title is transferred. If agricultural land, pending the sale or disposition, the land shall not be used for any purpose other than agriculture and the land shall not be used for agriculture under lease to an individual, trust, corporation, partnership, or other business entity not subject to the restrictions under division (B)(1) of this section.

Rmd
 (3) An interest in agricultural land that is not restricted under division (B)(1)(b) of this section and that does not exceed one hundred fifty acres, acquired for an immediate or pending use other than agriculture.

Rmd
 (D) A person listed in the registry published by the secretary of state under division (G) of this section, or an agent, trustee, or fiduciary of such a person, shall not transfer title to or interest in agricultural land or real property within a twenty-five-mile radius of any military base, camp, airport, or similar installation in this state under the jurisdiction of the armed forces to another person listed in that registry, or an agent, trustee, or fiduciary thereof, except by devise or descent.

The above boxed and initialed text was disapproved.

Date: July 4, 2023

Mike DeWine

Mike DeWine, Governor

Rmd (E) A person that purchases or otherwise acquires agricultural land *Rmd* or real property in this state described in division (B)(1)(a) or (b) of this section, other than by devise or descent, after the effective date of this section, and that is subsequently added to the registry published by the secretary of state under division (G) of this section, shall divest itself of all right, title, and interest in the agricultural land *Rmd* or real property within two years from the date the person is added to the registry.

Rmd (F)(1) If the secretary of state finds that a person listed on the registry published under division (G) of this section, or an agent, trustee, or fiduciary thereof, has acquired, or holds title to, or interest in, agricultural land *Rmd* or real property in this state in violation of this section, the secretary of state shall report the violation to the attorney general.

Rmd (2) Upon receipt of the report from the secretary of state, the attorney general shall initiate an action in the court of common pleas of any county in which the agricultural land *Rmd* or real property is located seeking relief in accordance with this section. If the agricultural land *Rmd* or real property is located in more than one county, or adjoining tracts of agricultural land *Rmd* or real property are located in more than one county, the county in which the majority of the agricultural land *Rmd* or real property is located shall have territorial jurisdiction over agricultural land *Rmd* or real property that is the subject of the action. The attorney general may initiate an action in the court of common pleas of more than one county, if necessary, in which case, the court of common pleas in that county shall have jurisdiction over the action in matters as it relates to the portion of the agricultural land *Rmd* or real property that is located in that county.

Rmd (3) The attorney general shall file a notice of the pendency of the action with the county recorder of each county in which any of the agricultural land *Rmd* or real property is located.

(4) If the court finds that the agricultural land *Rmd* or real property in question has been acquired or held in violation of this section, it shall do all of the following:

- (a) Enter an order so declaring;
- (b) File a copy of the order with the county recorder of each county in which any portion of the agricultural land *Rmd* or real property is located;
- (c) Declare the agricultural land *Rmd* or real property escheated to the state;
- (d) Order that the escheated agricultural land *Rmd* or real property be sold pursuant to Chapter 2329, of the Revised Code in the same manner as a foreclosure on a mortgage, except that there shall be no opportunity for redemption under section 2329.33 of the Revised Code.

(5) Upon receiving an order under division (F)(4) of this section, the

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Date 4 JUL 2023

Mike DeWine

Mike DeWine, Governor

clerk of the court shall notify the governor that the title to the agricultural land or real property is vested in the state by decree of the court. After the sale, the proceeds of the sale shall be paid as follows:

(a) The proceeds shall first be used to pay court costs related to the action or actions initiated pursuant to division (F)(2) of this section:

(b) The remaining proceeds, if any, shall be paid to the person whose agricultural land or real property escheated, but only in an amount not exceeding the actual cost paid by the person for that agricultural land or real property:

(c) The proceeds remaining after payments have been made pursuant to divisions (F)(5)(a) and (b) of this section shall be paid to the general fund of each county in which the agricultural land or real property is located, proportionally, based on the percentage of the territory located in each county.

(G) The secretary of state shall compile and periodically update a registry of persons that, based on the best information available to the secretary of state, constitute a threat to the agricultural production or military defense of this state, or the United States, if permitted to acquire agricultural land or real property described in division (B)(1)(a) or (b) of this section. The registry shall be published on the secretary of state's web site. The secretary of state shall consult all of the following in compiling the registry:

(1) The list of persons determined to be foreign adversaries by the secretary of commerce of the United States under 15 C.F.R. 7.4;

(2) The terrorist exclusion list compiled by the secretary of state of the United States in consultation with the attorney general of the United States under 8 U.S.C. 1182;

(3) The list of countries determined by the secretary of state of the United States that have repeatedly provided support for acts of international terrorism under 50 U.S.C. 4813(c) and 22 U.S.C. 2780(d);

(4) The list of individual and entities designated by, or in accordance with Executive Order 13224, issued by the president of the United States on September 23, 2021, or Executive Order 13268, issued by the president of the United States on July 2, 2002.

(H) The purpose of establishing the restrictions as set forth in this section is to recognize that the state has a substantial and compelling interest in protecting both its agricultural production and military defense.

Sec. 5301.80. As used in sections 5301.80 to 5301.92 of the Revised Code:

(A) "Activity and use limitations" means restrictions or obligations

The above boxed and initialed text was disapproved.

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created under sections 5301.80 to 5301.92 of the Revised Code with respect to real property.

(B) "Agency" means the environmental protection agency or any other state or federal agency that determines or approves the environmental response project pursuant to which an environmental covenant is created.

(C) "Common interest community" means a condominium, a cooperative, or other real property with respect to which a person, by virtue of the person's ownership of a parcel of real property, is obligated to pay property taxes or insurance premiums or to pay for maintenance or improvement of other real property described in a recorded covenant that creates the common interest community.

(D) "Environmental covenant" means a servitude arising under an environmental response project that imposes activity and use limitations and that meets the requirements established in section 5301.82 of the Revised Code.

(E) "Environmental response project" means a plan or work performed for environmental remediation of real property or for protection of ecological features associated with real property and conducted as follows:

(1) Under a federal or state program governing environmental remediation of real property that is subject to agency review or approval, including property that is the subject of any of the following:

(a) A corrective action, closure, or post-closure pursuant to the "Resource Conservation and Recovery Act of 1976," 90 Stat. 2806, 42 U.S.C.A. 6921, et seq., as amended, or any regulation adopted under that act, or Chapter 3714. or 3734. of the Revised Code or any rule adopted under those chapters, including the use or reservation of soil to be used in the performance of the corrective action, closure, or post-closure care;

(b) A removal or remedial action pursuant to the "Comprehensive Environmental Response, Compensation, and Liability Act of 1980," 94 Stat. 2767, 42 U.S.C.A. 9601, et seq., as amended, or any regulation adopted under that act, or Chapter 3734. or 6111. of the Revised Code or any rule adopted under those chapters;

(c) A no further action letter submitted with a request for a covenant not to sue pursuant to section 3746.11 of the Revised Code;

~~(d) A no further action letter prepared pursuant to section 122.654 of the Revised Code;~~

~~(e)~~ A corrective action pursuant to section 3737.88, 3737.882, or 3737.89 of the Revised Code or any rule adopted under those sections.

(2) Pursuant to a mitigation requirement associated with the section 401 water quality certification program or the isolated wetland program as

required by Chapter 6111. of the Revised Code;

(3) Pursuant to a grant commitment or loan agreement entered into pursuant to section 6111.036 or 6111.037 of the Revised Code;

(4) Pursuant to a supplemental environmental project embodied in orders issued by the director of environmental protection pursuant to Chapter 6111. of the Revised Code.

(F) "Holder" means a grantee of an environmental covenant as specified in division (A) of section 5301.81 of the Revised Code.

(G) "Person" includes the state, a political subdivision, another state or local entity, the United States and any agency or instrumentality of it, and any legal entity defined as a person under section 1.59 of the Revised Code.

(H) "Record," when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 5301.90. (A) An environmental covenant may be amended or terminated by consent only if the amendment or termination is signed by all of the following:

- (1) The applicable agency;
- (2) Unless waived by that agency, the current owner of the fee simple of the real property that is subject to the environmental covenant;
- (3) Each person that originally signed the environmental covenant unless the one or more of the following apply:
 - (a) The person waived in a signed record the right to consent or a;
 - (b) A court finds that the person no longer exists or cannot be located or identified with the exercise of reasonable diligence;
 - (c) The applicable agency finds that the signature of the person is not necessary.
- (4) Except as otherwise provided in division (D)(2) of this section, each holder.

(B) If an interest in real property is subject to an environmental covenant, the interest is not affected by an amendment of the environmental covenant unless the current owner of the interest consents in writing to the amendment or has waived in a signed record the right to consent to amendments.

(C) Except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment of the environmental covenant.

(D) Except as otherwise provided in an environmental covenant, both of the following apply:

- (1) A holder may not assign its interest without consent of the other

parties to the environmental covenant specified in division (A) of this section.

(2) A holder may be removed and replaced by agreement of the other parties specified in division (A) of this section.

(E) A court of competent jurisdiction may fill a vacancy in the position of holder.

Sec. 5301.91. (A) A civil action for injunctive or other equitable relief for violation of an environmental covenant may be maintained by any of the following:

(1) A party to the environmental covenant specified in division (A) of section 5301.90 of the Revised Code that is not otherwise specified in divisions (A)(2) to ~~(6)~~(7) of this section;

(2) The environmental protection agency;

(3) The applicable agency if it is other than the environmental protection agency;

(4) Any person to whom the environmental covenant expressly grants the authority to maintain such an action;

(5) A person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the environmental covenant;

(6) A unit of local government in which the real property that is subject to the environmental covenant is located;

(7) An original signatory of the environmental covenant who is no longer an owner of the real property that is subject to the environmental covenant in fee simple.

(B) Sections 5301.80 to 5301.92 of the Revised Code do not limit the regulatory authority of the applicable agency or the environmental protection agency if it is not the applicable agency under any law other than sections 5301.80 to 5301.92 of the Revised Code with respect to an environmental response project.

(C) A person is not responsible for or subject to liability for environmental remediation solely because it has the right to enforce an environmental covenant.

Sec. 5301.94. (A) As used in this section, "right-to-list home sale agreement" has the same meaning as in section 4735.01 of the Revised Code.

(B) A right-to-list home sale agreement executed, modified, or extended after the effective date of this section is void ab initio and unenforceable.

(C) A right-to-list home sale agreement described in division (B) of this section is an unfair or deceptive act or practice in violation of section

1345.02 of the Revised Code. A residential real estate owner that enters into such a right-to-list home sale agreement has a cause of action against any other party to that agreement and is entitled to the same relief available to a consumer under section 1345.09 of the Revised Code. All powers and remedies available to the attorney general to enforce sections 1345.01 to 1345.13 of the Revised Code are available to the attorney general to enforce this section.

(D) No person shall present for recording, or cause to be presented for recording, by the county recorder in the official records under section 317.08 of the Revised Code a right-to-list home sale agreement described in division (B) of this section.

(E) An owner of residential real estate for which a right-to-list home sale agreement is recorded in violation of division (D) of this section may petition the court of common pleas of the county in which the right-to-list home sale agreement is recorded to declare the agreement void ab initio and unenforceable. If the court determines that the agreement is a right-to-list home sale agreement, a certified copy of the court order, with a complete legal description of the parcel, declaring the agreement void ab initio and unenforceable shall be recorded in the office of the county recorder. The county recorder shall record the order and charge and collect from the person filing the order the fees prescribed in section 317.32 of the Revised Code for the recorder's services. If the court grants the order, the owner may recover actual damages, costs, and attorney's fees from the person that recorded, or caused to be recorded, the right-to-list home sale agreement.

Sec. 5321.01. As used in this chapter:

(A) "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

(B) "Landlord" means the owner, lessor, or sublessor of residential premises, the agent of the owner, lessor, or sublessor, or any person authorized by the owner, lessor, or sublessor to manage the premises or to receive rent from a tenant under a rental agreement.

(C) "Residential premises" means a dwelling unit for residential use and occupancy and the structure of which it is a part, the facilities and appurtenances in it, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised the tenant. "Residential premises" includes a dwelling unit that is owned or operated by a college or university. "Residential premises" does not include any of the following:

(1) Prisons, jails, workhouses, and other places of incarceration or correction, including, but not limited to, halfway houses or residential arrangements that are used or occupied as a requirement of a community

control sanction, a post-release control sanction, or parole;

(2) Hospitals and similar institutions with the primary purpose of providing medical services, and homes licensed pursuant to Chapter 3721. of the Revised Code;

(3) Tourist homes, hotels, motels, recreational vehicle parks, recreation camps, combined park-camps, temporary park-camps, and other similar facilities where circumstances indicate a transient occupancy;

(4) Elementary and secondary boarding schools, where the cost of room and board is included as part of the cost of tuition;

(5) Orphanages and similar institutions;

(6) Farm residences furnished in connection with the rental of land of a minimum of two acres for production of agricultural products by one or more of the occupants;

(7) Dwelling units subject to ~~sections 3733.41 to 3733.49~~ Chapter 3733. of the Revised Code;

(8) Occupancy by an owner of a condominium unit;

(9) Occupancy in a facility licensed as an SRO facility pursuant to Chapter 3731. of the Revised Code, if the facility is owned or operated by an organization that is exempt from taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, or by an entity or group of entities in which such an organization has a controlling interest, and if either of the following applies:

(a) The occupancy is for a period of less than sixty days.

(b) The occupancy is for participation in a program operated by the facility, or by a public entity or private charitable organization pursuant to a contract with the facility, to provide either of the following:

(i) Services licensed, certified, registered, or approved by a governmental agency or private accrediting organization for the rehabilitation of persons with mental illnesses, persons with developmental disabilities, adults or juveniles convicted of criminal offenses, or persons experiencing substance abuse;

(ii) Shelter for juvenile runaways, victims of domestic violence, or homeless persons.

(10) Emergency shelters operated by organizations exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 501, as amended, for persons whose circumstances indicate a transient occupancy, including homeless people, victims of domestic violence, and juvenile runaways.

(D) "Rental agreement" means any agreement or lease, written or oral, which establishes or modifies the terms, conditions, rules, amount of rent

charged or paid, or any other provisions concerning the use and occupancy of residential premises by one of the parties.

(E) "Security deposit" means any deposit of money or property to secure performance by the tenant under a rental agreement.

(F) "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

(G) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(H) "Student tenant" means a person who occupies a dwelling unit owned or operated by the college or university at which the person is a student, and who has a rental agreement that is contingent upon the person's status as a student.

(I) "Recreational vehicle park," "recreation camp," "combined park-camp," and "temporary park-camp" have the same meanings as in section 3729.01 of the Revised Code.

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

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

(L) "School premises" has the same meaning as in section 2925.01 of the Revised Code.

(M) "Sexually oriented offense" and "child-victim oriented offense" have the same meanings as in section 2950.01 of the Revised Code.

(N) "Preschool or child day-care center premises" has the same meaning as in section 2950.034 of the Revised Code.

(O) "Rent control" means requiring below-market rents for residential premises or controlling rental rates for residential premises in any manner, including by prohibiting rent increases, regulating rental rate changes between tenancies, limiting rental rate increases, regulating the rental rates of residential premises based on income or wealth of tenants, and other forms of restraint or limitation of rental rates.

(P) "Rent stabilization" means allowing rent increases for residential premises of a fixed amount or on a fixed schedule as set by a political subdivision.

(Q) "Political subdivision" means a county, township, municipal corporation, or any other body corporate and politic that is responsible for government activities in a geographic area smaller than that of the state.

Sec. 5322.01. As used in ~~sections 5322.01 to 5322.05 of the Revised Code~~ this chapter:

(A) "Self-service storage facility" means any real property that is designed and used only for the purpose of renting or leasing individual storage space in the facility under the following conditions:

(1) The occupants have access to the storage space only for the purpose of storing and removing personal property.

(2) The owner does not issue a warehouse receipt, bill of lading, or other document of title, as defined in section 1301.201 of the Revised Code, for the personal property stored in the storage space.

"Self-service storage facility" does not include any garage used principally for parking motor vehicles, any garage or storage area in a private residence, an establishment licensed pursuant to sections 915.14 to 915.24 of the Revised Code, or any property of a bank or savings and loan association that contains vaults, safe deposit boxes, or other receptacles for the uses, purposes, and benefits of the bank's or savings and loan association's customers.

(B) "Owner" means a person that is the owner or operator of a self-service storage facility, the lessor or sublessor of an entire self-service storage facility, the agent of any of the foregoing, or any other person authorized by any of the foregoing to manage the facility or to receive rent from an occupant pursuant to a rental agreement.

(C) "Occupant" means a person that rents storage space at a self-service storage facility pursuant to a rental agreement that the person enters into with the owner.

(D) "Rental agreement" means any written agreement that is entered into by the owner and the occupant and that establishes the terms and conditions of the occupant's use of storage space at a self-service storage facility.

(E) "Personal property" means money and every animate or inanimate tangible thing that is the subject of ownership, except anything forming part of a parcel of real estate, as defined in section 5701.02 of the Revised Code, and except anything that is an agricultural commodity, as defined in division (A) of section 926.01 of the Revised Code.

(F) "Late fee" means any fee or charge assessed for an occupant's failure to pay rent when due. "Late fee" does not include interest on a debt, reasonable expenses incurred in the collection of unpaid rent, or costs associated with the enforcement of any other remedy provided by statute or contract.

(G) "Last known address" means either of the following:

(1) The mailing address provided by the occupant in the most recent rental agreement or the mailing address provided by the occupant in a

subsequent written notice of a change of address;

(2) The mailing address of any of the persons described in division (A) of section 5322.03 of the Revised Code that is provided by any of those persons to the owner of a self-service storage facility or that is discovered by the owner of a self-service storage facility.

Sec. 5322.06. (A) Except as otherwise provided in this section, if the rental agreement entered into between the owner and the occupant contains a provision placing a limit on the value of personal property that may be stored in the occupant's storage space, that limit is the maximum value of the stored property, provided that the provision is printed in bold type or underlined in the rental agreement.

(B) A limit on the value of personal property under division (A) of this section shall not be less than one thousand dollars.

(C) The rental agreement may provide that the occupant may increase the limit on the value of property with the written permission of the owner.

(D) Nothing in a rental agreement shall limit an occupant's claim for damages based on the loss or destruction of personal property stored in the occupant's storage space, when those damages are the result of negligence by, or on behalf of the owner.

Sec. 5502.262. (A) As used in this section:

(1) "Administrator" means the superintendent, principal, chief administrative officer, or other person having supervisory authority of any of the following:

(a) A city, exempted village, local, or joint vocational school district;

(b) A community school established under Chapter 3314. of the Revised Code, as required through reference in division (A)(11)(d) of section 3314.03 of the Revised Code;

(c) A STEM school established under Chapter 3326. of the Revised Code, as required through reference in section 3326.11 of the Revised Code;

(d) A college-preparatory boarding school established under Chapter 3328. of the Revised Code;

(e) A district or school operating a career-technical education program approved by the department of education under section 3317.161 of the Revised Code;

(f) A chartered nonpublic school;

(g) An educational service center;

(h) A preschool program or school-age child care program licensed by the department of education;

(i) Any other facility that primarily provides educational services to children subject to regulation by the department of education.

(2) "Emergency management test" means a regularly scheduled drill, exercise, or activity designed to assess and evaluate an emergency management plan under this section.

(3) "Building" means any school, school building, facility, program, or center.

(4) "Regional mobile training officer" means the regional mobile training officer appointed under section 5502.70 of the Revised Code for the region in which a district, school, center, program, or facility is located.

(B)(1) Each administrator shall develop and adopt a comprehensive emergency management plan, in accordance with rules adopted pursuant to division (F) of this section, for each building under the administrator's control. The administrator shall examine the environmental conditions and operations of each building to determine potential hazards to student and staff safety and shall propose operating changes to promote the prevention of potentially dangerous problems and circumstances. In developing the plan for each building, the administrator shall involve community law enforcement and safety officials, parents of students who are assigned to the building, and teachers and nonteaching employees who are assigned to the building. The administrator may involve the regional mobile training officer in the development of the plan. The administrator shall incorporate remediation strategies into the plan for any building where documented safety problems have occurred.

(2) Each administrator shall also incorporate into the emergency management plan adopted under division (B)(1) of this section all of the following:

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

(b) A protocol for responding to any emergency events that occur and compromise the safety of property, students, employees, or administrators. This protocol shall include, but not be limited to, all of the following:

(i) A floor plan that is unique to each floor of the building;

(ii) A site plan that includes all building property and surrounding property;

(iii) An emergency contact information sheet.

(c) A threat assessment plan developed as prescribed in section 5502.263 of the Revised Code. A building may use the model plan developed by the department of public safety under that section;

(d) A protocol for school threat assessment teams established under section 3313.669 of the Revised Code.

(3) Each protocol described in division (B) of this section shall include

procedures determined to be appropriate by the administrator for responding to threats and emergency events, respectively, including such things as notification of appropriate law enforcement personnel, calling upon specified emergency response personnel for assistance, and informing parents of affected students.

Prior to the opening day of each school year, the administrator shall inform each student or child enrolled in the school and the student's or child's parent of the parental notification procedures included in the protocol.

(4) Each administrator shall keep a copy of the emergency management plan adopted pursuant to this section in a secure place.

(C)(1) The administrator shall submit to the director of public safety, in accordance with rules adopted pursuant to division (F) of this section, an electronic copy of the emergency management plan prescribed by division (B) of this section not less than once every three years, whenever a major modification to the building requires changes in the procedures outlined in the plan, and whenever information on the emergency contact information sheet changes.

(2) The administrator also shall file a copy of the plan with each law enforcement agency that has jurisdiction over the school building and, upon request, to any of the following:

(a) The fire department that serves the political subdivision in which the building is located;

(b) The emergency medical service organization that serves the political subdivision in which the building is located;

(c) The county emergency management agency for the county in which the building is located;

(d) The regional mobile training officer.

(3) Upon receipt of an emergency management plan, the director shall post the information on the contact and information management system and submit the information in accordance with rules adopted pursuant to division (F) of this section, to the attorney general, who shall post that information on the Ohio law enforcement gateway or its successor.

(4) Any department or entity to which copies of an emergency management plan are filed under this section shall keep the copies in a secure place.

(D)(1) Not later than the first day of ~~July~~ September of each year, each administrator shall review the emergency management plan and certify to the director that the plan is current and accurate.

(2) Anytime that an administrator updates the emergency management

plan pursuant to division (C)(1) of this section, the administrator shall file copies, not later than the tenth day after the revision is adopted and in accordance with rules adopted pursuant to division (F) of this section, to the director and to any entity with which the administrator filed a copy under division (C)(2) of this section.

(E) Each administrator shall do both of the following:

(1) Prepare and conduct at least one annual emergency management test, as defined in division (A)(2) of this section, in accordance with rules adopted pursuant to division (F) of this section;

(2) Grant access to each building under the control of the administrator to law enforcement personnel and to entities described in division (C)(2) of this section, to enable the personnel and entities to hold training sessions for responding to threats and emergency events affecting the building, provided that the access occurs outside of student instructional hours and the administrator, or the administrator's designee, is present in the building during the training sessions.

(F) The director of public safety, in consultation with representatives from the education community and in accordance with Chapter 119. of the Revised Code, shall adopt rules regarding emergency management plans under this section, including the content of the plans and procedures for filing the plans. The rules shall specify that plans and information required under division (B) of this section be submitted on standardized forms developed by the director for such purpose. The rules shall also specify the requirements and procedures for emergency management tests conducted pursuant to division (E)(1) of this section. Failure to comply with the rules may result in discipline pursuant to section 3319.31 of the Revised Code or any other action against the administrator as prescribed by rule.

(G) Division (B) of section 3319.31 of the Revised Code applies to any administrator who is subject to the requirements of this section and is not exempt under division (H) of this section and who is an applicant for a license or holds a license from the state board of education pursuant to section 3319.22 of the Revised Code.

(H)(1) The director may exempt any administrator from the requirements of this section, if the director determines that the requirements do not otherwise apply to a building or buildings under the control of that administrator.

(2) The director shall exempt from the requirements of this section the administrator of an online learning school, established under section 3302.42 of the Revised Code, unless students of that school participate in in-person instruction or assessments at a location that is not covered by an

existing emergency management plan, developed under this section as of December 14, 2021.

(I) Copies of the emergency management plan, including all records related to the plan, emergency management tests, and information required under division (B) of this section are security records and are not public records pursuant to section 149.433 of the Revised Code. In addition, the information posted to the contact and information management system, pursuant to division (C)(3)(b) of this section, is exempt from public disclosure or release in accordance with sections 149.43, 149.433, and 5502.03 of the Revised Code.

Notwithstanding section 149.433 of the Revised Code, a floor plan filed with the attorney general pursuant to this section is not a public record to the extent it is a record kept by the attorney general.

Sec. 5502.69. (A) There is hereby created the Ohio narcotics intelligence center in the department of public safety. The center shall operate as a division within the department.

(B) The director of public safety shall appoint an executive director of the center. The executive director shall serve at the discretion of the director of public safety. The executive director shall advise the governor and the director of public safety on matters pertaining to illegal drug activities. To carry out the duties assigned under this section, the executive director, subject to the direction and control of the director of public safety, may appoint and maintain necessary staff and may enter into any necessary agreements.

(C) The center shall do all of the following:

(1) Coordinate law enforcement response to illegal drug activities for state agencies and act as a liaison between state agencies and local entities for the purposes of communicating counter-drug policy initiatives;

(2) Collect, analyze, maintain, and disseminate information to support local, state, and federal law enforcement agencies, other government agencies, and private organizations in detecting, deterring, preventing, preparing for, prosecuting, and responding to illegal drug activities. The records received and created are confidential law enforcement investigatory records pursuant to section 149.43 of the Revised Code.

(3) Develop and coordinate policies, protocols, and strategies that may be used by local, state, and private organizations to detect, deter, prevent, prepare for, prosecute, and respond to illegal drug activities;

(4) Develop, update, and coordinate the implementation of an Ohio drug control strategy to guide state and local governments and public agencies.

Sec. 5512.07. (A) There is hereby created the transportation review

RMD

The above boxed and initialed text was disapproved.

JUL 3, 2023
Date:



Mike DeWine, Governor

advisory council. No member of the general assembly shall be a member of the council. The council shall consist of ~~nine~~ ten members, one of whom is the director of transportation who is a nonvoting member. ~~Six members shall be appointed by the~~ The governor shall appoint five members with the advice and consent of the senate. ~~One member shall be appointed by the~~ The speaker of the house of representatives shall appoint two members and ~~one member shall be appointed by the~~ president of the senate shall appoint two members. In making their appointments, the governor, the speaker of the house of representatives, and the president of the senate shall consult with each other so that of the total number of ~~eight~~ nine appointed members, at least two are affiliated with the major political party not represented by the governor. In making the governor's appointments, the governor shall appoint persons who reside in different geographic areas of the state. ~~Within ninety days after June 30, 1997, the governor, speaker, and president shall make the initial appointments to the council.~~

Appointed members shall have no conflict of interest with the position. For purposes of this section, "conflict of interest" means taking any action that violates any provision of Chapter 102. or 2921. of the Revised Code.

Each of the members the governor appoints shall have experience either in the area of transportation or in that of business or economic development.

One such member shall be selected from a list of five names provided by the Ohio public expenditure council.

(B) ~~Of the governor's initial appointments made to the council, one shall be for a term ending one year after June 30, 1997, one shall be for a term ending two years after June 30, 1997, one shall be for a term ending four years after June 30, 1997, and one shall be for a term ending five years after June 30, 1997. Within ninety days after September 16, 1998, the governor shall make two appointments to the council. Of these appointments, one shall be for a term ending June 30, 2001, and one shall be for a term ending June 30, 2002. The speaker's and president's initial appointments made to the council shall be for a term ending three years after June 30, 1997. Thereafter, all~~ All terms of office, including the terms for those persons who are appointed to succeed the persons whose appointments are made within ~~ninety days after September 16, 1998, shall be~~ are for five years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Members may be reappointed. Vacancies shall be filled in the manner provided for original appointments. Any member appointed to fill another member's unexpired term shall hold office for the remainder of that unexpired term. A member

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Date: July 3, 2023



Mike DeWine, Governor

shall continue in office subsequent to the expiration of the member's term until the member's successor takes office.

(C) The director of transportation is the chairperson of the council.

Sec. 5537.17. (A) Each turnpike project open to traffic shall be maintained and kept in good condition and repair by the Ohio turnpike and infrastructure commission. The Ohio turnpike system shall be policed and operated by a force of police, toll collectors, and other employees and agents that the commission employs or contracts for.

(B) All public or private property damaged or destroyed in carrying out the powers granted by this chapter shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation or consideration made therefor out of moneys provided under this chapter.

(C) All governmental agencies may lease, lend, grant, or convey to the commission at its request, upon terms that the proper authorities of the governmental agencies consider reasonable and fair and without the necessity for an advertisement, order of court, or other action or formality, other than the regular and formal action of the authorities concerned, any property that is necessary or convenient to the effectuation of the purposes of the commission, including public roads and other property already devoted to public use.

(D) Each bridge constituting part of a turnpike project shall be inspected at least once each year by a professional engineer employed or retained by the commission.

(E) The commission shall cause an audit of its books and accounts to be made at least once each year by certified public accountants approved by the auditor of state, and the cost thereof may be treated as a part of the cost of operations of the commission. Additionally, the auditor of state, at least once every other year, shall audit the accounts and transactions of the commission. On or before the first day of July in each year, the commission shall submit ~~a~~ an annual comprehensive ~~annual~~ financial report containing its audited financial statements for the preceding calendar year to the governor, the general assembly, and the director of budget and management. Each such report shall set forth a complete operating and financial statement covering the commission's operations and funding of any turnpike projects and infrastructure projects during the year.

(F) The commission shall submit a copy of ~~its~~ its proposed annual budget for each calendar or fiscal year to the governor, the presiding officers of each house of the general assembly, the director of budget and management, and the legislative service commission no later than the first day of that calendar or fiscal year.

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disapproved.

July 3, 2023
Date: _____

Mike DeWine

Mike DeWine, Governor

(G) Upon request of the chairperson of the appropriate standing committee or subcommittee of the senate and house of representatives that is primarily responsible for considering transportation budget matters, the commission shall appear at least one time before each committee or subcommittee during the period when that committee or subcommittee is considering the biennial appropriations for the department of transportation and shall provide testimony outlining its budgetary results for the last two calendar years, including a comparison of budget and actual revenue and expenditure amounts. The commission also shall address its current budget and long-term capital plan.

(H) Not more than sixty nor less than thirty days before adopting its annual budget, the commission shall submit a copy of its proposed annual budget to the governor, the presiding officers of each house of the general assembly, the director of budget and management, and the legislative service commission. The office of budget and management shall review the proposed budget and may provide recommendations to the commission for its consideration.

Sec. 5549.21. The board of township trustees may purchase or lease such machinery and tools as are necessary for use in constructing, reconstructing, maintaining, and repairing roads and culverts within the township, and shall provide suitable places for housing and storing machinery and tools owned by the township. It may purchase such material and employ such labor as is necessary for carrying into effect this section, or it may authorize the purchase or employment of such material and labor by one of its number, or by the township highway superintendent, at a price to be fixed by the board. All payments on account of machinery, tools, material, and labor shall be made from the township road fund. Except as otherwise provided in sections 505.08, 505.101, and 5513.01 of the Revised Code, all purchases of materials, machinery, and tools shall, if the amount involved exceeds ~~fifty thousand dollars~~ the amount specified in section 9.17 of the Revised Code, be made from the lowest responsible bidder after advertisement, as provided in section 5575.01 of the Revised Code.

If, in compliance with section 505.10 of the Revised Code, the board wishes to sell machinery, equipment, or tools owned by the township to the person from whom it is to purchase other machinery, equipment, or tools, the board may offer, if the amount of the purchase alone involved does not exceed ~~fifty thousand dollars~~ the amount specified in section 9.17 of the Revised Code, to sell such machinery, equipment, or tools and have the amount credited by the vendor against the purchase of the other machinery, equipment, or tools. If the purchase price of the other machinery, equipment,

or tools alone exceeds ~~fifty thousand dollars~~ the amount specified in section 9.17 of the Revised Code, the board may give notice to the competitive bidders of its willingness to accept offers for the purchase of the old machinery, equipment, or tools, and those offers shall be subtracted from the selling price of the other machinery, equipment, or tools as bid, in determining the lowest responsible bidder. Notice of the willingness of the board to accept offers for the purchase of the old machinery, equipment, or tools shall be made as a part of the advertisement for bids.

Sec. 5555.61. After the board of county commissioners decides to proceed with the improvement, it shall do so in accordance with sections 307.86 to 307.92 of the Revised Code. No contract for any improvement shall be awarded at a price more than ~~ten~~ twenty per cent in excess of the estimated cost.

Sec. 5595.01. As used in this chapter:

(A) "Regional transportation improvement project" or "project" means a regional transportation improvement project undertaken pursuant to section 5595.02 of the Revised Code.

(B) "Transportation improvement" ~~or "improvement"~~ means the construction, repair, maintenance, or expansion of streets, highways, parking facilities, rail tracks and necessarily related rail facilities, bridges, tunnels, overpasses, underpasses, interchanges, approaches, culverts, and other means of transportation, and the erection and maintenance of traffic signs, markers, lights, and signals.

(C) "Opportunity corridor improvement" means a public infrastructure improvement, as defined by section 5709.40 of the Revised Code, the primary purpose of which is to enhance or assist one or more transportation improvements or to create or facilitate economic development opportunities described in the memorandum of understanding or to otherwise benefit real property located, or businesses that are operating or will operate, within the development area, and that is funded at least in part with private funds. "Opportunity corridor improvement" includes the establishment, acquisition, ownership, control, management, sale, or transfer of a business under division (E) of section 5595.041 of the Revised Code.

(D) "Development area" means all parcels of real property located within two thousand five hundred feet of the outermost boundary of the right-of-way associated with any transportation improvement or economic development opportunity described in the memorandum of understanding. For the purpose of this division, a parcel is located within two thousand five hundred feet of the right-of-way if the distance between any portion of the parcel and any portion of the right-of-way is two thousand five hundred feet

or less.

(E) "Right-of-way" means land, property, or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation or economic development purposes. "Right-of-way" includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the state or local authority.

(F) "Qualified RTIP" means a regional transportation improvement project undertaken before the effective date of this amendment.

(G) "Memorandum of understanding" means a memorandum of understanding between the governing board of a qualified RTIP and the department of transportation under section 5595.041 of the Revised Code.

Sec. 5595.03. (A) A resolution of a board of county commissioners undertaking a regional transportation improvement project must include a cooperative agreement containing all of the following:

(1) A description or analysis of the deficiencies of the existing transportation system in the counties participating in the project and of projected needs or deficiencies of the system in ensuing years under reasonable assumptions about development, population trends, and other factors affecting transportation infrastructure in the counties;

(2) A comprehensive list of the transportation improvements to be completed as part of the project, including a general description of each improvement, schedules of the projected beginning and end of each improvement, and the estimated cost of each improvement;

(3) Directives regarding the operations and reporting requirements of the governing board;

(4) Subject to division ~~(E)~~(F) of this section, the period for which the agreement is to be in effect;

(5) Any other terms the board of county commissioners considers necessary or conducive to communicate the intentions of the cooperative agreement and to ensure its effective implementation by the governing board.

(B) The governing board of a qualified RTIP may negotiate and enter into a memorandum of understanding concerning the completion of opportunity corridor improvements.

(C) A board of county commissioners that intends to undertake a regional transportation improvement project shall hold at least one public hearing on the proposed cooperative agreement before adopting a resolution approving the agreement. The board of county commissioners shall provide at least thirty days' public notice of the time and place of the public hearing in a newspaper of general circulation in the county. During the thirty-day

period before the public hearing, the proposed cooperative agreement shall be made available for public inspection at the offices of each county that will be a party to the agreement.

~~(C)~~(D) If the cooperative agreement is approved by each county that will be a party to the agreement, one of the participating counties shall send a copy of the agreement to the director of transportation. The director shall evaluate the agreement and determine if the transportation improvements specified in the agreement are in the best interest of the transportation facilities of this state, as defined in section 5501.01 of the Revised Code. If the director approves the agreement, the director shall send notice of approval to each county that is a party to the agreement. Unless otherwise provided in the cooperative agreement, the agreement is effective immediately upon approval by the director. If the director does not approve the agreement, the director shall send notice of denial to each county that is a party to the agreement. The notice of denial shall include the reason or reasons for the denial and recommendations for ways in which the agreement may be changed to meet the approval of the director. If the director does not make a determination within ninety days after receiving a cooperative agreement under this section, the director is deemed to have approved the agreement and, unless otherwise provided in the agreement, the agreement is effective immediately. No cooperative agreement is effective without actual or constructive approval by the director under this section.

~~(D)~~(E) The cooperative agreement governing a regional transportation improvement project may be amended at any time by majority vote of the governing board and of the boards of county commissioners of each of the participating counties and with the approval of the director of transportation obtained in the same manner as approval of the original agreement.

~~(E)~~(F) The period for which a cooperative agreement adopted or amended under this section is in effect shall not exceed fifteen years following the effective date of the original agreement or, if the agreement authorizes the governing board to issue securities, twenty years following the first issuance of securities by the governing board.

Sec. 5595.04. The governing board of a regional transportation improvement project may do any of the following:

(A) Make and enter into all contracts and agreements necessary or incidental to the performance of its functions and the execution of its powers under this chapter and in accordance with the cooperative agreement and, if applicable, the memorandum of understanding. The procuring of goods and awarding of contracts with a cost in excess of fifty thousand dollars shall be

done in accordance with the competitive bidding procedures established for boards of county commissioners by sections 307.86 to 307.91 of the Revised Code.

(B) Sue and be sued in its own name, plead and be impleaded, provided any actions against the governing board or the regional transportation improvement project shall be brought in the court of common pleas of a county that is a party to the cooperative agreement or in the court of common pleas of the county in which the cause of action arose, and all summonses, exceptions, and notices shall be served on the governing board by leaving a copy thereof at its principal office with a member of the governing board or an employee or agent thereof;

(C) Employ or retain persons as are necessary in the judgment of the governing board to carry out the project, and fix their compensation;

(D) Acquire by purchase, lease, lease-purchase, lease with option to purchase, or otherwise any property necessary, convenient, or proper for the construction, maintenance, repair, or operation of one or more transportation improvements and, if applicable, one or more opportunity corridor improvements. The governing board may pledge net revenues, to the extent permitted by this chapter with respect to bonds, to secure payments to be paid by the governing board under such a lease, lease-purchase agreement, or lease with option to purchase. Title to real and personal property shall be held in the name of the governing board. ~~The~~ Except as provided under section 5595.041 of the Revised Code, the governing board is not authorized to acquire property by appropriation.

(E) Issue securities to pay for the costs of transportation improvements and opportunity corridor improvements pursuant to section 5595.05 of the Revised Code;

(F) If the regional transportation project was undertaken pursuant to section 5595.02 of the Revised Code before March 23, 2018, the effective date of the amendment of this section by S.B. 8 of the 132nd general assembly:

(1) Create a transportation financing district and declare improvements to parcels within the district to be a public purpose and exempt from taxation as provided under section 5709.48 of the Revised Code;

(2) Negotiate and enter into voluntary agreements under section 5709.481 of the Revised Code that impose assessments on real property located in a transportation financing district.

Sec. 5595.041. The governing board of a qualified RTIP may negotiate and enter into a memorandum of understanding with the department of transportation for the purpose of completing opportunity corridor

improvements. The governing board, in carrying out the opportunity corridor improvements, may exercise all authority granted to it by this chapter and may additionally do all of the following:

(A) Appropriate property, fully or partially located within the right-of-way associated with, or necessary as right-of-way for, any transportation improvement, provided the appropriation would be within the department of transportation's appropriation authority if carried out by the department and both the improvement and appropriation authority are described in the memorandum of understanding and the appropriation is exclusively for that improvement.

This division does not grant any additional appropriation authority to the department of transportation.

(B) Receive and reinvest any funds from development within the development area:

(C) Contract for the use of digitalized procurement planning and permitting systems:

(D) Request and receive grants and private contributions for any of the purposes described in division (A) of section 5595.06 of the Revised Code:

(E) Establish, acquire, own, control, manage, sell, or transfer a business, as defined in section 1354.01 of the Revised Code, as necessary, convenient, or proper for either of the following:

(1) The construction, maintenance, repair, or operation of opportunity corridor improvements described in the memorandum of understanding:

(2) Otherwise advancing the objectives of the qualified RTIP.

(F) Form, participate in the management of, and contract with a public-private enterprise to assist in managing the development of opportunity corridor improvements to be located within rights of way and development areas acquired and owned by the RTIP. The governing documents of a proposed enterprise shall be submitted to the director of transportation for review and approval in the same manner as is required for approval of a cooperative agreement.

As used in division (F) of this section, "public-private enterprise" means a business entity that is owned in part by a qualified RTIP and in part by one or more private persons.

(G) Purchase real property fully or partially located within the development area, through means other than appropriation, that is necessary, convenient, or proper to provide a benefit to the public or for the construction, maintenance, repair, or operation of transportation improvements or opportunity corridor improvements.

(H) Negotiate and enter into an agreement with the Ohio academic

resources network to set up a point of presence for the purpose of establishing, expanding, or improving broadband service, or other digital capabilities or services, within the development area.

Sec. 5595.042. A township, municipal corporation, or county may declare improvements made within the development area of a qualified RTIP to be for a public purpose and exempt from taxation pursuant to section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code, as authorized under those sections.

Sec. 5595.05. The governing board of a regional transportation improvement project may provide for the issuance of securities for the purpose of paying costs of transportation improvements and opportunity corridor improvements. The securities are Chapter 133. securities, and the issuance of the securities, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the governing board in respect to the securities is governed by the applicable bond proceedings, section 133.22 or 133.23, and other applicable sections of Chapter 133. of the Revised Code, notwithstanding that the transportation improvements or opportunity corridor improvements may result in permanent improvements for more than one purpose under that chapter.

Such securities do not constitute a debt or a pledge of the faith and credit of the state or of any political subdivision of the state. Debt charges on outstanding securities are payable solely from revenues pledged to the regional transportation improvement project pursuant to section 5595.06 of the Revised Code. All securities shall contain on their face a statement to that effect. Sections 9.98 to 9.983 of the Revised Code apply to the securities.

Sec. 5595.06. (A) The governing board of a regional transportation improvement project, pursuant to the cooperative agreement, may request and receive pledges of revenue from the state, the counties that are parties to the agreement, and any political subdivision or taxing unit located within any of those counties. Except as provided in division (B) of this section, the pledged revenues shall be used ~~solely~~ for the purpose of funding the transportation improvements prescribed by the cooperative agreement and, if applicable, the opportunity corridor improvements prescribed by the memorandum of understanding, the debt charges on any securities issued by the governing board under section 5595.05 of the Revised Code, and the expenses of the governing board. The state, the counties, and any political subdivision or taxing unit located within such a county may pledge revenue to the governing board from any of the following sources:

- (1) The general revenue fund of the state;

(2) License tax revenue derived from an annual motor vehicle license tax imposed pursuant to section 4504.22 of the Revised Code;

(3) Payments in lieu of taxes derived under section 5709.42, 5709.45, 5709.48, 5709.74, or 5709.79 of the Revised Code if the real property for which such payments are made will benefit from the proposed transportation improvements or opportunity corridor improvements;

(4) Income tax revenue derived from a joint economic development district or joint economic development zone established pursuant to section 715.69, as that section existed before its repeal by H.B. 289 of the 130th General Assembly, 715.691, 715.70, 715.71, or 715.72 of the Revised Code if the district or zone will benefit from the proposed transportation improvements or opportunity corridor improvements;

(5) Revenue derived from special assessments levied in a special improvement district created under Chapter 1710. of the Revised Code if the district will benefit from the proposed transportation improvements or opportunity corridor improvements;

(6) Revenue from an income source of a new community district established pursuant to section 349.03 of the Revised Code if the district will benefit from the proposed transportation improvements or opportunity corridor improvements;

(7) Income tax revenue derived from a tax levied by a municipal corporation in accordance with Chapter 718. of the Revised Code if the municipal corporation will benefit from the proposed transportation improvements or opportunity corridor improvements and revenue from the tax may lawfully be applied to ~~that purpose~~ those purposes under the ordinance or resolution levying the tax;

(8) Sales and use tax revenue derived from a tax levied under section 5739.021, 5739.023, 5739.026, 5741.021, 5741.022, or 5741.023 of the Revised Code if the county or transit authority will benefit from the proposed transportation improvements or opportunity corridor improvements and revenue from the tax may lawfully be applied to ~~that purpose~~ those purposes under the resolution levying the tax.

(B) The governing board shall use license tax revenue pledged to the project under division (A)(2) of this section for the purpose of funding transportation improvements described in the cooperative agreement, opportunity corridor improvements described by the memorandum of understanding, and any other supplemental transportation improvements necessary to complete the project. If the board intends to use any of the license tax revenue for supplemental improvements not described in the agreement, the board, before submitting a request for license tax revenue to

a board of county commissioners under section 4504.22 of the Revised Code, shall adopt a resolution allocating the revenue among the transportation improvements described in the agreement, the opportunity corridor improvements described in the memorandum of understanding, and such supplemental improvements not described in the agreement or memorandum. The amount used for supplemental improvements may not exceed five dollars for each motor vehicle on which the motor vehicle license tax is collected. If the motor vehicle license tax is approved, the governing board shall allocate the revenue only in accordance with the resolution. The allocation may not be changed unless a proposition to change the allocation is approved by the majority of electors voting on the proposition in each county that is a party to the cooperative agreement. Such a proposition may be proposed by resolution of the governing board certified to the board of county commissioners of each county, and, upon receiving such a certified resolution, each board of county commissioners shall certify identical resolutions to the respective county board of elections for placement on the questions and issues ballot at the next succeeding election occurring at least ninety days after the resolution is certified to the board of elections.

(C) Pledges of revenue under division (A) of this section may take any form and may be made subject to any terms that are mutually agreeable between the revenue contributor and the governing board. Pledges may be effectuated through periodic or one-time fixed payments, in variable installments based on estimated increases in tax revenue attributable to the activities of the regional transportation improvement project, or through any other means negotiated by the revenue contributor and the government board.

As used in this division, "revenue contributor" means the state, the counties that are parties to the cooperative agreement, or any political subdivision or taxing unit located within any of those participating counties, that pledges revenue to a regional transportation improvement project under division (A) of this section.

Sec. 5703.052. (A) There is hereby created in the state treasury the tax refund fund, from which refunds shall be paid for taxes amounts illegally or erroneously assessed or collected, or for any other reason overpaid, ~~that are~~ with respect to taxes levied by Chapter 4301., 4305., 5726., 5728., 5729., 5731., 5733., 5735., 5736., 5739., 5741., 5743., 5747., 5748., 5749., 5751., or 5753. and sections 3737.71, 3905.35, 3905.36, 4303.33, 5707.03, 5725.18, 5727.28, 5727.38, 5727.81, and 5727.811 of the Revised Code. Refunds for fees or wireless 9-1-1 charges levied by sections 128.42 or

3734.90 to 3734.9014 of the Revised Code, or any penalties assessed with respect to such fees or charges, that are illegally or erroneously assessed or collected, or for any other reason overpaid, that are levied by sections 128.42 or 3734.90 to 3734.9014 of the Revised Code also shall be paid from the fund. Refunds for amounts illegally or erroneously assessed or collected by the tax commissioner, or for any other reason overpaid, that are due under section 1509.50 of the Revised Code shall be paid from the fund. Refunds for amounts illegally or erroneously assessed or collected by the commissioner, or for any other reason overpaid to the commissioner, under sections 718.80 to 718.95 of the Revised Code shall be paid from the fund. However, refunds for amounts illegally or erroneously assessed or collected by the commissioner, or for any other reason overpaid to the commissioner, with respect to taxes levied under section 5739.101 of the Revised Code shall not be paid from the tax refund fund, but shall be paid as provided in section 5739.104 of the Revised Code.

(B)(1) Upon certification by the tax commissioner to the treasurer of state of a tax refund, a wireless 9-1-1 charge refund, or another amount refunded, or by the superintendent of insurance of a domestic or foreign insurance tax refund, the treasurer of state shall place the amount certified to the credit of the fund. The certified amount transferred shall be derived from the receipts of the same tax, fee, wireless 9-1-1 charge, or other amount from which the refund arose.

(2) When a refund is for a tax, fee, wireless 9-1-1 charge, or other amount that is not levied by the state or that was illegally or erroneously distributed to a taxing jurisdiction, the tax commissioner shall recover the amount of that refund from the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount that otherwise would be made to the taxing jurisdiction. If the amount to be recovered would exceed twenty-five per cent of the next distribution of that tax, fee, wireless 9-1-1 charge, or other amount, the commissioner may spread the recovery over more than one future distribution, taking into account the amount to be recovered and the amount of the anticipated future distributions. In no event may the commissioner spread the recovery over a period to exceed thirty-six months.

Sec. 5703.056. (A) As used in any section of the Revised Code that ~~requires~~ permits the tax commissioner to use certified mail or personal service or that requires or permits a payment to be made or a document to be submitted to the tax commissioner or the board of tax appeals by mail or personal service, and as used in any section of Chapter 718., 3734., 3769., 4303., or 4305. or Title LVII of the Revised Code that requires or permits a payment to be made or a document to be submitted to the treasurer of state

by mail:

(1) "Certified mail," "express mail," "United States mail," "United States postal service," and similar terms include any delivery service authorized pursuant to division (B) of this section.

(2) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of this section.

(B) The tax commissioner may authorize the use of a delivery service for the delivery of any payment or document described in division (A) of this section if the commissioner finds that all of the following apply to the delivery service:

(1) ~~Is~~ It is available to the general public;

(2) ~~Is~~ It is at least as timely and reliable on a regular basis as the United States postal service;

(3) ~~Records electronically to a database kept in the regular course of its business, and marks on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery;~~

(4) ~~Records electronically to a database kept in the regular course of its business the date on which the payment or document was given by the delivery service to the person who signed the receipt of delivery and the name of the person who signed the receipt; and~~

(5) ~~Meets~~ It meets any other criteria that the tax commissioner may by rule prescribe.

(C) In any section of the Revised Code referring to the date any payment or document is received by the tax commissioner by mail, personal service, or electronically or by a person receiving a document or payment from the tax commissioner by mail, the payment or document shall be considered to be received on one of the following dates, as applicable, except as provided in section 5703.053 or 5703.37 of the Revised Code:

(1) For a document or payment sent by certified mail, express mail, United States mail, foreign mail, or a delivery service authorized for use under division (B) of this section, the date of the postmark placed by the postal or delivery service on the sender's receipt or, if the sender was not issued a postmarked sender's receipt, the date of the postmark placed by the postal or delivery service on the package containing the payment or document.

(2) For personal service to the tax commissioner, the date the payment or document is received in any of the tax commissioner's offices during business hours.

(3) For a document filed or sent electronically or a payment made electronically, the date on the timestamp assigned by the first electronic system receiving that payment or document.

(D) As used in divisions (A) and (C) of this section "electronically" includes by facsimile, if applicable.

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 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)~~(3) Permitting properly authorized officers, employees, or agents of a municipal corporation from inspecting reports or information pursuant to section 718.84 of the Revised Code or rules adopted under section 5745.16 of the Revised Code;

~~(7)~~(4) 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)~~(5) 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)(6)~~ Providing to a county auditor a 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 or sports gaming proprietor's compliance with section 5747.063, 5753.02, or 5753.021 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 department of development 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 department of development for the purpose of evaluating potential tax credits, tax deductions, 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 department of development shall disclose any information provided to the department of development 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, tax deductions, 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 department of development 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.~~

~~(18) Disclosing to the division of liquor control information in the possession of the department of taxation that is necessary for the division and department to comply with the requirements of sections 4303.26 and 4303.271 of the Revised Code.~~

~~(19) Disclosing to the department of education, upon that department's request, information in the possession of the department of taxation that is necessary only to verify whether the family income of a student applying for or receiving a scholarship under the educational choice scholarship pilot program is equal to, less than, or greater than the income thresholds prescribed by section 3310.032 of the Revised Code. The department of education shall provide sufficient information about the student and the student's family to enable the department of taxation to make the verification.~~

~~(20) Disclosing to the Ohio rail development commission 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 commission for the purpose of evaluating potential 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 member, officer, employee, or agent of the Ohio rail development commission shall disclose any information provided to the commission by the department of taxation under division (C)(20) of this section except when disclosure of the information is necessary for, and made solely for the purpose of facilitating, the evaluation of potential grants or loans.~~

~~(21) Disclosing to the state racing commission information in the possession of the department of taxation that is necessary for verification of compliance with and for enforcement and administration of the taxes levied by Chapter 3769, of the Revised Code. Such information shall include information that is necessary for the state racing commission to verify~~

~~compliance with Chapter 3769. of the Revised Code for the purposes of issuance, denial, suspension, or revocation of a permit pursuant to section 3769.03 or 3769.06 of the Revised Code and related sections. Unless disclosure is otherwise authorized by law, information provided to the state racing commission under this section remains confidential and is not subject to public disclosure pursuant to section 3769.041 of the Revised Code.~~

~~(22) Disclosing to the state fire marshal information in the possession of the department of taxation that is necessary for the state fire marshal to verify the compliance of a licensed manufacturer of fireworks or a licensed wholesaler of fireworks with section 3743.22 of the Revised Code. No officer, employee, or agent of the state fire marshal shall disclose any information provided to the state fire marshal by the department of taxation under division (C)(22) of this section.~~

~~(23) Disclosing to the department of job and family services information in the possession of the department of taxation for either of the following purposes:~~

~~(a) Making a determination under section 4141.28 of the Revised Code;~~

~~(b) Verifying an individual's eligibility for a federal program described in section 4141.163 of the Revised Code.~~

~~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.~~

(7) Disclosing to a state or federal government agency, for use in the performance of that agency's official duties in this state, information in the possession of the tax commissioner necessary to verify compliance with any provision of the Revised Code or federal law relating to that agency. Unless disclosure is otherwise authorized by law, information provided to any state or federal government agency under this section remains confidential and is not subject to further disclosure.

Sec. 5703.37. (A)(1) Except as provided in division (B) of this section, whenever service of a notice or order is required in the manner provided in this section, a copy of the notice or order shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Revised Code that notifies the tax commissioner of the date of delivery.

(2) In lieu of serving a copy of a notice or order through one of the means provided in division (A)(1) of this section, the commissioner may serve a notice or order upon the person affected thereby through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail as provided in division (F) of this section or by

ordinary mail. Delivery by such means satisfies the requirements for delivery under this section.

(B)(1)(a) If certified mail is returned because of an undeliverable address, the commissioner shall first utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code. If, after using reasonable means, the commissioner is unable to ascertain a new last known address, the assessment is final for purposes of section 131.02 of the Revised Code sixty days after the notice or order sent by certified mail is first returned to the commissioner, and the commissioner shall certify the notice or order, if applicable, to the attorney general for collection under section 131.02 of the Revised Code.

(b) Notwithstanding certification to the attorney general under division (B)(1)(a) of this section, once the commissioner or attorney general, or the designee of either, makes an initial contact with the person to whom the notice or order is directed, the person may protest an assessment by filing a petition for reassessment within sixty days after the initial contact. The certification of an assessment under division (B)(1)(a) of this section is prima-facie evidence that delivery is complete and that the notice or order is served.

(2) If mailing of a notice or order by certified mail is returned for some cause other than an undeliverable address or if a person does not access an electronic notice or order within the time provided in division (F) of this section, the commissioner shall resend the notice or order by ordinary mail. The notice or order shall show the date the commissioner sends the notice or order and include the following statement:

"This notice or order is deemed to be served on the addressee under applicable law ten days from the date this notice or order was mailed by the commissioner as shown on the notice or order, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima-facie evidence that delivery of the notice or order was completed ten days after the commissioner sent the notice or order by ordinary mail and that the notice or order was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the commissioner shall proceed under division (B)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (C) of this section.

(C)(1) A person disputing the presumption of delivery and service under division (B) of this section bears the burden of proving by a preponderance of the evidence that the address to which the notice or order was sent was not an address with which the person was associated at the time the commissioner originally mailed the notice or order by certified mail. For the purposes of this section, a person is associated with an address at the time the commissioner originally mailed the notice or order if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the notice or order was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the notice or order was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

(2) If the person elects to protest an assessment certified to the attorney general for collection, the person must do so within sixty days after the attorney general's initial contact with the person. The attorney general may enter into a compromise with the person under sections 131.02 and 5703.06 of the Revised Code if the person does not file a petition for reassessment with the commissioner.

(D) Nothing in this section prohibits the commissioner or the commissioner's designee from delivering a notice or order by personal service.

(E) Collection actions taken pursuant to section 131.02 of the Revised Code upon any assessment being challenged under division (B)(1)(b) of this section shall be stayed upon the pendency of an appeal under this section. If a petition for reassessment is filed pursuant to this section on a claim that has been certified to the attorney general for collection, the claim shall be uncertified.

~~(F)~~(F)(1) The commissioner may serve a notice or order upon the person affected by the notice or order or that person's authorized representative through secure electronic means only with the person's consent associated with the person's or representative's last known address, but only with the person's consent. The commissioner must inform the recipient, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. The types of electronic notification the commissioner may use include electronic mail, text message, or any other form of electronic communication. The recipient's electronic access of the notice or order satisfies the requirements for delivery under this section. If the recipient fails to access the notice or

order electronically within ten business days, then the commissioner shall inform the recipient a second time, electronically or by mail, that a notice or order is available for electronic review and provide instructions to access and print the notice or order. If the recipient fails to access the notice or order electronically within ten business days of the second notification, the notice or order shall be served upon the person through the means provided in division (B)(2) of this section.

(2) The tax commissioner shall establish a system to issue notification of assessments to taxpayers through secure electronic means.

(G) As used in this section:

(1) "Last known address" means the address the department has at the time the document is originally sent by certified mail, or any address the department can ascertain using reasonable means such as the use of a change of address service offered by the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code. For documents sent by secure electronic means, "last known address" means an electronic mode of communication that is identified on a form prescribed by the commissioner for such purpose or that is associated with the person or the authorized representative of the person on the Ohio business gateway, as defined in section 718.01 of the Revised Code, as of the date the notification was sent.

(2) "Undeliverable address" means an address to which the United States postal service or an authorized delivery service under section 5703.056 of the Revised Code is not able to deliver a notice or order, except when the reason for nondelivery is because the addressee fails to acknowledge or accept the notice or order.

Sec. 5703.53. (A) An "opinion of the tax commissioner" means an opinion issued under this section with respect to prospective tax liability. It does not include ordinary correspondence of the commissioner or a final determination of the commissioner arising from a request for administrative review of an assessment, a claim for refund, or an application for a pollution control or other certificate.

(B) If a taxpayer requests in writing an opinion from the tax commissioner as to whether or how certain property, income, source of income, or a certain activity or transaction will be taxed, the commissioner's written response shall be an "opinion of the tax commissioner" and shall bind the commissioner, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

(1) The taxpayer's request fully describes the specific facts or circumstances relevant to a determination of the taxability of the property,

income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

(2) The request relates to a "tax" as defined in section 5703.50 of the Revised Code.

(3) The commissioner's response is signed by the commissioner and designated as an "opinion of the tax commissioner."

(C) An opinion of the tax commissioner shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the commissioner's opinion to be taxable in a particular manner or not to be subject to taxation for any tax year that may be specified in the opinion, or until the earliest of the following dates:

(1) The effective date of a written revocation by the commissioner sent to the taxpayer ~~by certified mail, return receipt requested in the manner provided in section 5703.37 of the Revised Code~~. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

(2) The effective date of any rule adopted by the commissioner under Chapter 119. of the Revised Code that is inconsistent with the opinion;

(3) The effective date of any amendment or enactment of a relevant section of the Revised Code or uncodified law;

(4) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Revised Code, uncodified law, or rules of the tax commissioner;

(5) If the opinion of the commissioner was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

(6) The effective date of any change in the taxpayer's material facts or circumstances;

(7) The effective date of the expiration of the opinion, if specified, in the opinion.

(D) A taxpayer is not relieved of liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(E) If the commissioner provides written advice under this section, the opinion shall include a statement that:

(1) The tax consequences stated in the opinion may be subject to change

for any of the reasons stated in division (C) of this section;

(2) It is the duty of the taxpayer to be aware of such changes.

(F) The commissioner may refuse to offer an opinion on any request received under this section.

(G) This section binds the commissioner only with respect to opinions of the commissioner issued on or after January 1, 1990.

(H) An opinion of the commissioner binds the commissioner only with respect to the taxpayer for whom the opinion was prepared.

(I) The commissioner shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the commissioner has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the commissioner issued under this section is not a final determination of the commissioner and may not be appealed to the board of tax appeals.

Sec. 5703.77. (A) As used in this section:

(1) "Taxpayer" means a person subject to or previously subject to a tax or fee, a person that remits a tax or fee, or a person required to or previously required to withhold or collect and remit a tax or fee on behalf of another person.

(2) "Tax or fee" means a tax or fee administered by the tax commissioner.

(3) "Credit account balance" means the amount ~~of a tax or fee~~ that a taxpayer remits to the state in excess of the amount required to be remitted, after accounting for factors applicable to the taxpayer such as accelerated payments, estimated payments, tax credits, and tax credit balances that may be carried forward.

(4) "Tax debt" means an unpaid tax or fee or any unpaid penalty, interest, or additional charge on such a tax or fee due the state.

(B) As soon as practicable, but not later than sixty days before the expiration of the period of time during which a taxpayer may file a refund application for a tax or fee, the tax commissioner shall review the taxpayer's accounts for the tax or fee and notify the taxpayer of any credit account balance for which the commissioner is required to issue a refund if the taxpayer were to file a refund application for that balance, regardless of whether the taxpayer files a refund application or amended return with respect to that tax or fee. The notice shall be made using contact information for the taxpayer on file with the commissioner.

(C) Notwithstanding sections 128.47, 718.91, 3734.905, 4307.05, 5726.30, 5727.28, 5727.42, 5727.91, 5728.061, 5735.122, 5736.08, 5739.07, 5739.104, 5741.10, 5743.05, 5743.53, 5747.11, 5749.08, 5751.08, 5753.06, and any other section of the Revised Code governing refunds ~~of taxes or fees~~, the commissioner may apply the amount of any credit account balance for which the commissioner is required to issue a refund if the taxpayer were to file a refund application for that balance as a credit against the taxpayer's liability for the tax or fee in the taxpayer's next reporting period for that tax or fee or issue a refund of that credit account balance to the taxpayer, subject to division (D) of this section.

(D) Before issuing a refund to a taxpayer under division (C) of this section, the tax commissioner shall withhold from that refund the amount of any of the taxpayer's tax debt certified to the attorney general under section 131.02 of the Revised Code and the amount of the taxpayer's liability, if any, for a tax ~~or fee~~ debt. The commissioner shall apply any amount withheld first in satisfaction of the amount of the taxpayer's certified tax debt and then in satisfaction of the taxpayer's liability. If the credit account balance originates from the tax administered under sections 718.80 to 718.95 of the Revised Code, it may be applied only against the taxpayer's certified tax debt or tax liability due under those sections.

(E) The tax commissioner may adopt rules to administer this section.

Sec. 5705.01. As used in this chapter:

(A) "Subdivision" means any county; municipal corporation; township; township police district; joint police district; township fire district; joint fire district; joint ambulance district; joint emergency medical services district; fire and ambulance district; joint recreation district; township waste disposal district; township road district; community college district; technical college district; detention facility district; a district organized under section 2151.65 of the Revised Code; a combined district organized under sections 2152.41 and 2151.65 of the Revised Code; a joint-county alcohol, drug addiction, and mental health service district; a drainage improvement district created under section 6131.52 of the Revised Code; a lake facilities authority created under Chapter 353. of the Revised Code; a union cemetery district; a county school financing district; a city, local, exempted village, cooperative education, joint vocational school district; ~~or~~ a regional student education district created under section 3313.83 of the Revised Code; or a career-technical cooperative education district created under section 3313.831 of the Revised Code.

(B) "Municipal corporation" means all municipal corporations, including those that have adopted a charter under Article XVIII, Ohio

Constitution.

(C) "Taxing authority" or "bond issuing authority" means, in the case of any county, the board of county commissioners; in the case of a municipal corporation, the council or other legislative authority of the municipal corporation; in the case of a city, local, exempted village, cooperative education, or joint vocational school district, the board of education; in the case of a community college district, the board of trustees of the district; in the case of a technical college district, the board of trustees of the district; in the case of a detention facility district, a district organized under section 2151.65 of the Revised Code, or a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, the joint board of county commissioners of the district; in the case of a township, the board of township trustees; in the case of a joint police district, the joint police district board; in the case of a joint fire district, the board of fire district trustees; in the case of a joint recreation district, the joint recreation district board of trustees; in the case of a joint-county alcohol, drug addiction, and mental health service district, the district's board of alcohol, drug addiction, and mental health services; in the case of a joint ambulance district or a fire and ambulance district, the board of trustees of the district; in the case of a union cemetery district, the legislative authority of the municipal corporation and the board of township trustees, acting jointly as described in section 759.341 of the Revised Code; in the case of a drainage improvement district, the board of county commissioners of the county in which the drainage district is located; in the case of a lake facilities authority, the board of directors; in the case of a joint emergency medical services district, the joint board of county commissioners of all counties in which all or any part of the district lies; and in the case of a township police district, a township fire district, a township road district, or a township waste disposal district, the board of township trustees of the township in which the district is located. "Taxing authority" also means the educational service center governing board that serves as the taxing authority of a county school financing district as provided in section 3311.50 of the Revised Code, ~~and~~ the board of directors of a regional student education district created under section 3313.83 of the Revised Code, and the board of directors of a career-technical cooperative education district created under section 3313.831 of the Revised Code.

(D) "Fiscal officer" in the case of a county, means the county auditor; in the case of a municipal corporation, the city auditor or village clerk, or an officer who, by virtue of the charter, has the duties and functions of the city auditor or village clerk, except that in the case of a municipal university the

board of directors of which have assumed, in the manner provided by law, the custody and control of the funds of the university, the chief accounting officer of the university shall perform, with respect to the funds, the duties vested in the fiscal officer of the subdivision by sections 5705.41 and 5705.44 of the Revised Code; in the case of a school district, the treasurer of the board of education; in the case of a county school financing district, the treasurer of the educational service center governing board that serves as the taxing authority; in the case of a township, the township fiscal officer; in the case of a joint police district, the treasurer of the district; in the case of a joint fire district, the clerk of the board of fire district trustees; in the case of a joint ambulance district, the clerk of the board of trustees of the district; in the case of a joint emergency medical services district, the person appointed as fiscal officer pursuant to division (D) of section 307.053 of the Revised Code; in the case of a fire and ambulance district, the person appointed as fiscal officer pursuant to division (B) of section 505.375 of the Revised Code; in the case of a joint recreation district, the person designated pursuant to section 755.15 of the Revised Code; in the case of a union cemetery district, the clerk of the municipal corporation designated in section 759.34 of the Revised Code; in the case of a children's home district, educational service center, general health district, joint-county alcohol, drug addiction, and mental health service district, county library district, detention facility district, district organized under section 2151.65 of the Revised Code, a combined district organized under sections 2152.41 and 2151.65 of the Revised Code, or a metropolitan park district for which no treasurer has been appointed pursuant to section 1545.07 of the Revised Code, the county auditor of the county designated by law to act as the auditor of the district; in the case of a metropolitan park district which has appointed a treasurer pursuant to section 1545.07 of the Revised Code, that treasurer; in the case of a drainage improvement district, the auditor of the county in which the drainage improvement district is located; in the case of a lake facilities authority, the fiscal officer designated under section 353.02 of the Revised Code; in the case of a regional student education district, the fiscal officer appointed pursuant to section 3313.83 of the Revised Code; in the case of a career-technical cooperative education district, the fiscal officer appointed pursuant to section 3313.831 of the Revised Code; and in all other cases, the officer responsible for keeping the appropriation accounts and drawing warrants for the expenditure of the moneys of the district or taxing unit.

(E) "Permanent improvement" or "improvement" means any property, asset, or improvement with an estimated life or usefulness of five years or

more, including land and interests therein, and reconstructions, enlargements, and extensions thereof having an estimated life or usefulness of five years or more.

(F) "Current operating expenses" and "current expenses" mean the lawful expenditures of a subdivision, except those for permanent improvements, and except payments for interest, sinking fund, and retirement of bonds, notes, and certificates of indebtedness of the subdivision.

(G) "Debt charges" means interest, sinking fund, and retirement charges on bonds, notes, or certificates of indebtedness.

(H) "Taxing unit" means any subdivision or other governmental district having authority to levy taxes on the property in the district or issue bonds that constitute a charge against the property of the district, including conservancy districts, metropolitan park districts, sanitary districts, road districts, and other districts.

(I) "District authority" means any board of directors, trustees, commissioners, or other officers controlling a district institution or activity that derives its income or funds from two or more subdivisions, such as the educational service center, the trustees of district children's homes, the district board of health, a joint-county alcohol, drug addiction, and mental health service district's board of alcohol, drug addiction, and mental health services, detention facility districts, a joint recreation district board of trustees, districts organized under section 2151.65 of the Revised Code, combined districts organized under sections 2152.41 and 2151.65 of the Revised Code, and other such boards.

(J) "Tax list" and "tax duplicate" mean the general tax lists and duplicates prescribed by sections 319.28 and 319.29 of the Revised Code.

(K) "Property" as applied to a tax levy means taxable property listed on general tax lists and duplicates.

(L) "Association library district" means a territory, the boundaries of which are defined by the state library board pursuant to division (I) of section 3375.01 of the Revised Code, in which a library association or private corporation maintains a free public library.

(M) "Library district" means a territory, the boundaries of which are defined by the state library board pursuant to section 3375.01 of the Revised Code, in which the board of trustees of a county, municipal corporation, school district, or township public library maintains a free public library.

(N) "Qualifying library levy" means either of the following:

(1) A levy for the support of a library association or private corporation that has an association library district with boundaries that are not identical

to those of a subdivision;

(2) A levy proposed under section 5705.23 of the Revised Code for the support of the board of trustees of a public library that has a library district with boundaries that are not identical to those of a subdivision.

(O) "School library district" means a school district in which a free public library has been established that is under the control and management of a board of library trustees as provided in section 3375.15 of the Revised Code.

(P) "The county auditor's appraised value" means the true value in money of real property.

(Q) "Estimated effective rate" means the quotient obtained by dividing (1) an estimate of the taxes that will be charged and payable in a year against real property classified as residential or agricultural under section 5713.041 of the Revised Code from either (a) a levy that is a renewal, increase, or decrease of an existing levy or (b) an existing levy that is extended to additional territory, assuming that the additional territory has been added to the subdivision, by (2) an estimate of the total taxable value of that class of property for that year.

Sec. 5705.2114. (A) If the board of directors of a career-technical cooperative education district created under section 3313.831 of the Revised Code desires to levy a tax in excess of the ten-mill limitation throughout the district for the purpose of funding the services to be provided by the district to students enrolled in the school districts of which the district is composed, the board shall propose the levy to each of the boards of education of those school districts. The proposal shall specify the rate or amount of the tax, the number of years the tax will be levied or that it will be levied for a continuing period of time, and that the aggregate rate of the tax shall not exceed three mills per dollar of taxable value in the career-technical cooperative education district.

(B)(1) If a majority of the boards of education of the school districts of which the career-technical cooperative education district is composed approves the proposal for the tax levy, the board of directors of the career-technical cooperative education district may adopt a resolution approved by a majority of the board's full membership declaring the necessity of levying the proposed tax in excess of the ten-mill limitation throughout the district for the purpose of funding the services to be provided by the district to students enrolled in the school districts of which the district is composed. The resolution shall provide for the question of the tax to be submitted to the electors of the district at a general, primary, or special election on a day to be specified in the resolution that is consistent with the

requirements of section 3501.01 of the Revised Code and that occurs at least ninety days after the resolution is certified to the board of elections. The resolution shall specify the rate or amount of the tax and the number of years the tax will be levied or that the tax will be levied for a continuing period of time. The aggregate rate of tax levied by a career-technical cooperative education district under this section at any time shall not exceed three mills per dollar of taxable value in the district. A tax levied under this section may be renewed, subject to section 5705.25 of the Revised Code.

(2) The resolution shall take effect immediately upon passage, and no publication of the resolution is necessary other than that provided in the notice of election. The resolution shall be certified and submitted in the manner provided under section 5705.25 of the Revised Code, and that section governs the arrangements governing submission of the question and other matters concerning the election.

Sec. 5705.391. (A) The department of education and the auditor of state shall jointly adopt rules requiring boards of education to submit five-year projections of operational revenues and expenditures. The rules shall provide for the auditor of state or the department to examine the five-year projections and to determine whether any further fiscal analysis is needed to ascertain whether a district has the potential to incur a deficit during the first three years of the five-year period.

The auditor of state or the department may conduct any further audits or analyses necessary to assess any district's fiscal condition. If further audits or analyses are conducted by the auditor of state, the auditor of state shall notify the department of the district's fiscal condition, and the department shall immediately notify the district of any potential to incur a deficit in the current fiscal year or of any strong indications that a deficit will be incurred in either of the ensuing two years. If such audits or analyses are conducted by the department, the department shall immediately notify the district and the auditor of state of such potential deficit or strong indications thereof.

A district notified under this section shall take immediate steps to eliminate any deficit in the current fiscal year and shall begin to plan to avoid the projected future deficits.

(B) The state board of education, in accordance with sections 3319.31 and 3319.311 of the Revised Code, may limit, suspend, or revoke a license as defined under section 3319.31 of the Revised Code that has been issued to any school employee found to have willfully contributed erroneous, inaccurate, or incomplete data required for the submission of the five-year projection required by this section.

(C) The department and the auditor of state, in their joint adoption of

rules under division (A) of this section, shall not require a board of education to submit its five-year projection of operational revenues and expenditures prior to the thirtieth day of November of any fiscal year.

(D) Beginning with submissions required in fiscal year 2024 and for each fiscal year in which a submission is required under this section thereafter, the department and the auditor shall label the projections regarding property tax allocation in the projection as "state share of local property taxes."

Sec. 5709.40. (A) As used in this section:

(1) "Blighted area" and "impacted city" have the same meanings as in section 1728.01 of the Revised Code.

(2) "Business day" means a day of the week excluding Saturday, Sunday, and a legal holiday as defined under section 1.14 of the Revised Code.

(3) "Housing renovation" means a project carried out for residential purposes.

(4) "Improvement" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of an ordinance adopted under this section were it not for the exemption granted by that ordinance.

(5) "Incentive district" means an area not more than three hundred acres in size enclosed by a continuous boundary in which a project is being, or will be, undertaken and having one or more of the following distress characteristics:

(a) At least fifty-one per cent of the residents of the district have incomes of less than eighty per cent of the median income of residents of the political subdivision in which the district is located, as determined in the same manner specified under section 119(b) of the "Housing and Community Development Act of 1974," 88 Stat. 633, 42 U.S.C. 5318, as amended;

(b) The average rate of unemployment in the district during the most recent twelve-month period for which data are available is equal to at least one hundred fifty per cent of the average rate of unemployment for this state for the same period.

(c) At least twenty per cent of the people residing in the district live at or below the poverty level as defined in the federal Housing and Community Development Act of 1974, 42 U.S.C. 5301, as amended, and regulations adopted pursuant to that act.

(d) The district is a blighted area.

(e) The district is in a situational distress area as designated by the

director of development under division (F) of section 122.23 of the Revised Code.

(f) As certified by the engineer for the political subdivision, the public infrastructure serving the district is inadequate to meet the development needs of the district as evidenced by a written economic development plan or urban renewal plan for the district that has been adopted by the legislative authority of the subdivision.

(g) The district is comprised entirely of unimproved land that is located in a distressed area as defined in section 122.23 of the Revised Code.

(6) "Overlay" means an area of not more than three hundred acres that is a square, or that is a rectangle having two longer sides that are not more than twice the length of the two shorter sides, that the legislative authority of a municipal corporation delineates on a map of a proposed incentive district.

(7) "Project" means development activities undertaken on one or more parcels, including, but not limited to, construction, expansion, and alteration of buildings or structures, demolition, remediation, and site development, and any building or structure that results from those activities.

(8) "Public infrastructure improvement" includes, but is not limited to, public roads and highways; water and sewer lines; the continued maintenance of those public roads and highways and water and sewer lines; environmental remediation; land acquisition, including acquisition in aid of industry, commerce, distribution, or research; demolition, including demolition on private property when determined to be necessary for economic development purposes; stormwater and flood remediation projects, including such projects on private property when determined to be necessary for public health, safety, and welfare; the provision of gas, electric, and communications service facilities, including the provision of gas or electric service facilities owned by nongovernmental entities when such improvements are determined to be necessary for economic development purposes; the enhancement of public waterways through improvements that allow for greater public access; and off-street parking facilities, including those in which all or a portion of the parking spaces are reserved for specific uses when determined to be necessary for economic development purposes.

(9) "Nonperforming parcel" means a parcel to which all of the following apply:

(a) The parcel is exempted from taxation under division (B) of this section or has been included in a district created under division (C) of this section.

(b) The parcel's owner is required to make payments in lieu of taxes in

accordance with section 5709.42 of the Revised Code.

(c) No such payments have been remitted to the county treasurer since the inception of the exemption or district.

(B) The legislative authority of a municipal corporation, by ordinance, may declare improvements to certain parcels of real property located in the municipal corporation to be a public purpose. Improvements with respect to a parcel that is used or to be used for residential purposes may be declared a public purpose under this division only if the parcel is located in a blighted area of an impacted city. For this purpose, "parcel that is used or to be used for residential purposes" means a parcel that, as improved, is used or to be used for purposes that would cause the tax commissioner to classify the parcel as residential property in accordance with rules adopted by the commissioner under section 5713.041 of the Revised Code. Except as otherwise provided under division (D) of this section or section 5709.51 of the Revised Code, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property taxation for a period of not more than ten years. The ordinance shall specify the percentage of the improvement to be exempted from taxation and the life of the exemption.

An ordinance adopted or amended under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the municipal corporation that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.42 of the Revised Code shall be used to finance the public infrastructure improvements designated in the ordinance, for the purpose described in division (D)(1) of this section or as provided in section 5709.43 of the Revised Code.

(C)(1) The legislative authority of a municipal corporation may adopt an ordinance creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (C)(2) of this section, exempt from taxation as provided in this section, but no legislative authority of a municipal corporation that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt an ordinance that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the municipal corporation that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of

the taxable value of real property in the municipal corporation for the preceding tax year. The ordinance shall delineate the boundary of the proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel, other than a nonperforming 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. On and after the effective date of the district, a nonperforming parcel within the district is no longer exempted from taxation under division (B) of this section or included within an incentive district under any previous ordinance, and the parcel's owner is no longer required to make payments in lieu of taxes under such a previous ordinance in accordance with section 5709.42 of the Revised Code. Any exemption application filed with the tax commissioner under section 5715.27 of the Revised Code under the second ordinance shall identify the nonperforming parcels included in the second district, the original ordinance under which the nonperforming parcels were originally exempted, and the value history of each nonperforming parcel since the enactment of the original ordinance. An ordinance may create more than one such district, and more than one ordinance may be adopted under division (C)(1) of this section.

(2)(a) Not later than thirty days prior to adopting an ordinance under division (C)(1) of this section, if the municipal corporation intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the legislative authority of the municipal corporation shall conduct a public hearing on the proposed ordinance. Not later than thirty days prior to the public hearing, the legislative authority shall give notice of the public hearing and the proposed ordinance by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed ordinance. The notice shall include a map of the proposed incentive district on which the legislative authority of the municipal corporation shall have delineated an overlay. The notice shall inform the property owner of the owner's right to exclude the owner's property from the incentive district if the owner's entire parcel of property will not be located within the overlay, by submitting a written response in accordance with division (C)(2)(b) of this section. The notice also shall include information detailing the required contents of the response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (C)(1) of this section whose entire

parcel of property is not located within the overlay may exclude the property from the proposed incentive district by submitting a written response to the legislative authority of the municipal corporation not later than forty-five days after the postmark date on the notice required under division (C)(2)(a) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the legislative authority under division (C)(2)(a) of this section. The response shall conform to any content requirements that may be established by the municipal corporation and included in the notice provided under division (C)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the ordinance, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting an ordinance under division (C)(1) of this section, the legislative authority of a municipal corporation shall amend the ordinance to exclude any parcel located wholly or partly outside the overlay for which a written response has been submitted under division (C)(2)(b) of this section. A municipal corporation shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (B) of this section pursuant to an ordinance adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(3)(a) An ordinance adopted under division (C)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The ordinance also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the ordinance. The project identified may, but need not be, the project under division (C)(3)(b) of this section that places real property in use for commercial or industrial purposes. Except as otherwise permitted under that division, the service payments provided for in section 5709.42 of the Revised Code shall be used to finance the designated public infrastructure improvements, for the purpose described in division (D)(1), (E), or (F) of this section, or as provided in section 5709.43 of the Revised Code.

An ordinance adopted under division (C)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public

infrastructure improvements, and no service payment provided for in section 5709.42 of the Revised Code and received by the municipal corporation under the ordinance shall be used for police or fire equipment.

(b) An ordinance adopted under division (C)(1) of this section may authorize the use of service payments provided for in section 5709.42 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the ordinance also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The ordinance shall designate the parcels within the district that are eligible for housing renovation. The ordinance shall state separately the amounts or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the general purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (E) of this section, the life of an incentive district shall not exceed ten years, and the percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (D) of this section.

(D)(1) If the ordinance declaring improvements to a parcel to be a public purpose or creating an incentive district specifies that payments in lieu of taxes provided for in section 5709.42 of the Revised Code shall be paid to the city, local, or exempted village, and joint vocational school district in which the parcel or incentive district is located in the amount of the taxes that would have been payable to the school district if the improvements had not been exempted from taxation, the percentage of the improvement that may be exempted from taxation may exceed seventy-five per cent, and the exemption may be granted for up to thirty years, without the approval of the board of education as otherwise required under division (D)(2) of this section.

(2) Improvements with respect to a parcel may be exempted from taxation under division (B) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division

(C) of this section, for up to ten years or, with the approval under this paragraph of the board of education of the city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvement exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting an ordinance under this section declaring improvements to be a public purpose that is subject to approval by a board of education under this division, the legislative authority shall deliver to the board of education a notice stating its intent to adopt an ordinance making that declaration. The notice regarding improvements with respect to a parcel under division (B) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvement that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The notice regarding improvements to parcels within an incentive district under division (C) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the legislative authority intends to adopt the ordinance. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvement in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation. If an agreement is negotiated between the legislative authority and the board to compensate the school district for all or part of the taxes exempted, including agreements for payments in lieu of taxes under section 5709.42 of the Revised Code, the legislative authority

shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) The board of education shall certify its resolution to the legislative authority not later than fourteen days prior to the date the legislative authority intends to adopt the ordinance as indicated in the notice. If the board of education and the legislative authority negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for the number of years specified in the ordinance or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. In either case, if the board and the legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board fails to certify a resolution to the legislative authority within the time prescribed by this division, the legislative authority thereupon may adopt the ordinance and may declare the improvements a public purpose for up to thirty years, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the ordinance. The legislative authority may adopt the ordinance at any time after the board of education certifies its resolution approving the exemption to the legislative authority, or, if the board approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board and the legislative authority.

(4) If a board of education has adopted a resolution waiving its right to approve exemptions from taxation under this section and the resolution remains in effect, approval of exemptions by the board is not required under division (D) of this section. If a board of education has adopted a resolution allowing a legislative authority to deliver the notice required under division (D) of this section fewer than forty-five business days prior to the legislative authority's adoption of the ordinance, the legislative authority shall deliver the notice to the board not later than the number of days prior to such adoption as prescribed by the board in its resolution. If a board of education adopts a resolution waiving its right to approve agreements or shortening the notification period, the board shall certify a copy of the resolution to the legislative authority. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the legislative authority.

(5) If the legislative authority is not required by division (D) of this

section to notify the board of education of the legislative authority's intent to declare improvements to be a public purpose, the legislative authority shall comply with the notice requirements imposed under section 5709.83 of the Revised Code, unless the board has adopted a resolution under that section waiving its right to receive such a notice.

(6) Nothing in division (D) of this section prohibits the legislative authority of a municipal corporation from amending the ordinance or resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(E)(1) If a proposed ordinance under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the ordinance the legislative authority of the municipal corporation shall deliver to the board of county commissioners of the county within which the incentive district will be located a notice that states its intent to adopt an ordinance creating an incentive district. The notice shall include a copy of the proposed ordinance, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the legislative authority intends to adopt the ordinance.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the legislative authority. In no case shall the compensation provided to the board exceed the property taxes forgone due to the exemption. If the board of county commissioners objects, and the board and legislative authority fail to negotiate a mutually acceptable compensation agreement, the ordinance adopted under division (C)(1) of this section shall provide to the board compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the

portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the legislative authority not later than thirty days after receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the legislative authority may adopt the ordinance, and no compensation shall be provided to the board of county commissioners. If the board timely certifies its resolution objecting to the ordinance, the legislative authority may adopt the ordinance at any time after a mutually acceptable compensation agreement is agreed to by the board and the legislative authority, or, if no compensation agreement is negotiated, at any time after the legislative authority agrees in the proposed ordinance to provide compensation to the board of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to an ordinance creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, or a later date as specified in this division, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.42 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section

5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug addiction, and mental health services or facilities;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program.

(13) A tax levied by a township under section 505.39, division (I) of section 5705.19, or division (JJ) of section 5705.19 of the Revised Code to the extent the proceeds are used for the purposes described in division (I) of that section, for the purpose of funding fire, emergency medical, and ambulance services as described in that section and those divisions. Division (F)(13) of this section applies only if the township levying the tax provides fire, emergency medical, or ambulance services in the incentive district, and only to incentive districts created by an ordinance adopted on or after the effective date of the amendment of this section by H.B. 69 of the 132nd general assembly, March 23, 2018. The board of township trustees may, by resolution, waive the application of this division or negotiate with the municipal corporation that created the district for a lesser amount of payments in lieu of taxes.

(G) An exemption from taxation granted under this section commences with the tax year specified in the ordinance so long as the year specified in the ordinance commences after the effective date of the ordinance. If the ordinance specifies a year commencing before the effective date of the

resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the ordinance. In lieu of stating a specific year, the ordinance may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the ordinance. With respect to the exemption of improvements to parcels under division (B) of this section, the ordinance may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division or section 5709.51 of the Revised Code, the exemption ends on the date specified in the ordinance as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the municipal public improvement tax increment equivalent fund established under division (A) of section 5709.43 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the ordinance, if the legislative authority and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement, and the board of education has approved the term of the exemption under division (D)(2) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) Additional municipal financing of public infrastructure improvements and housing renovations may be provided by any methods that the municipal corporation may otherwise use for financing such improvements or renovations. If the municipal corporation issues bonds or notes to finance the public infrastructure improvements and housing renovations and pledges money from the municipal public improvement tax increment equivalent fund to pay the interest on and principal of the bonds or notes, the bonds or notes are not subject to Chapter 133. of the Revised

Code.

(I) The municipal corporation, not later than fifteen days after the adoption of an ordinance under this section, shall submit to the director of development a copy of the ordinance. On or before the thirty-first day of March of each year, the municipal corporation shall submit a status report to the director. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that an exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the funds created under section 5709.43 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with such expenditures; and a quantitative summary of changes in employment and private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a legislative authority from declaring to be a public purpose improvements with respect to more than one parcel.

(K) If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(L)(1) Notwithstanding the limitations on the life of an incentive district and the number of years that improvements to a parcel or parcels within an incentive district may be exempted from taxation prescribed by divisions (C) and (D) of this section, the legislative authority of a municipal corporation may amend an ordinance originally adopted under division (C) of this section before January 1, 2006, to extend the life of an incentive district created by that ordinance. The extension shall be for a period not to exceed fifteen years and shall not increase the percentage of the value of improvements exempted from taxation.

(2) Before adopting an amendment authorized by division (L)(1) of this section, the legislative authority of the municipal corporation shall provide notice of the amendment to each board of education of the city, local, or exempted village school district in which the incentive district is located, in the same manner as provided under division (D) of this section, and shall obtain the approval of each such board in the manner required under that division, except both of the following apply:

(a) The board of education may approve the exemption on the condition that the legislative authority and the board negotiate an agreement providing for mutually agreeable compensation to the school district.

(b) If the board of education fails to certify a resolution approving the amendment to the legislative authority within the time prescribed by division (D) of this section, the legislative authority shall not adopt the amendment authorized under division (L) of this section.

(3) No approval otherwise required by division (L)(2) of this section shall be required from a board of education if either of the following apply:

(a) The amendment provides for compensation to the city, local, or exempted village school district in which the incentive district is located equal in value to the amount of taxes that would be payable to the school district if the improvements exempted from taxation had not been exempted for the additional period.

(b) The board of education has adopted a resolution waiving its right to approve exemptions from taxation pursuant to division (D)(4) of this section. If the board has adopted such a resolution, the municipal corporation shall comply with the notice requirements imposed by section 5709.83 of the Revised Code before taking formal action to adopt an amendment authorized under division (L)(1) of this section unless the board has adopted a resolution under that section waiving its right to receive that notice.

(4) Not later than fourteen days before adopting an amendment authorized by division (L)(1) of this section, the legislative authority of the municipal corporation shall deliver a notice identical to a notice required under section 5709.83 of the Revised Code to the board of county commissioners of each county in which the incentive district is located.

Sec. 5709.48. (A) As used in this section and sections 5709.481, 5709.49, and 5709.50 of the Revised Code:

(1) "Regional transportation improvement project" has the same meaning as in section 5595.01 of the Revised Code.

(2) "Improvements" means the increase in the assessed value of any real property that would first appear on the tax list and duplicate of real and public utility property after the effective date of the resolution adopted under this section were it not for the exemption granted by that resolution.

(B) For the purposes described in division (A) of section 5595.06 of the Revised Code, the governing board of a regional transportation improvement project that was undertaken pursuant to section 5595.02 of the Revised Code before March 23, 2018, may, by resolution, create a transportation financing district and declare improvements to parcels within the district to be a public purpose and exempt from taxation.

(C) A transportation financing district ~~may include~~ shall consist of all territory ~~in more than one county as long as each such county is a participant~~

of all counties that are participants in the regional transportation improvement project funded by the district. ~~A, except that the~~ district shall not include parcels used primarily for residential purposes. ~~A district shall not include any parcel that is,~~ parcels that are currently exempt from taxation under this section or section 5709.40, 5709.41, 5709.45, 5709.73, or 5709.77 of the Revised Code, ~~or parcels excluded from the district under division (G) of this section. The governing board may designate parcels within the boundaries of a district that are not to be included in the district. The governing board may designate noncontiguous parcels located outside the boundaries of the district that are to be included in the district.~~

~~The governing board may adopt more than one resolution under division (B) of this section. A single such resolution may create more than one transportation financing district.~~

(D) A resolution creating a transportation financing district shall specify all of the following:

(1) ~~A description of the territory included in the district;~~

(2) The county treasurer's permanent parcel number associated with each parcel included in the district;

~~(3)(2)(a)~~ The percentage of improvements to be exempted from taxation and the duration of the exemption, ~~which,~~

(b) Except as provided in division (E) of this section, the percentage of improvements to be exempted shall not exceed seventy-five per cent, and the duration of the exemption shall not exceed ten years.

(c) In no case may the life of the exemption exceed the remaining number of years the cooperative agreement for the regional transportation improvement district, described under section 5595.03 of the Revised Code, is in effect;

~~(4)(3)~~ A plan for the district that describes the principal purposes and goals to be served by the district and explains how the use of service payments provided for by section 5709.49 of the Revised Code will economically benefit owners of property within the district.

~~(E)(1) Except as otherwise provided in divisions (E)(2) and (3)(E)~~ Subject to division (D)(2)(c) of this section, the improvements to parcels located in a transportation financing district may be exempted from taxation for up to thirty years, and the percentage of improvements that may be exempted may equal up to one hundred per cent, if either of the following apply:

(1) The governing board, before adopting a resolution under division (B) of this section, shall notify and obtain obtains the approval under division (F) of section of the board of education of each subdivision and

~~taxing unit that levies a property tax city, local, and exempted village school district within the territory of the proposed transportation financing district. A subdivision or taxing unit's approval or disapproval of the proposed district shall be in the form of an ordinance or resolution. The governing board may negotiate an agreement with a subdivision or taxing unit~~

(2) In the resolution creating the transportation financing district, the governing board agrees to compensate each city, local, or exempted village, and joint vocational school district or districts in which the transportation financing district is located for the full amount of taxes that would have been payable to the school district or districts if the improvements had not been exempted from taxation.

(F)(1) A governing board seeking the approval of a school district for the purpose of division (E)(1) of this section shall send notice of the proposed resolution to the school district not later than forty-five business days before it intends to adopt the resolution. The notice shall include a copy of the proposed resolution and shall indicate the date on which the governing board 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 governing board and the board of education negotiate an agreement providing for compensation equal in value to a percentage of the amount of taxes exempted or some other mutually agreeable compensation. If a mutually acceptable compensation agreement is negotiated between the governing board and the board of education, the governing board shall compensate the joint vocational school district within which the district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(2) The board of education shall certify a resolution adopted under division (F)(1) of this section to the governing board not later than fourteen days before the date the governing board intends to adopt the resolution as indicated in the notice. If the board of education approves the ordinance or negotiates a mutually acceptable compensation agreement, the governing board may enact the resolution in its current form. If the board of education disapproves of the ordinance and fails to negotiate a mutually acceptable compensation agreement, the resolution is subject to the limitations prescribed by divisions (D)(2)(b) and (c) of this section. If the board of

education fails to certify a resolution within the time prescribed by this division, the governing board may adopt the resolution and declare the improvements a public purpose for the period of time specified in the resolution, or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution.

The governing board may adopt the resolution at any time after the board of education certifies its resolution approving the exemption, 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 governing board.

~~(2)(3)~~ A subdivision or taxing unit board of education may adopt an ordinance or a resolution waiving its right to approve or receive notice of transportation financing districts proposed under this section. If a subdivision or taxing unit board of education has adopted such an ordinance or a resolution, the terms of that ordinance or resolution supersede the requirements of division (E)(1)(F)(1) of this section. The governing board may negotiate an agreement with a subdivision or taxing unit board of education providing for some mutually agreeable compensation in exchange for the subdivision or taxing unit board of education adopting such an ordinance or a resolution. If a subdivision or taxing unit board of education has adopted such an ordinance or resolution, it shall certify a copy to the governing board. If the subdivision or taxing unit board of education rescinds such an ordinance or a resolution, it shall certify notice of the rescission to the governing board.

~~(3) The governing board need not obtain the approval of a subdivision or taxing unit if the governing board agrees to compensate that subdivision or unit for the full amount of taxes exempted under the resolution creating the district.~~

~~(F) After complying with division (E) of this section, the~~

(4) If the governing board is not required by division (F) of this section to notify the board of education of the governing board's intent to create a transportation financing district, the governing board shall comply with the notice requirements imposed under 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 a notice.

(G) The governing board shall notify and obtain the approval of every real property owner whose property is included in the proposed transportation financing district. The approval shall include a signed

agreement between the property owner and the governing board that specifies the projects and purposes for which the service payments made by the owner under section 5709.49 of the Revised Code will be used. Such an agreement does not supersede any compensation agreement between the governing board and a school district under division (F) of this section. If the property owner and the governing board do not reach an agreement under this division, the parcel shall be excluded from the district.

~~(G)(1)~~~~(H)(1)~~ Upon adopting a resolution creating a transportation financing district, the governing board shall send a copy of the resolution and documentation sufficient to prove that the requirements of divisions ~~(E)(F)~~ and ~~(F)(G)~~ of this section have been met to the director of development services. The director shall evaluate the resolution and documentation to determine if the governing board has fully complied with the requirements of this section. If the director approves the resolution, the director shall send notice of approval to the governing board. If the director does not approve the resolution, the director shall send a notice of denial to the governing board that includes the reason or reasons for the denial. If the director does not make a determination within ninety days after receiving a resolution under this section, the director is deemed to have approved the resolution. No resolution creating a transportation financing district is effective without actual or constructive approval by the director under this section.

(2) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and that commences after the effective date of the resolution.

(3) Except as otherwise provided in this division, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the regional transportation improvement project funded by the service payments dissolves under section 5595.13 of the Revised Code, whichever occurs first. Exemptions shall be claimed and allowed in the same manner as in the case of other real property exemptions. If an exemption status changes during a year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

~~(H)(1)~~ The resolution creating a transportation financing district may be amended at any time by majority vote of the governing board and with the

approval of the director of development ~~services~~ obtained in the same manner as approval of the original resolution. Such an amendment may include adding a parcel to the district that was previously excluded under division (G) of this section, so long as the governing board and the owner of the parcel reach an agreement on the use of service payments as provided under that division.

Sec. 5709.481. (A) The governing board of a regional transportation improvement project may negotiate and enter into a voluntary agreement with the owner or owners of any parcel located in a transportation financing district created by the board whereby the owner or owners agree to subject the parcel to an assessment levied by the governing board and the governing board agrees to use the proceeds of that assessment for the purposes ~~of the project as described in the resolution creating the district~~ described in division (A) of section 5595.06 of the Revised Code.

(B) The agreement shall specify the amount and duration of the assessment. The assessment may not be collected after the dissolution of the associated regional transportation improvement project under section 5595.13 of the Revised Code.

(C) The governing board shall annually compute the amount of each assessment imposed by an agreement under this section and certify the amount to the owner or owners of the parcel and to the county auditor of the county in which the parcel is located. The county auditor shall enter the assessment on the tax list of real property opposite against which it is charged, and certify the assessment to the county treasurer. The assessment shall be charged and collected in the same manner as real property taxes and shall be treated in the same manner as real property taxes for all purposes of the lien described in section 323.11 of the Revised Code, including the priority and enforcement of the lien. Money collected from the assessment shall be paid immediately to the governing board. The county treasurer shall maintain a record of all payments of assessments under this section.

(D) The governing board may negotiate and enter into as many agreements under this section as are necessary or useful in serving the principal purposes and goals described in the resolution creating the district. One agreement may impose an assessment on more than one parcel only if the owner or owners of all such parcels have approved the agreement.

(E) An agreement may be amended for the purposes of subjecting additional parcels to the assessment by resolution adopted by the governing board and approved by the owner or owners of the additional parcels. An agreement may be rescinded or may be amended for any purpose other than subjecting additional parcels to the assessment by resolution adopted by the

governing board and approved by the owner or owners of every parcel that is subject to the assessment imposed under the agreement.

(F) An agreement under this section is hereby deemed to be a covenant running with each parcel of land that is subject to the agreement. The covenant is fully binding on behalf of and enforceable by the governing board against any person who subsequently acquires an interest in the land and all of that person's successors and assigns. No purchase agreement for real estate or any interest in real estate that is subject to such an agreement shall be enforceable by the seller or binding upon the purchaser unless the purchase agreement specifically refers to the agreement. If a conveyance of such real estate or interest in such real estate is made pursuant to a purchase agreement that does not make such a reference, the agreement shall continue to be a covenant running with the land fully binding on behalf of and enforceable by the governing board against the person accepting the conveyance pursuant to the purchase agreement.

Sec. 5709.49. (A) The governing board of a regional transportation improvement project that has declared an improvement to be a public purpose under section 5709.48 of the Revised Code shall require the owner of any parcel located in the transportation financing district to make annual service payments in lieu of taxes to the county treasurer on or before the final dates for payment of real property taxes. Each such payment shall be charged and collected in the same manner and in the same amount as the real property taxes that would have been charged and payable against the improvement if it were not exempt from taxation. If any reduction in the levies otherwise applicable to such exempt property is made by the county budget commission under section 5705.31 of the Revised Code, the amount of the service payment in lieu of taxes shall be calculated as if such reduction in levies had not been made.

(B) Moneys collected as service payments in lieu of taxes from a parcel shall be distributed at the same time and in the same manner as real property tax payments. If a resolution adopted under section 5709.48 of the Revised Code specifies that service payments shall be paid to ~~another subdivision or taxing unit~~ any city, local, or exempted village, and joint vocational school district or districts in which the parcel is located, the county treasurer shall distribute the portion of the service payments to ~~that subdivision or taxing unit~~ the district or districts in an amount equal to the property tax payments ~~the subdivision or taxing unit~~ each such district would have received from the portion of the parcel's improvement exempted from taxation had the improvement not been exempted, or some other amount as directed in the resolution. The treasurer shall maintain a record of the service payments in

lieu of taxes made from property in each transportation financing district.

(C) Nothing in this section or section 5709.48 of the Revised Code affects the taxes levied against that portion of the value of any parcel of property that is not exempt from taxation.

Sec. 5709.50. (A) The governing board of a regional transportation improvement project that grants a tax exemption under section 5709.48 of the Revised Code or enters into one or more voluntary agreements imposing assessments under section 5709.481 of the Revised Code shall establish a regional transportation improvement project fund into which shall be deposited service payments in lieu of taxes distributed under section 5709.49 of the Revised Code and assessments collected pursuant to such agreements. Money in the regional transportation improvement project fund shall be used by the governing board for the purposes described in the resolution creating the transportation financing district division (A) of section 5595.06 of the Revised Code and in accordance with the agreements between the governing board and property owners under division (G) of section 5709.48 of the Revised Code. Money in the regional transportation improvement project fund shall be administered by the governing board in accordance with the requirements of section 5595.08 of the Revised Code and may be invested as provided in section 5595.09 of the Revised Code.

(B) The regional transportation improvement project fund is dissolved by operation of law upon the dissolution of the associated regional transportation improvement project under section 5595.13 of the Revised Code. Any incidental surplus remaining in the fund, to the extent unencumbered, shall be divided and distributed by the county treasurer of the most populous county in which the district is located as follows:

(1) To the general funds of the subdivisions and taxing units in which the district is located, an amount equal to the surplus revenue multiplied by a fraction, the numerator of which is the amount of service payment revenue deposited to the fund after the most recent collection of property taxes and payments in lieu of taxes, and the denominator of which is the total amount deposited to the fund after the most recent collection of property taxes and payments in lieu of taxes. This amount shall be divided proportionally based on the property tax levy revenue foregone by each such subdivision and taxing unit due to the exemption of improvements to property within the district at the most recent collection of service payments in lieu of taxes. The division of revenue shall account for amounts returned to subdivisions city, local, or exempted village, and taxing units joint vocational school districts through compensation agreements arrangements entered into under division (E) of section 5709.48 of the Revised Code. The amount distributed

to each subdivision or taxing unit shall be apportioned among its funds as if that amount had been levied and collected as taxes and distributed in the most recent settlement of taxes.

(2) To the owners of parcels subject to a special assessment under section 5709.481 of the Revised Code, all remaining surplus revenue. This amount shall be divided proportionally based on the amount of the assessment levied against each such parcel at the most recent collection of such assessments. Owners of parcels that are delinquent in paying an assessment imposed by an agreement under section 5709.481 of the Revised Code may not receive surplus revenue under this division. The share of surplus revenue that such owner or owners would have otherwise received shall be divided proportionally among the owners of nondelinquent parcels.

Sec. 5709.51. (A) The legislative authority of a municipal corporation, a board of township trustees, or a board of county commissioners may amend or provide in an ordinance or resolution adopted in accordance with division (B) of section 5709.40, section 5709.41, division (B) of section 5709.73, or division (A) of section 5709.78 of the Revised Code, as applicable, to extend the exemption from taxation of improvements to the parcel or parcels designated in the ordinance or resolution for an additional period of not more than thirty years if all of the following conditions are met:

(1) ~~The~~ Either (a) the service payments made pursuant to section 5709.42, 5709.74, or 5709.79 of the Revised Code by the owner or owners of the parcel or parcels designated in the ordinance or resolution exceeded one million five hundred thousand dollars in the calendar year preceding the adoption of the amendment or (b) the legislative authority of the municipal corporation, a board of township trustees, or a board of county commissioners determines that the service payments to be made pursuant to section 5709.42, 5709.74, or 5709.79 of the Revised Code by the owner or owners of the parcel or parcels designated in the ordinance or resolution will exceed one million five hundred thousand dollars in any future year.

(2) The service payments described in division (A)(1) of this section did not exceed one million five hundred thousand dollars in any calendar year before the calendar year immediately preceding the adoption of the amendment. This condition applies only to amendments adopted under this section on or after January 1, ~~2021~~ 2024.

(3) The amendment extending or the ordinance or resolution approving the exemption provides for compensation to the city, local, or exempted village school district in which the parcel or parcels are located equal in value to the amount of taxes that would be payable to the school district if the improvements had not been exempted from taxation for the additional

period.

(B) Not later than fifteen days after adopting or amending an ordinance or resolution under this section, the legislative authority of the municipal corporation, board of township trustees, or board of county commissioners shall send a copy of the amendment to the director of development ~~services~~.

(C) The amendment to this section by H.B. 33 of the 135th general assembly applies to any proceedings commenced after the effective date of that amendment, and, insofar as the amendment supports the actions taken, also applies to proceedings that, on that date, are pending, in progress, or completed, notwithstanding the applicable law previously in effect or any provision to the contrary in a prior resolution, ordinance, order, advertisement, notice, or other proceeding. Any proceedings pending or in progress on the effective date of that amendment, shall be deemed to have been taken in conformity with that amendment.

Sec. 5709.56. (A) As used in this section:

(1) "Pre-residential development property" means a subdivided parcel of unimproved real property on which construction of one or more residential buildings is planned but has not yet commenced. The construction of streets, sidewalks, curbs, or driveways or the installation of water, sewer, or other utility lines on a subdivided parcel does not cause construction of a residential building to commence for purposes of division (A)(1) or (B) of this section. "Pre-residential development property" does not include a parcel, any portion of the value of which is exempted from taxation under section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code.

(2) "Residential building" means a building or structure any part of which is to be used as a dwelling.

(3) "Unexempted value" means, for any subdivided parcel, one of the following:

(a) Except as provided in division (A)(3)(b) of this section, the purchase price of the original property multiplied by a fraction, the numerator of which is the true value in money of the subdivided parcel for the tax year the subdivided parcel first appears on the tax list and the denominator of which is the true value in money of all subdivided parcels subdivided from that original parcel for that tax year.

(b) If a subdivided parcel exempted under this section is itself subdivided, the "unexempted value" of the newly subdivided parcel equals the unexempted value, as defined in division (A)(3)(a) of this section, of the parcel from which the newly subdivided parcel was subdivided for the tax year preceding the tax year the newly subdivided parcel first appears on the tax list multiplied by a fraction, the numerator of which is the true value in

money of the newly subdivided parcel for the tax year it first appears on the tax list and the denominator of which is the true value in money for that year of all newly subdivided parcels resulting from the most recent subdivision.

(4) "Subdivided parcel" means a parcel resulting from the subdivision of original property pursuant to a plat subdividing that property presented to the county auditor under section 5713.18 of the Revised Code.

(5) "Original property" means the parcel from which a subdivided parcel is subdivided.

(6) "Qualifying owner" means the owner of pre-residential development property for any portion of a tax year ending on or after the effective date of this section that includes the date a plat subdividing land including such property is presented to the county auditor under section 5713.18 of the Revised Code, or any other person to which title to the property is transferred, without consideration, by another qualifying owner.

(7) "Purchase price" means the price at which the property was most recently sold in an arm's length transaction, as described in section 5713.03 of the Revised Code.

(B) Any increase in taxable value above the unexempted value of pre-residential development property owned by a qualifying owner is exempted from taxation beginning with the first tax year the pre-residential development property appears on the tax list after a plat subdividing land including that property is presented to the county auditor under section 5713.18 of the Revised Code and for each of the seven ensuing tax years, except that the exemption shall not apply beginning with the tax year that begins after the tax year in which the earliest of the following occurs:

(1) Construction of a residential building on that property commences;

(2) Title to the property is transferred for consideration by a qualifying owner to another person;

(3) Any portion of the value of that property is exempted from taxation under section 5709.40, 5709.41, 5709.73, or 5709.78 of the Revised Code.

(C) The tax commissioner shall not approve an application for an exemption authorized under this section unless the applicant for the exemption certifies that the parcel that is the subject of the exemption satisfies the requirements of division (A)(1) of this section for pre-residential development property.

(D)(1) If a parcel subject to the partial exemption authorized by this section is valued at its current value for agricultural use under section 5713.31 of the Revised Code, the county auditor shall regularly inspect the parcel to determine whether a conversion of land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, has

occurred. Nothing in this section shall be construed to limit the authority of a county auditor to levy any recoupment charge pursuant to sections 5713.34 and 5713.35 of the Revised Code.

(2) Nothing in this section shall be construed to allow a parcel that is not land devoted exclusively to agricultural use, as defined in section 5713.30 of the Revised Code, to be valued at its current value for agricultural use under section 5713.31 of the Revised Code.

(3) Nothing in this section shall be construed to authorize a parcel subject to the partial exemption authorized by this section to be valued and assessed for taxation in any manner other than in accordance with Section 36 of Article II or Section 2 of Article XII, Ohio Constitution, as applicable to the parcel.

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) "Overlay" has the same meaning as in section 5709.40 of the Revised Code, except that the overlay is delineated by the board of township trustees.

(6) "Project" and "public infrastructure improvement" have the same meanings as in section 5709.40 of the Revised Code.

(7) "Urban township" has the same meaning as in section 504.01 of the Revised Code.

(8) "Nonperforming parcel" means a parcel to which all of the following

apply:

(a) The parcel is exempted from taxation under division (B) of this section or has been included in a district created under division (C) of this section.

(b) The parcel's owner is required to make payments in lieu of taxes in accordance with section 5709.74 of the Revised Code.

(c) No such payments have been remitted to the county treasurer since the inception of the exemption or district.

(B) A board of township trustees may 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 for a resolution adopted by the board of an urban township, the resolution shall be adopted by a unanimous vote of the board. Except as otherwise provided under division (D) of this section or section 5709.51 of the Revised Code, 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 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 (C)(2) of this section, exempt from taxation as provided in this section. Except for a resolution adopted by the board of an urban township, the resolution shall be adopted by a unanimous vote of the board. A 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, may not 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 proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel, other than a nonperforming 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. On and after the effective date of the district, a nonperforming parcel within the district is no longer exempted from taxation under division (B) of this section or included within an incentive district under any previous resolution, and the parcel's owner is no longer required to make payments in lieu of taxes under such a previous resolution in accordance with section 5709.74 of the Revised Code. Any exemption application filed with the tax commissioner under section 5715.27 of the Revised Code under the second resolution shall identify the nonperforming parcels included in the second district, the original resolution under which the nonperforming parcels were originally exempted, and the value history of each nonperforming parcel since the enactment of the original resolution. A resolution may create more than one such district, and more than one resolution may be adopted under division (C)(1) of this section.

(2)(a) 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. The notice shall include a map of the proposed incentive district on which the board of township trustees shall have delineated an overlay. The notice shall inform the property owner of the owner's right to exclude the owner's property from the incentive district if both of the following conditions are met:

(i) The owner's entire parcel of property will not be located within the overlay.

(ii) The owner has submitted a statement to the board of county commissioners of the county in which the parcel is located indicating the owner's intent to seek a tax exemption for improvements to the owner's parcel under division (A) or (B) of section 5709.78 of the Revised Code within the next five years.

When both of the preceding conditions are met, the owner may exclude the owner's property from the incentive district by submitting a written response in accordance with division (C)(2)(b) of this section. The notice also shall include information detailing the required contents of the

response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (C)(1) of this section who meets the conditions specified in divisions (C)(2)(a)(i) and (ii) of this section may exclude the property from the proposed incentive district by submitting a written response to the board not later than forty-five days after the postmark date on the notice required under division (C)(2)(a) of this section. The response shall include a copy of the statement submitted under division (C)(2)(a)(ii) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the board under division (C)(2)(a) of this section. The response shall conform to any content requirements that may be established by the board and included in the notice provided under division (C)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the resolution, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting a resolution under division (C)(1) of this section, the board shall amend the resolution to exclude any parcel for which a written response has been submitted under division (C)(2)(b) of this section. A township shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (B) of this section pursuant to a resolution adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(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, except as provided in division (F) of this section, 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.

Nothing in this division prohibits the board of township trustees from amending the resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(E)(1) If a proposed resolution under division (C)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of township trustees shall deliver to the board of county commissioners of the county within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board of township trustees intends to adopt the resolution.

(2) The board of county commissioners, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of county commissioners objects, the board may negotiate a mutually acceptable compensation agreement with the board of township trustees. In no case shall the compensation provided to the board of county commissioners exceed the property taxes foregone due to the exemption. If the board of county commissioners objects, and the board of county commissioners and board of township trustees fail to negotiate a mutually acceptable compensation agreement, the resolution adopted under division (C)(1) of this section shall provide to the board of county commissioners compensation in the eleventh and subsequent years of the exemption period equal in value to not more than fifty per cent of the taxes that would be payable to the county or, if the board of county commissioner's objection includes an objection to an exemption percentage in excess of seventy-five per cent, compensation equal in value to not more than fifty per cent of the taxes that would be payable to the county, on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation. The board of county commissioners shall certify its resolution to the board of township trustees not later than thirty days after

receipt of the notice.

(3) If the board of county commissioners does not object or fails to certify its resolution objecting to an exemption within thirty days after receipt of the notice, the board of township trustees may adopt its resolution, and no compensation shall be provided to the board of county commissioners. If the board of county commissioners timely certifies its resolution objecting to the trustees' resolution, the board of township trustees may adopt its resolution at any time after a mutually acceptable compensation agreement is agreed to by the board of county commissioners and the board of township trustees, or, if no compensation agreement is negotiated, at any time after the board of township trustees agrees in the proposed resolution to provide compensation to the board of county commissioners of fifty per cent of the taxes that would be payable to the county in the eleventh and subsequent years of the exemption period or on the portion of the improvement in excess of seventy-five per cent, were that portion to be subject to taxation.

(F) Service payments in lieu of taxes that are attributable to any amount by which the effective tax rate of either a renewal levy with an increase or a replacement levy exceeds the effective tax rate of the levy renewed or replaced, or that are attributable to an additional levy, for a levy authorized by the voters for any of the following purposes on or after January 1, 2006, and which are provided pursuant to a resolution creating an incentive district under division (C)(1) of this section that is adopted on or after January 1, 2006, or a later date as specified in this division, shall be distributed to the appropriate taxing authority as required under division (C) of section 5709.74 of the Revised Code in an amount equal to the amount of taxes from that additional levy or from the increase in the effective tax rate of such renewal or replacement levy that would have been payable to that taxing authority from the following levies were it not for the exemption authorized under division (C) of this section:

(1) A tax levied under division (L) of section 5705.19 or section 5705.191 or 5705.222 of the Revised Code for community developmental disabilities programs and services pursuant to Chapter 5126. of the Revised Code;

(2) A tax levied under division (Y) of section 5705.19 of the Revised Code for providing or maintaining senior citizens services or facilities;

(3) A tax levied under section 5705.22 of the Revised Code for county hospitals;

(4) A tax levied by a joint-county district or by a county under section 5705.19, 5705.191, or 5705.221 of the Revised Code for alcohol, drug

addiction, and mental health services or families;

(5) A tax levied under section 5705.23 of the Revised Code for library purposes;

(6) A tax levied under section 5705.24 of the Revised Code for the support of children services and the placement and care of children;

(7) A tax levied under division (Z) of section 5705.19 of the Revised Code for the provision and maintenance of zoological park services and facilities under section 307.76 of the Revised Code;

(8) A tax levied under section 511.27 or division (H) of section 5705.19 of the Revised Code for the support of township park districts;

(9) A tax levied under division (A), (F), or (H) of section 5705.19 of the Revised Code for parks and recreational purposes of a joint recreation district organized pursuant to division (B) of section 755.14 of the Revised Code;

(10) A tax levied under section 1545.20 or 1545.21 of the Revised Code for park district purposes;

(11) A tax levied under section 5705.191 of the Revised Code for the purpose of making appropriations for public assistance; human or social services; public relief; public welfare; public health and hospitalization; and support of general hospitals;

(12) A tax levied under section 3709.29 of the Revised Code for a general health district program;

(13) A tax levied by a township under section 505.39, 505.51, or division (I), (J), (U), or (JJ) of section 5705.19 of the Revised Code for the purpose of funding fire, police, emergency medical, or ambulance services as described in those sections. Division (F)(13) of this section applies only to incentive districts created by a resolution adopted on or after March 22, 2019, the effective date of the amendment of this section by H.B. 500 of the 132nd general assembly, and only if that resolution specifies that division (F) of this section shall apply to such a tax.

(G) An exemption from taxation granted under this section commences with the tax year specified in the resolution so long as the year specified in the resolution commences after the effective date of the resolution. If the resolution specifies a year commencing before the effective date of the resolution or specifies no year whatsoever, the exemption commences with the tax year in which an exempted improvement first appears on the tax list and duplicate of real and public utility property and that commences after the effective date of the resolution. In lieu of stating a specific year, the resolution may provide that the exemption commences in the tax year in which the value of an improvement exceeds a specified amount or in which

the construction of one or more improvements is completed, provided that such tax year commences after the effective date of the resolution. With respect to the exemption of improvements to parcels under division (B) of this section, the resolution may allow for the exemption to commence in different tax years on a parcel-by-parcel basis, with a separate exemption term specified for each parcel.

Except as otherwise provided in this division and section 5709.51 of the Revised Code, the exemption ends on the date specified in the resolution as the date the improvement ceases to be a public purpose or the incentive district expires, or ends on the date on which the public infrastructure improvements and housing renovations are paid in full from the township public improvement tax increment equivalent fund established under section 5709.75 of the Revised Code, whichever occurs first. The exemption of an improvement with respect to a parcel or within an incentive district may end on a later date, as specified in the resolution, if the board of township trustees and the board of education of the city, local, or exempted village school district within which the parcel or district is located have entered into a compensation agreement under section 5709.82 of the Revised Code with respect to the improvement and the board of education has approved the term of the exemption under division (D) of this section, but in no case shall the improvement be exempted from taxation for more than thirty years. The board of township trustees may, by majority vote, adopt a resolution permitting the township to enter into such agreements as the board finds necessary or appropriate to provide for the construction or undertaking of public infrastructure improvements and housing renovations. Any exemption shall be claimed and allowed in the same or a similar manner as in the case of other real property exemptions. If an exemption status changes during a tax year, the procedure for the apportionment of the taxes for that year is the same as in the case of other changes in tax exemption status during the year.

(H) The board of township trustees may issue the notes of the township to finance all costs pertaining to the construction or undertaking of public infrastructure improvements and housing renovations made pursuant to this section. The notes shall be signed by the board and attested by the signature of the township fiscal officer, shall bear interest not to exceed the rate provided in section 9.95 of the Revised Code, and are not subject to Chapter 133. of the Revised Code. The resolution authorizing the issuance of the notes shall pledge the funds of the township public improvement tax increment equivalent fund established pursuant to section 5709.75 of the Revised Code to pay the interest on and principal of the notes. The notes,

which may contain a clause permitting prepayment at the option of the board, shall be offered for sale on the open market or given to the vendor or contractor if no sale is made.

(I) The township, not later than fifteen days after the adoption of a resolution under this section, shall submit to the director of development ~~services~~ a copy of the resolution. On or before the thirty-first day of March of each year, the township shall submit a status report to the director ~~of development services~~. The report shall indicate, in the manner prescribed by the director, the progress of the project during each year that the exemption remains in effect, including a summary of the receipts from service payments in lieu of taxes; expenditures of money from the fund created under section 5709.75 of the Revised Code; a description of the public infrastructure improvements and housing renovations financed with the expenditures; and a quantitative summary of changes in private investment resulting from each project.

(J) Nothing in this section shall be construed to prohibit a board of township trustees from declaring to be a public purpose improvements with respect to more than one parcel.

If a parcel is located in a new community district in which the new community authority imposes a community development charge on the basis of rentals received from leases of real property as described in division (L)(2) of section 349.01 of the Revised Code, the parcel may not be exempted from taxation under this section.

(K) A board of township trustees that adopted a resolution under this section prior to July 21, 1994, may amend that resolution to include any additional public infrastructure improvement. A board of township trustees that seeks by the amendment to utilize money from its township public improvement tax increment equivalent fund for land acquisition in aid of industry, commerce, distribution, or research, demolition on private property, or stormwater and flood remediation projects may do so provided that the board currently is a party to a hold-harmless agreement with the board of education of the city, local, or exempted village school district within the territory of which are located the parcels that are subject to an exemption. For the purposes of this division, a "hold-harmless agreement" means an agreement under which the board of township trustees agrees to compensate the school district for one hundred per cent of the tax revenue that the school district would have received from further improvements to parcels designated in the resolution were it not for the exemption granted by the resolution.

(L) Notwithstanding the limitation prescribed by division (D) of this

section on the number of years that improvements to a parcel or parcels may be exempted from taxation, a board of trustees of a township with a population of fifteen thousand or more may amend a resolution originally adopted under this section before December 31, 1994, to extend the exemption of improvements to the parcel or parcels included in such resolution for an additional period not to exceed fifteen years. The amendment shall not increase the percentage of improvements to the parcel or parcels exempted from taxation. Before adopting an amendment authorized under this division, the board of township trustees shall obtain the approval of each board of education of the city, local, or exempted village school district within which the exempted parcels are located in the manner required under division (D) of this section, except that (1) the board of education 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 the amount of taxes the district forgoes in each year the exemption is extended pursuant to this division or any other mutually agreeable compensation and (2) if the board of education fails to certify a resolution approving the amendment to the board of township trustees within the time prescribed by division (D) of this section, the board of township trustees shall not adopt the amendment authorized under this division.

No approval under this division shall be required from a board of education that has adopted a resolution waiving its right to approve exemptions from taxation pursuant to division (D) of this section. If the board of education has adopted such a resolution, 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 an amendment authorized under this division unless the board of education has adopted a resolution under that section waiving its right to receive the notice. Not later than fourteen days before adopting an amendment authorized under this division, the board of township trustees shall deliver a notice identical to a notice required under section 5709.83 of the Revised Code to the board of county commissioners of each county in which the exempted parcels are located.

Sec. 5709.78. (A) A board of county commissioners may, by resolution, declare improvements to certain parcels of real property located in the unincorporated territory of the county to be a public purpose. Except as otherwise provided under division (C) of this section or section 5709.51 of the Revised Code, not more than seventy-five per cent of an improvement thus declared to be a public purpose may be exempted from real property

taxation, for a period of not more than ten years. The resolution shall specify the percentage of the improvement to be exempted and the life of the exemption.

A resolution adopted under this division shall designate the specific public infrastructure improvements made, to be made, or in the process of being made by the county that directly benefit, or that once made will directly benefit, the parcels for which improvements are declared to be a public purpose. The service payments provided for in section 5709.79 of the Revised Code shall be used to finance the public infrastructure improvements designated in the resolution, or as provided in section 5709.80 of the Revised Code.

(B)(1) A board of county commissioners may adopt a resolution creating an incentive district and declaring improvements to parcels within the district to be a public purpose and, except as provided in division (B)(2) of this section, exempt from taxation as provided in this section, but no board of county commissioners of a county that has a population that exceeds twenty-five thousand, as shown by the most recent federal decennial census, shall adopt a resolution that creates an incentive district if the sum of the taxable value of real property in the proposed district for the preceding tax year and the taxable value of all real property in the county that would have been taxable in the preceding year were it not for the fact that the property was in an existing incentive district and therefore exempt from taxation exceeds twenty-five per cent of the taxable value of real property in the county for the preceding tax year. The district shall be located within the unincorporated territory of the county and shall not include any territory that is included within a district created under division (C) of section 5709.73 of the Revised Code. The resolution shall delineate the boundary of the proposed district and specifically identify each parcel within the district. A proposed district may not include any parcel that is or has been exempted from taxation under division (A) of this section or that is or has been within another district created under this division. A resolution may create more than one such district, and more than one resolution may be adopted under division (B)(1) of this section.

(2)(a) Not later than thirty days prior to adopting a resolution under division (B)(1) of this section, if the county intends to apply for exemptions from taxation under section 5709.911 of the Revised Code on behalf of owners of real property located within the proposed incentive district, the board of county commissioners shall conduct a public hearing on the proposed resolution. Not later than thirty days prior to the public hearing, the board shall give notice of the public hearing and the proposed resolution

by first class mail to every real property owner whose property is located within the boundaries of the proposed incentive district that is the subject of the proposed resolution. The board also shall provide the notice by first class mail to the clerk of each township in which the proposed incentive district will be located. The notice shall include a map of the proposed incentive district on which the board of county commissioners shall have delineated an overlay. The notice shall inform property owners of the owner's right to exclude the owner's property from the incentive district if both of the following conditions are met:

(i) The owner's entire parcel of property will not be located within the overlay.

(ii) The owner has submitted a statement to the board of township trustees of the township in which the parcel is located indicating the owner's intent to seek a tax exemption for improvements to the owner's parcel under section 5709.41 or division (B) or (C) of section 5709.73 of the Revised Code within the next five years.

When both of the preceding conditions are met, the owner may exclude the owner's property from the incentive district by submitting a written response in accordance with division (B)(2)(b) of this section. The notice also shall include information detailing the required contents of the response, the address to which the response may be mailed, and the deadline for submitting the response.

(b) Any owner of real property located within the boundaries of an incentive district proposed under division (B) (1) of this section who meets the conditions specified in divisions (B)(2)(a)(i) and (ii) of this section may exclude the property from the proposed incentive district by submitting a written response to the board not later than forty-five days after the postmark date on the notice required under division (B)(2)(a) of this section. The response shall include a copy of the statement submitted under division (B)(2)(a)(ii) of this section. The response shall be sent by first class mail or delivered in person at a public hearing held by the board under division (B)(2)(a) of this section. The response shall conform to any content requirements that may be established by the board and included in the notice provided under division (B)(2)(a) of this section. In the response, property owners may identify a parcel by street address, by the manner in which it is identified in the resolution, or by other means allowing the identity of the parcel to be ascertained.

(c) Before adopting a resolution under division (B)(1) of this section, the board shall amend the resolution to exclude any parcel for which a written response has been submitted under division (B)(2)(b) of this section.

A county shall not apply for exemptions from taxation under section 5709.911 of the Revised Code for any such parcel, and service payments may not be required from the owner of the parcel. Improvements to a parcel excluded from an incentive district under this division may be exempted from taxation under division (A) of this section pursuant to a resolution adopted under that division or under any other section of the Revised Code under which the parcel qualifies.

(3)(a) A resolution adopted under division (B)(1) of this section shall specify the life of the incentive district and the percentage of the improvements to be exempted, shall designate the public infrastructure improvements made, to be made, or in the process of being made, that benefit or serve, or, once made, will benefit or serve parcels in the district. The resolution also shall identify one or more specific projects being, or to be, undertaken in the district that place additional demand on the public infrastructure improvements designated in the resolution. The project identified may, but need not be, the project under division (B)(3)(b) of this section that places real property in use for commercial or industrial purposes.

A resolution adopted under division (B)(1) of this section on or after March 30, 2006, shall not designate police or fire equipment as public infrastructure improvements, and no service payment provided for in section 5709.79 of the Revised Code and received by the county under the resolution shall be used for police or fire equipment.

(b) A resolution adopted under division (B)(1) of this section may authorize the use of service payments provided for in section 5709.79 of the Revised Code for the purpose of housing renovations within the incentive district, provided that the resolution also designates public infrastructure improvements that benefit or serve the district, and that a project within the district places real property in use for commercial or industrial purposes. Service payments may be used to finance or support loans, deferred loans, and grants to persons for the purpose of housing renovations within the district. The resolution shall designate the parcels within the district that are eligible for housing renovations. The resolution shall state separately the amount or the percentages of the expected aggregate service payments that are designated for each public infrastructure improvement and for the purpose of housing renovations.

(4) Except with the approval of the board of education of each city, local, or exempted village school district within the territory of which the incentive district is or will be located, and subject to division (D) of this section, the life of an incentive district shall not exceed ten years, and the

percentage of improvements to be exempted shall not exceed seventy-five per cent. With approval of the board of education, the life of a district may be not more than thirty years, and the percentage of improvements to be exempted may be not more than one hundred per cent. The approval of a board of education shall be obtained in the manner provided in division (C) of this section.

(C)(1) Improvements with respect to a parcel may be exempted from taxation under division (A) of this section, and improvements to parcels within an incentive district may be exempted from taxation under division (B) of this section, for up to ten years or, with the approval of the board of education of each city, local, or exempted village school district within which the parcel or district is located, for up to thirty years. The percentage of the improvements exempted from taxation may, with such approval, exceed seventy-five per cent, but shall not exceed one hundred per cent. Not later than forty-five business days prior to adopting a resolution under this section declaring improvements to be a public purpose that is subject to the approval of a board of education under this division, the board of county commissioners shall deliver to the board of education a notice stating its intent to adopt a resolution making that declaration. The notice regarding improvements with respect to a parcel under division (A) of this section shall identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period for which the improvements would be exempted from taxation and the percentage of the improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The notice regarding improvements to parcels within an incentive district under division (B) of this section shall delineate the boundaries of the district, specifically identify each parcel within the district, identify each anticipated improvement in the district, provide an estimate of the true value in money of each such improvement, specify the life of the district and the percentage of improvements that would be exempted, and indicate the date on which the board of county commissioners intends to adopt the resolution. The board of education, by resolution adopted by a majority of the board, may approve the exemption for the period or for the exemption percentage specified in the notice; may disapprove the exemption for the number of years in excess of ten, may disapprove the exemption for the percentage of the improvements to be exempted in excess of seventy-five per cent, or both; or may approve the exemption on the condition that the board of county commissioners and the board of education negotiate an agreement providing

for compensation to the school district equal in value to a percentage of the amount of taxes exempted in the eleventh and subsequent years of the exemption period or, in the case of exemption percentages in excess of seventy-five per cent, compensation equal in value to a percentage of the taxes that would be payable on the portion of the improvements in excess of seventy-five per cent were that portion to be subject to taxation, or other mutually agreeable compensation.

(2) The board of education shall certify its resolution to the board of county commissioners not later than fourteen days prior to the date the board of county commissioners intends to adopt its resolution as indicated in the notice. If the board of education and the board of county commissioners negotiate a mutually acceptable compensation agreement, the resolution of the board of county commissioners may declare the improvements a public purpose for the number of years specified in that resolution or, in the case of exemption percentages in excess of seventy-five per cent, for the exemption percentage specified in the resolution. In either case, if the board of education and the board of county commissioners fail to negotiate a mutually acceptable compensation agreement, the resolution may declare the improvements a public purpose for not more than ten years, and shall not exempt more than seventy-five per cent of the improvements from taxation. If the board of education fails to certify a resolution to the board of county commissioners within the time prescribed by this section, the board of county commissioners thereupon may adopt the resolution and may declare the improvements a public purpose for up to thirty years or, in the case of exemption percentages proposed in excess of seventy-five per cent, for the exemption percentage specified in the resolution. The board of county commissioners may adopt the resolution at any time after the board of education certifies its resolution approving the exemption to the board of county commissioners, or, if the board of education approves the exemption on the condition that a mutually acceptable compensation agreement be negotiated, at any time after the compensation agreement is agreed to by the board of education and the board of county commissioners. If a mutually acceptable compensation agreement is negotiated between the board of county commissioners and the board of education, including agreements for payments in lieu of taxes under section 5709.79 of the Revised Code, the board of county commissioners shall compensate the joint vocational school district within which the parcel or district is located at the same rate and under the same terms received by the city, local, or exempted village school district.

(3) If a board of education has adopted a resolution waiving its right to

approve exemptions from taxation under this section and the resolution remains in effect, approval of such exemptions by the board of education is not required under division (C) of this section. If a board of education has adopted a resolution allowing a board of county commissioners to deliver the notice required under division (C) of this section fewer than forty-five business days prior to approval of the resolution by the board of county commissioners, the board of county commissioners shall deliver the notice to the board of education not later than the number of days prior to such approval as prescribed by the board of education in its resolution. If a board of education adopts a resolution waiving its right to approve exemptions or shortening the notification period, the board of education shall certify a copy of the resolution to the board of county commissioners. If the board of education rescinds such a resolution, it shall certify notice of the rescission to the board of county commissioners.

(4) Nothing in division (C) of this section prohibits the board of county commissioners from amending the resolution under section 5709.51 of the Revised Code to extend the term of the exemption.

(D)(1) If a proposed resolution under division (B)(1) of this section exempts improvements with respect to a parcel within an incentive district for more than ten years, or the percentage of the improvement exempted from taxation exceeds seventy-five per cent, not later than forty-five business days prior to adopting the resolution the board of county commissioners shall deliver to the board of township trustees of any township within which the incentive district is or will be located a notice that states its intent to adopt a resolution creating an incentive district. The notice shall include a copy of the proposed resolution, identify the parcels for which improvements are to be exempted from taxation, provide an estimate of the true value in money of the improvements, specify the period of time for which the improvements would be exempted from taxation, specify the percentage of the improvements that would be exempted from taxation, and indicate the date on which the board intends to adopt the resolution.

(2) The board of township trustees, by resolution adopted by a majority of the board, may object to the exemption for the number of years in excess of ten, may object to the exemption for the percentage of the improvement to be exempted in excess of seventy-five per cent, or both. If the board of township trustees objects, the board of township trustees may negotiate a mutually acceptable compensation agreement with the board of county commissioners. In no case shall the compensation provided to the board of township trustees exceed the property taxes forgone due to the exemption. If