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Bill Analysis

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Amanda Goodman, Attorney, and LSC staff

SUMMARY

This analysis is arranged by state agency in alphabetical order. Items that do not directly involve an agency are located under the agency that has regulatory authority over the item, or otherwise deals with the subject matter of the item.

The analysis concludes with a note on effective dates, expiration, and other administrative matters.

Within each agency and category, a summary of the items appears first (in the form of dot points) followed by a discussion of their content and operation.

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DEPARTMENT OF ADMINISTRATIVE SERVICES

State contracts for goods and services

- Prohibits a state contract for goods or services from including certain provisions the state generally does not include in its contracts, such as indemnification clauses or binding arbitration clauses, and voids such terms by operation of law.

Ohio preference scoring in state purchases

- Expands the types of purchases under state purchasing law that are eligible for an Ohio preference in scoring.

Bulk purchasing program

- Allows the Department of Administrative Services (DAS) to permit a political subdivision or special district of another state to participate in DAS contracts for the purchase of supplies and services.
- Allows a board of elections to participate in DAS purchase contracts if DAS has authorized the county to participate in those contracts, instead of requiring the board to apply to DAS separately.
- Clarifies that a board of elections may choose to purchase election supplies through DAS, through the Secretary of State's bulk purchasing program, or by other means.

Cooperative purchasing agreements

- Clarifies that DAS can join existing procurement contracts of other state agencies with their own purchasing authority, other states, and the U.S. government.

Parental and caregiver leave

- Allows certain state employees to be eligible, on the delivery of a stillborn child, for paid parental leave of absence and parental leave benefits established in continuing law.
- Includes, for paid parental leave eligibility purposes, persons employed in state positions for which the authority to determine compensation is given by law to another individual or entity.
- Increases, from \$2,000 to \$5,000, the adoption expenses benefit an employee may choose to receive in lieu of paid parental leave.
- Makes certain state employees who are foster caregivers and kinship caregivers eligible for up to five days of caregiver leave with full pay in a calendar year on placement of a child with the caregiver.

Fleet management

- Modifies the definition of "operating cost," which is a factor in calculating the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by the DAS to receive a motor vehicle for business use.

- Allows proceeds from the disposition of state vehicles to be transferred from the Investment Recovery Fund to the Fleet Management Fund.

Prescription drug advisory council

- Specifies that the DAS Director is the chairperson of the existing Prescription Drug Transparency and Affordability Advisory Council, and modifies the frequency at which the Advisory Council must meet (from quarterly to at the call of the chairperson).

DAS insurance program

- Declares the administration of the state's Risk Management Program to be a public duty for purposes of the Sovereign Immunity/Court of Claims Law.
- Authorizes the Office of Risk Management to administer a judicial liability program.
- Replaces the requirement that the state purchase fidelity bonds for state agents and employees with authority to self-insure itself and third parties against loss due to dishonest acts of state officers, employees, and agents.
- Requires public official bonds to be purchased when statutorily required.
- Expands the authority of the state and political subdivisions to insure against liability, from the losses attributable to the operation of specified vehicles during the course of official duties to any loss that occurs in the course of employment or official responsibilities.
- Specifies that recoveries against the state are to be reduced by other recoveries the claimant is entitled to, as opposed to just those other recoveries the claimant has received.
- Prohibits a claim against the state from being filed in the Court of Claims until the claimant has attempted to have the claim compromised by the Office of Risk Management or satisfied by the state's liability insurance.
- Specifies that the authority to commence an action against an officer or employee of the state does not affect the immunity provided to state officers or employees in law.
- Requires an instrumentality of the state to notify the Office of Risk Management of any settlement or compromise made in a claim against the instrumentality for the purpose of reserving funds.
- Requires a copy of a settlement instrument to be forwarded to the Office of Risk Management for payment from the Risk Management Reserve Fund.
- Specifies that DAS's authority to compromise claims does not extend to compromising claims on behalf of agency programs with direct settlement authority.
- Specifies that all compromises made by the Office of Risk Management are to be paid from the Risk Management Reserve Fund and the conditions of such payment.

- Specifies that information related to claims against the state is to be held in confidence, is not to be released, and is not subject to discovery or introduction in evidence in any federal or state civil action.
- Requires a copy of a judgement against the state to be forwarded to the Office of Risk Management for the judgement to be paid from the Risk Management Reserve Fund.

Public office employee database

- Eliminates the requirement that a public office include birth dates on the required public office employee database.

Real estate and planning

- Transfers from the Auditor of State to the DAS Director the responsibility to prepare deeds for the conveyance of state land.
- Transfers from the Auditor of State to the DAS Director the responsibility to keep documents showing the state’s interest in real estate, other than public lands and highway rights-of-way, and to maintain a recording system open for public inspection.
- Authorizes DAS to:
 - Grant perpetual easements to public utilities regulated by the Public Utilities Commission of Ohio;
 - Dispose of state-owned real estate worth less than \$1 million, with Controlling Board approval; and
 - Correct legal descriptions or title defects, or release fractional interests in real property, as necessary to cure clouds on title that are reflected in public records.

Office of Information Technology

- Modifies the responsibility of the Office of Information Technology with respect to the acquisition of common information technology.

Transferring central warehouse employees from ODH to DAS

- Requires, on or after July 1, 2021, any Department of Health (ODH) employees identified as necessary to the operation of a central warehouse to be transferred to the DAS.

State contracts for goods and services

(R.C. 9.27)

The bill prohibits a contract entered into by the state¹ for the procurement of goods or services from including any of the following, unless otherwise required or permitted by state or federal law:

- A provision that requires the state to indemnify or hold harmless another person.
- A provision by which the state agrees to binding arbitration or any other binding extra-judicial dispute resolution process.
- A provision that names a venue for any action or dispute against the state other than a court of proper jurisdiction in Franklin County.
- A provision that requires the state to agree to limit the liability for any direct loss to the state for bodily injury, death, or damage to property of the state caused by the negligence, intentional or willful misconduct, fraudulent act, recklessness, or other tortious conduct of a person or a person's employees or agents, or a provision that would otherwise impose an indemnification obligation on the state.
- A provision that requires the state to be bound by a term or condition that is unknown to the state at the time of signing a contract, that is not specifically negotiated with the state, that may be unilaterally changed by the other party, or that is electronically accepted by a state employee.
- A provision that provides for a person other than the Attorney General to serve as legal counsel for the state or for any state agency, except in cases where the Attorney General may appoint special counsel.²
- A provision that is inconsistent with the state's obligations under the Public Records Act.
- A provision for automatic renewal that would obligate state funds in subsequent fiscal years.
- A provision that limits the state's ability to recover the cost of cover for a replacement contractor.

If a contract contains one of these terms or conditions, the term or condition is void *ab initio* (invalid from the outset), and the contract otherwise is enforceable as if it did not contain the invalid term or condition. The bill specifies that a contract containing an invalid term or condition is governed by and must be construed in accordance with Ohio law notwithstanding any term or condition to the contrary in the contract. Finally, this provision does not apply to a

¹ Includes the General Assembly, Supreme Court, offices of all elected state officers, and all departments, boards, offices, commissions, agencies, institutions, and other instrumentalities of the state.

² R.C. 109.07, not in the bill.

contract in effect before the section’s effective date, or to the renewal or extension of a contract in effect before that date.

Ohio preference scoring in state purchases

(R.C. 125.09)

The bill expands the types of purchases under state purchasing law that are eligible for an Ohio preference in scoring. Under current law, Ohio preference scoring is applied to purchases through the competitive sealed bid process. Under the bill, the scoring also must be applied to purchases through the competitive sealed proposal and reverse auction processes. Reverse auction is a purchasing process in which offerors submit bids in competing to sell services or supplies in an open environment via the internet.³

Generally, Ohio law requires the Director of Administrative Services to adopt rules to prescribe criteria and procedures for use by all state agencies in giving preference to Ohio products. These rules allow for granting waivers of the Buy Ohio requirements on a contract-by-contract basis when compliance would result in paying an excessive price or acquiring a disproportionately inferior product. If the Director determines that selection of the lowest Ohio bid will not result in an excessive price or a disproportionately inferior product or service, the Director must propose a contract award to the lowest responsive and responsible Ohio bid at the bid price quoted.⁴

Bulk purchasing program

(R.C. 125.04 and 3501.302)

The bill makes changes to the law concerning which entities may participate in the Department of Administrative Services (DAS) bulk purchasing program for supplies and services.

First, the bill allows a political subdivision or special district in another state to participate in purchasing contracts in the same manner as an Ohio political subdivision or special district may do. Continuing law already allows federal agencies, other states, other purchasing consortia, and entities established under interstate compacts to participate, along with certain other entities in Ohio. DAS is permitted to charge each participating entity a reasonable fee to cover the costs DAS incurs in allowing the entity to participate.

Second, the bill allows a board of elections to participate in DAS purchasing contracts if the county in which the board is located is authorized to participate in those contracts. The board may participate under the same terms and conditions that apply to the county. Currently, a board of elections may participate but must separately apply to DAS and pay a fee for its own membership, instead of participating through the county’s membership.

³ R.C. 125.071 and 125.072, not in the bill.

⁴ R.C. 125.11, not in the bill.

Finally, the bill clarifies that a board of elections may choose to purchase election supplies through DAS, through an existing bulk purchasing program administered by the Secretary of State, or by other means.

Cooperative purchasing agreements

(R.C. 125.02)

The bill allows DAS to participate in cooperative purchasing by joining existing procurement contracts of other state agencies with their own purchasing authority, other states, and the U.S. government. Current law suggests that DAS must be an original party of a contract and cannot join after a contract is procured.

Continuing law grants DAS the authority to establish contracts for supplies and services, including telephone, other telecommunication, and computer services for use by state agencies. Under the bill, the Director of DAS may participate in cooperative purchasing with several entities enumerated in continuing law.⁵ The bill expands this list of entities to include the Capitol Square Review and Advisory Board.

Parental and caregiver leave

(R.C. 124.136 and 124.1312)

Parental leave

Continuing law allows certain state employees who work at least 30 hours per week to take up to six continuous weeks of paid parental leave on a child's birth or adoption. Under the bill, an employee is eligible for parental leave on a child's stillbirth beginning on the day of the stillborn child's delivery. To be eligible, the employee must be listed as a parent on the stillborn child's fetal death certificate. "Stillborn" means that an infant of at least 20 weeks of gestation suffered a fetal death. "Fetal death" means death before the complete extraction from its mother of a product of human conception, irrespective of the pregnancy duration, which after extraction does not breathe or show any other evidence of life.⁶

The bill increases, from \$2,000 to \$5,000, the continuing law adoption expenses benefit an employee may choose to receive in lieu of paid parental leave.

The bill also includes, for parental leave eligibility purposes, persons employed in a position for which the authority to determine compensation is given by law to another individual or entity (who is not the Director, who establishes the job classifications and pay ranges for most state employees under continuing law). Under continuing law, the following employees are

⁵ The Adjutant General for military supplies and services, the General Assembly, the judicial branch, state institutions of higher education, some state elected officials (R.C. 125.02 and 125.041, not in the bill); one or more other states, groups of states, the U.S. or any department, agency, or division of the U.S., other purchasing consortia, the Department of Transportation, or a political subdivision of Ohio (R.C. 125.02 and 125.04).

⁶ R.C. 3705.01, not in the bill.

eligible for parental leave: full- and part-time employees paid in accordance with the exempt employee salary schedule; legislative employees and Legislative Service Commission employees; employees in the Governor’s office; employees who are in the unclassified civil service and exempt from collective bargaining coverage in the office of the Secretary of State, Auditor of State, Treasurer of State, and Attorney General; Supreme Court employees; and Bureau of Worker’s Compensation employees whose compensation the Administrator of Workers’ Compensation establishes.⁷

Caregiver leave

Under the bill, a state employee listed under “**Parental leave**,” above, who works at least 30 hours per week and who is a foster caregiver or kinship caregiver is eligible for up to five days of caregiver leave with full pay in a calendar year on a child’s placement with the employee. Caregiver leave begins on the day on which the child is placed with the employee. Continuing law defines a foster caregiver as a person holding a valid foster home certificate. A kinship caregiver is an adult caring for a related or unrelated child in place of the child’s parents.⁸

For part-time employees, the average number of regular hours worked, including all hours of holiday pay and other types of paid leave, during the three-month period immediately before the day caregiver leave begins is used to determine caregiver leave eligibility. If an employee has not worked for three months, the number of hours for which the employee has been scheduled to work per week during the employee’s employment period is used to determine caregiver leave eligibility.

Use of caregiver leave does not affect an employee’s eligibility for other forms of paid leave granted under Ohio’s Department of Administrative Services – Personnel Law. It also does not prohibit an employee from taking leave under the federal Family and Medical Leave Act of 1993, except that caregiver leave is included in any leave time provided under that act.

The Director may adopt rules under the Administrative Procedure Act governing caregiver leave.

Fleet management

(R.C. 125.14 and 125.832)

The Office of Fleet Management within DAS is responsible for the acquisition, maintenance, management, analysis, and disposal of the state’s vehicle fleet. The bill makes two modifications related to fleet management.

First, it modifies the definition of “operating cost,” which is a factor in calculating the minimum number of business miles per year an employee of a state agency must drive in order to qualify for approval by DAS to receive a motor vehicle for business use. Instead of dividing annual maintenance cost by *vehicle lifetime* miles driven, as under current law, the bill divides

⁷ R.C. 124.152, not in the bill.

⁸ R.C. 5103.02; also R.C. 5101.85, not in the bill.

annual maintenance cost by *annual* miles driven. This modification better calculates an annual operating cost.

Second, the bill allows proceeds from the disposition of state vehicles to be transferred from the Investment Recovery Fund to the Fleet Management Fund. Currently, when DAS disposes of a motor vehicle originally purchased with GRF dollars, DAS is required to deposit the proceeds into either the Investment Recovery Fund or the Fleet Management Fund.⁹ The bill allows funds originally deposited into the Investment Recovery Fund to be transferred to the Fleet Management Fund.

Prescription drug advisory council

(R.C. 125.95)

The bill specifies that the Prescription Drug Transparency and Affordability Advisory Council's chairperson is the DAS Director. It also modifies the frequency at which the Council must meet after the initial report is submitted from quarterly to at the call of the chairperson.

The Council was established in 2019 by the main appropriations act of the 133rd General Assembly (H.B. 166), within DAS. H.B. 166 required the Council to have 14 members: five cabinet heads and nine individuals representing various constituencies. Not later than six months after initial appointments were made, the Council was to submit a report to the Governor, General Assembly, and the Joint Medicaid Oversight Commission's chairperson with various pieces of information, including on how Ohio could best achieve prescription drug price transparency. A copy of that report, and additional information on the Council, is available on the Council's website.

DAS insurance program

(R.C. 9.821, 9.822, 9.83, 2743.01, 2743.02, 2743.15, 2743.16, and 2743.19)

The bill makes several changes in relation to state liability and the risk management program operated by the Department of Administrative Services (DAS).

Sovereign immunity

The bill declares the administration of the state's Risk Management Program to be a public duty for purposes of the Sovereign Immunity/Court of Claims Law. State law specifies that the state is immune from civil liability in the performance of a public duty. Thus, under the bill, the state cannot be sued for losses incurred in relation to any action of the Risk Management Program.

The bill also amends the law related to immunity provided to state officers or employees. In several instances, state law provides immunity to certain state officers or employees in the carrying out their duties. The bill specifies that the authority to sue such an officer or employee

⁹ If a vehicle was purchased with non-GRF funds, the proceeds are deposited into the fund used for the purchase.

in a specific circumstance does not affect the general immunity provided to that officer or employee under the law.

Judicial liability program

The bill authorizes the Office of Risk Management to administer a judicial liability program. This is an already existing self-insurance program operated by DAS that provides insurance coverage to judges and courts for liabilities. Thus, the bill would be providing explicit authority to provide an already existing program.

Bond requirements

The bill amends the law related to fidelity bonds purchased in relation to state agents and employees. Fidelity bonds insure against loss due to dishonest acts of state officers, agents, or employees. The bill removes the requirement that the state purchase bonds for state agents and instead allows the state to self-insure against any such claims. However, the bill requires public official bonds to be purchased when statutorily required.

Liability insurance program

The bill amends the law related to the liability insurance programs administered by DAS and political subdivisions. Under current law, DAS and political subdivisions are authorized to insure against liability in relation to the operation of certain specified vehicles. Under the bill, this authority is expanded to general liability that occurs during the course of employment or official responsibilities.

Claims against the state

The bill amends the law related to the settlement of claims against the state. Continuing law, unchanged by the bill, requires a person making a claim of liability against the state, to attempt to have that claim compromised by the state or satisfied by the state's insurance. The bill specifies that these actions must be taken prior to such a claim being filed with a court. Requires an instrumentality of the state to notify the Office of Risk Management of any settlement or compromise made in a claim against the instrumentality for the purpose of reserving funds.

The bill specifies that information related to claims against the state is to be held in confidence, is not to be released, and is not subject to discovery or introduction in evidence in any federal or state civil action.

Also, the bill specifies that recoveries against the state are to be reduced by other recoveries the claimant is entitled to, such as insurance proceeds, as opposed to just those other recoveries the claimant has received.

Compromising of claims

The bill makes several miscellaneous changes in the law related to the compromising, or settling, of claims made against the state. These changes are as follows:

- Specifies that all settlements made by the Office of Risk Management are to be paid from the Risk Management Reserve Fund and the conditions of such payment;

- When a claim is settled, requires a copy of the settlement instrument to be forwarded to the Office of Risk Management for payment from the Risk Management Reserve Fund;
- Specifies that the authority of DAS to settle claims does not extend to settling claims on behalf of agency programs with direct settlement authority;
- Requires a copy of a judgement against the state to be forwarded to the Office of Risk Management for the judgement to be paid from the Risk Management Reserve Fund;
- Establishes that the compromising of claims is a public duty for the purposes of the Sovereign Immunity/Court of Claims Law.

Public office employee database

(R.C. 149.434)

The bill eliminates the requirement that a public office include the date of birth of all public officials and employees on the database or list that is maintained by the public office. Under current law, each public office must maintain a database or list that includes the name and date of birth of all public officials and employees elected to or employed by that public office. The information in the database is a public record under the Public Records Law.

Real estate and planning

Land conveyance documents

(R.C. 123.02 and 5301.13; repealed R.C. 117.49 and 117.50; conforming changes in numerous other R.C. sections)

The bill transfers responsibility to prepare deeds for the conveyance of state land from the Auditor of State to the DAS Director. The bill also transfers from the Auditor to the DAS Director the related responsibility to keep records showing the state's interest in real estate (aside from public lands and highway rights-of-way), and to maintain a recording system for those records that is open for public inspection.

Land conveyance authority

(R.C. 123.01)

The bill expands the DAS Director's authority to convey state-owned land in three ways.

First, it authorizes the DAS Director to grant perpetual easements over state-owned land to utilities regulated by the Public Utilities Commission of Ohio. Under existing law, the DAS Director is generally limited to granting easements for 15 years, though easements over university land can run to 25 years if approved by the university board of trustees.

Second, the bill allows the DAS Director to correct legal descriptions or title defects, or to release fractional interests in real property, as necessary to cure title clouds reflected in public records. The title clouds the bill allows the DAS Director to address include those arising from boundary disputes, ingress or egress issues, title transfers precipitated through retirement of bond requirements, and the retention of fractional interests in real estate otherwise disposed of in previous transfers.

Third, the bill authorizes the DAS Director to dispose of state-owned land that has a fair market value less than \$1 million, with Controlling Board approval. Fair market value is to be determined using best management or other relevant practices through a method considered reasonable, applicable, and appropriate by the DAS Director. Funds from a sale under the bill's new provision are to be credited, at the direction of the OBM Director, to a fund or funds in the State Treasury, or to accounts held by a state college or university.

Office of Information Technology

(R.C. 125.18)

The bill eliminates the authority, in current law, for the State Chief Information Officer to establish policies and standards for the acquisition of common information technology by state agencies. Instead, the bill requires the State Chief Information Officer to coordinate with the Office of Procurement Services to establish policies and standards for state agency acquisition of information technology supplies and services.

The bill also clarifies that policies that the State Chief Information Officer must establish, for the reduction of printing, are to promote the increased use of electronic records by state agencies.

Under continuing law, the State Chief Information Officer supervises the Office of Information Technology, which is within the DAS.

Transferring central warehouse employees from ODH to DAS

(Section 518.40)

The bill requires, on or after July 1, 2021, any Department of Health (ODH) employees identified as necessary to the operation of a central warehouse be transferred to the DAS. The bill specifies that the employees must retain their positions and benefits.

The bill authorizes the DAS Director to establish, change, and abolish positions of ODH and assign, reassign, classify, reclassify, transfer, reduce, promote, or demote all ODH employees who are not subject to Ohio's public employees' collective bargaining law. This authority includes assigning or reassigning an exempt employee to a bargaining unit classification, but includes provisions if the new position is in a lower classification. The employee cannot receive any increase in compensation until the maximum rate of pay for that classification exceeds the employee's compensation.

Under the bill, notwithstanding any provision of law to the contrary, the Director of Budget and Management (OBM) may make necessary budget changes, including cancelling encumbrances of ODH and reestablishing them as encumbrances of DAS.

Additionally, the bill specifies that this transfer of employees is subject to Ohio's statutory layoff procedures and any action taken by the ODH Director or the DAS Director is not subject to appeal to the State Personnel Board of Review.

DEPARTMENT OF AGING

- Permits the Department of Aging to require non-Medicaid providers to be certified by the Department as a condition of payment for services provided under programs the Department administers.
- Applies existing certification and payment provisions to providers of any services, not just community-based long-term care services.
- Authorizes the Department to develop and offer training programs to area agencies on aging, long-term care facilities and providers, and other interested parties.

Certification of providers

(R.C. 173.39, 173.391, 173.392, and 173.393)

The bill permits the Department of Aging to require non-Medicaid providers to be certified by the Department as a condition of payment for services provided under programs the Department administers. If the Department does not require certification, the provider must continue to comply with existing law that requires the provider to have a contract or grant agreement with the Department to provide the services. As under current law, providers of services under the PASSPORT program and Assisted Living program must be certified as a condition of payment.

The bill applies existing certification and payment provisions applicable to community-based long-term care services to any services provided under a program the Department administers. This extends existing criminal records check requirements to additional providers.¹⁰

Training programs

(R.C. 173.012)

The bill authorizes the Department to develop and offer training programs to area agencies on aging, long-term care facilities, providers of long-term care services, and other interested parties. The Department may charge a fee for the training and use fees collected to develop and offer additional training programs. The fees must be deposited into the Senior Community Outreach Fund, which the bill creates.

¹⁰ R.C. 173.38, not in the bill.

DEPARTMENT OF AGRICULTURE

Pesticide product registration fee

- Increases the annual fee for registering a pesticide with the Department of Agriculture (ODA) from \$150 to \$250.

Weighing and measuring device permit fee increase

- Increases, from \$75 to \$100, the fee a person must pay to ODA if the person applies for an annual permit to operate certain commercially used weighing and measuring devices in Ohio.
- Correspondingly, increases the annual permit renewal fee for those devices by the same amount, from \$75 to \$100.

Wine tax diversion to Ohio Grape Industries Fund

- Makes permanent the 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund, which is used to support and promote the Ohio grape and wine industry.

Farmers market registration

- Eliminates the voluntary registration of farmers markets with ODA and the corresponding inspection of registered farmers markets by ODA.

Ohio Proud Program merchandise

- Requires all fees assessed for participation in the Ohio Proud Program to be credited to the existing Ohio Proud, International, and Domestic Market Development (Ohio Proud) Fund, rather than the GRF as under current law.
- Authorizes ODA to sell merchandise that promotes the Program, and requires the Director of Agriculture to deposit proceeds from the merchandise sales in the Ohio Proud Fund.

Southern Ohio Agricultural and Community Development Foundation

- Abolishes, effective December 30, 2021, the Southern Ohio Agricultural and Community Development Foundation, which is tasked with assisting southern Ohio farmers in replacing their tobacco production with other agricultural products and mitigating the economic impact of reduced tobacco production in the region.
- Eliminates the Foundation's board of trustees and provides for the winding down of the Foundation's affairs by ODA.

Pesticide product registration fee

(R.C. 921.02)

The bill increases the annual fee for registering a pesticide with the Department of Agriculture (ODA) from \$150 to \$250. The bill clarifies that, if ODA does not issue or renew the pesticide registration, it must retain the application fee as payment for the application's processing costs. According to ODA, the fee is currently nonrefundable.

Weighing and measuring device permit fee increase

(R.C. 1327.501)

The bill increases, from \$75 to \$100, the fee a person must pay to ODA if the person applies for an annual permit to operate one of the following commercially used weighing and measuring devices in Ohio:

1. A livestock scale;
2. A vehicle scale;
3. A railway scale;
4. A vehicle tank meter;
5. A bulk rack meter; or
6. An LPG meter.

The bill correspondingly increases the annual permit renewal fee for those devices by the same amount, from \$75 to \$100.

Wine tax diversion to Ohio Grape Industries Fund

(R.C. 4301.43)

The bill makes permanent the 2¢ per-gallon earmark of wine tax revenue that is credited to the Ohio Grape Industries Fund, which is used to support and promote the Ohio grape and wine industry. The earmark expires on June 30, 2021.

Continuing law imposes a tax on the distribution of wine, vermouth, and sparkling and carbonated wine and champagne at rates ranging from 30¢ per gallon to \$1.48 per gallon. From the taxes paid, a portion is credited to the Ohio Grape Industries Fund for the encouragement of the state's grape and wine industry. The remainder is credited to the GRF.

Farmers market registration

(R.C. 3717.221 and 3717.22)

The bill eliminates the option to voluntarily register a farmers market with ODA. It also eliminates the corresponding inspection of registered farmers markets by ODA. As a result, local boards of health must inspect farmers markets under the law governing retail food establishments and food service operations. Under current law, a farmers market that is registered with ODA is exempt from inspection by a local board of health under those laws.

A farmers market is a location where producers congregate to offer fruits, vegetables, and other items for sale.

Ohio Proud Program merchandise

(R.C. 901.171)

The bill requires all fees assessed for participation in the Ohio Proud Program to be credited to the existing Ohio Proud, International, and Domestic Market Development (Ohio Proud) Fund. Current law requires those fees to be deposited in the GRF. The Ohio Proud Program promotes food and agricultural products made and grown in Ohio.

The bill authorizes ODA to sell merchandise that promotes the Ohio Proud Program. It also requires the Director of Agriculture to deposit proceeds from the merchandise sales in the Ohio Proud Fund.

Southern Ohio Agricultural and Community Development Foundation

(R.C. 183.12 through 183.17, repealed; R.C. 102.02, 183.021, and 183.33; Section 518.30)

The bill abolishes the Southern Ohio Agricultural and Community Development Foundation on December 30, 2021. As a result of that elimination, it does the following:

1. Eliminates the Foundation's board of trustees;
2. Provides for the winding down of the Foundation's affairs by ODA;
3. Eliminates the Southern Ohio Agricultural and Community Development Foundation Endowment Fund and requires the Treasurer of State to transfer the cash balance in the fund to the Ohio Proud Marketing Fund; and
4. Eliminates the Southern Ohio Agricultural and Community Development Operating Expenses Fund and requires the Director of the Office of Budget and Management to transfer the cash balance in the fund to the existing Ohio Proud Marketing Fund.

The Foundation was created in 2000 by S.B. 192 of the 123rd General Assembly as an outgrowth of the 1998 Tobacco Master Settlement Agreement reached between Ohio and other states and major tobacco manufacturers. Generally, the Foundation is tasked with assisting southern Ohio farmers in replacing their tobacco production with other agricultural products and mitigating the adverse economic impact of reduced tobacco production in the region by:

1. Increasing the variety, quantity, and value of agricultural products other than tobacco that are produced in southern Ohio (where tobacco has traditionally been grown);
2. Preserving agricultural land and soils in southern Ohio;
3. Making strategic investments in communities that will be affected by the reduction in the demand for tobacco; and
4. Providing education and training assistance to tobacco growers to help them make the transition out of tobacco production.

The Southern Ohio Agricultural and Community Development Foundation Endowment Fund originally consisted of money derived from the Tobacco Master Settlement Agreement. It also consists of grants and donations made to the Foundation and investment earnings of the fund. The Foundation uses money in the fund to award grants in assisting farmers according to the Foundation's mission.

The Southern Ohio Agricultural and Community Development Operating Expenses Fund consists of money transferred to it from the Southern Ohio Agricultural and Community Development Foundation Endowment Fund. The Foundation uses money in the Southern Ohio Agricultural and Community Development Operating Expenses Fund solely to pay the Foundation's employees.

ATTORNEY GENERAL

Collecting debts from gambling winnings

- Reduces from \$5,000 to \$600 the threshold at which the State Lottery Commission must withhold from lottery winnings any amounts a lottery winner owes to the state or a political subdivision.
- Requires a casino operator to use a data match program created by the Attorney General to withhold any amounts a patron owes to the state or a political subdivision from the amount of any casino winnings that exceed \$600.
- Requires the casino operator to remit payment to the Department of Job and Family Services for any past due child or spousal support, as required under current law, before giving the remainder to the Attorney General to pay other government debts.

Ohio Peace Officer Training Commission

- Modifies law with respect to various funds associated with the Ohio Peace Officer Training Academy.

Collecting debts from gambling winnings

Lottery winnings

(R.C. 3770.073 and conforming change in R.C. 5701.11)

The bill lowers to \$600 the winnings threshold that triggers a requirement that the State Lottery Commission withhold the amount of any debt a lottery winner owes to the state or a political subdivision from the person's winnings. Currently, if a person wins \$5,000 or more in the lottery, the Commission must deduct the amount of those debts from the winnings and pay it to the Attorney General to satisfy the debts. The bill changes that threshold to match the federal threshold that determines whether the Commission must report the person's lottery winnings to the Internal Revenue Service (IRS) – currently, \$600.¹¹

Under continuing law, lottery winnings that exceed the IRS threshold also may be intercepted to satisfy any past due child or spousal support. If the amount of the winnings is not enough to cover both the past due support and any debts to the state or a political subdivision, the support debts are paid first.¹²

¹¹ 26 United States Code (U.S.C.) 6041.

¹² R.C. 3770.071, not in the bill.

Casino winnings

(R.C. 3772.37 and conforming change in R.C. 5701.11)

The bill requires a casino operator to withhold the amount of any debt a patron owes to the state or a political subdivision from the patron's casino winnings, if the winnings exceed the IRS reporting threshold (currently, \$600). Under continuing law, a casino operator also must withhold the amount of any past due child or spousal support the patron owes from any winnings that exceed that threshold.¹³

Under the bill, the Attorney General must develop and implement a real time data match program for casino operators to use to determine whether patrons owe any debts to the state or a political subdivision that have become final. If a patron wins \$600 or more and the program indicates that the patron owes any such amounts, the casino operator must withhold the amount of the debt from the winnings, up to the total amount of the winnings, and transmit it to the Attorney General within seven days.

If the casino operator learns through the data match program operated by the Department of Job and Family Services under continuing law that the patron also is in default under a child or spousal support order, the casino operator must withhold the past due amount and transmit it to the Department before transmitting any remaining amount to the Attorney General.

After receiving the money from the casino operator, the Attorney General must apply it toward the patron's debt to the state or a political subdivision. If the patron has multiple debts of that kind, the money must be applied against the debts in the following order of priority, which is the same order of priority that applies under continuing law concerning debts to be satisfied from lottery winnings:

- Personal liabilities for corporate tax debts;
- Amounts owed to the state;
- Amounts owed to political subdivisions.

The Attorney General may adopt rules under the Administrative Procedure Act to implement the bill's requirements.

Ohio Peace Officer Training Academy

(R.C. 109.79, 109.802, repealed; R.C. 2981.13, and 3772.01)

The bill makes the following changes to funds associated with the Ohio Peace Officer Training Academy:

1. Eliminates the Law Enforcement Assistance Fund;
2. Codifies the Peace Officer Training Academy Fee Fund into permanent law, and specifies all of the following:

¹³ R.C. 3123.90, not in the bill.

- a. The fund is in the state treasury;
- b. Tuition paid by a political subdivision or by the State Public Defenders Office must be deposited into the fund;
- c. The Attorney General must use money in the fund to pay costs associated with operation of the Academy.

3. Eliminates the Peace Officer Training Commission Fund and transfers its functions and purposes to the Ohio Law Enforcement Training Fund;

Under current law, if a court other than a juvenile court orders a forfeiture, a portion of the forfeiture must be distributed to various law enforcement related funds, including the Peace Officer Training Commission Fund. Under the bill, the forfeiture amount that would be deposited into the Peace Officer Training Commission Fund instead must be deposited into the Ohio Law Enforcement Training Fund. A provision of current law, retained by the bill, requires these funds to be used by the Ohio Peace Officer Commission only to pay the cost of peace officer training.

The Ohio Law Enforcement Training Fund is the fund described in the Ohio Constitution, which must receive 2% of the proceeds of the gross casino revenue tax collected by the state, to enhance public safety by providing additional training opportunities to the law enforcement community.¹⁴

4. Authorizes the use of money in the Ohio Law Enforcement Training Fund for all training opportunities for the law enforcement community rather than for additional training only.

¹⁴ Ohio Constitution, Article XV, Section 6(C)(3)(f).

OFFICE OF BUDGET AND MANAGEMENT

- Reduces the time by which the OBM Director must void any unredeemed income tax refund warrant from two years to 90 days, consistent with the time for voiding any other warrant drawn from the state treasury.
- Requires investment earnings of the Budget Stabilization Fund to be credited to the fund.
- Eliminates the OBM Director’s oversight regarding internal agency fund assessments and allocations for certain funds.
- Allows the OBM Director to credit to the Ohio’s Public Health Priorities Fund any financial gifts made to the state to support public health.

Voided income tax refund warrants

(R.C. 126.37)

The bill reduces the amount of time by which the Director of Office of Budget and Management must void any unredeemed warrant that draws on the state treasury for income tax refunds from two years to 90 days after its issuance. This 90-day period is consistent with the time after which the Director must void any other warrant drawn from the state treasury.

A warrant is an order to pay issued by one official to another (in this case, the Director to the Treasurer of State) to give to a payee money from a specified account. Warrants are generally represented by checks or another instrument payable on the demand of the payee, which in this case is the income tax refund recipient.¹⁵ A warrant that is not redeemed within a prescribed time period becomes aged or “stale” and may be voided by the official that issued the warrant.

Budget Stabilization Fund investment earnings

(R.C. 131.43)

The bill requires investment earnings of the Budget Stabilization Fund (known as the Rainy Day Fund) to be credited to the fund. The fund is a reserve balance that is set aside during good economic periods to protect the state budget from cyclical changes in revenues and expenses that may occur during economic periods.

Oversight over fund allocations

(R.C. 121.08, 121.084, 169.05, 901.91, 1121.30, 1181.06, 1321.21, 1707.37, 1733.321, 3701.831, 3737.71, 3745.014, 4735.211, and 4763.15)

The bill eliminates the Director of Budget and Management’s oversight regarding internal agency fund assessments and allocations. In most cases, the funds modified by the bill are assessed an amount to be used by the affected agency for administration purposes. The bill permits the affected agency director or superintendent to determine the assessment amount

¹⁵ See R.C. 126.35, not in the bill.

without OBM Director approval. The funds and the entity administering the funds are listed in the table below.

Funds modified by the bill		
Fund name	Citation (R.C.)	Administering agency personnel
Division of Administration Fund	121.08	Director of Commerce
Unclaimed Funds Trust Fund	169.05	Director of Commerce
Division of Securities Fund	1707.37	Director of Commerce
Industrial Compliance Operating Fund	121.084	Director of Commerce
Division of Real Estate Operating Fund	4735.211	Director of Commerce
Real Estate Appraiser Operating Fund	4763.15	Director of Commerce
State Fire Marshal’s Fund	3737.71	Director of Commerce
Department of Agriculture operating funds	901.91	Director of Agriculture
Banks Fund	1121.30	Superintendent of Financial Institutions
Consumer Finance Fund	1321.21	Superintendent of Financial Institutions
Credit Unions Fund	1733.321	Superintendent of Financial Institutions
Financial Institutions Fund	1181.06	Superintendent of Financial Institutions
Department of Health operating funds	3701.831	Director of Health
Central Support Indirect Fund	3745.014	Director of Environmental Protection

Disposition of financial gifts to support public health

(R.C. 183.18)

The bill allows the OBM Director to credit to the Ohio’s Public Health Priorities Fund any financial gifts, including grants and contributions, made to the state to support public health. The Director of Health uses this fund to conduct public health campaigns, address pressing public health issues, implement and administer public health programs, and to improve the population health of Ohio.

DEPARTMENT OF COMMERCE

Division of Securities

- Creates the Ohio Investor Recovery Fund for victims of securities fraud that have not received restitution from the person that committed the violation.
- Allows a dealer or investment adviser to place a hold on a transaction when the dealer, investment adviser, or an employee believes the account holder is age 60 or older or eligible for adult protective services and may be the victim of financial exploitation.

Division of Industrial Compliance

Sale of second-hand bedding and toys

- Requires any person or entity wishing to sell second-hand bedding or used toys to register with the Superintendent of Industrial Compliance within the Department of Commerce.

Plumbing inspector certification

- Removes certification of plumbing inspectors from the Division of Industrial Compliance's responsibility and authority but retains the Board of Building Standard's plumbing inspector certification.
- Requires a board of health to employ a Board of Building Standards certified plumbing inspector, as opposed to a Division of Industrial Compliance certified plumbing inspector as under current law, or to contract with another health district or building department in order for a prohibition on Division inspections in the board's district to apply.
- Adds a requirement that a board of health notify the Division of Industrial Compliance of the board's intent to inspect plumbing in its district before the continuing prohibition against duplicative Division plumbing authority will apply.
- Eliminates prohibitions on boards of health that do not employ certified plumbing inspectors from inspecting plumbing, collecting fees for inspecting plumbing, and contracting with other boards of health to inspect plumbing on the other board's behalf.

Building inspection fees

- Transfers authority to establish fees for inspections carried out by the Division of Industrial Compliance from the Board of Building Standards to the Superintendent of Industrial Compliance.

Manufactured homes

- Makes several technical changes to replace references to the former Manufactured Homes Commission with references to the Division of Industrial Compliance.

Division of Real Estate and Professional Licensing

- Specifies that each licensed real estate broker and salesperson must notify the Superintendent of Real Estate and Professional Licensing of a change in personal residence address within 30 days after the change.

- Requires each licensee to maintain a valid email address on file with the Division and notify the Superintendent of any changes in email address within 30 days of the change.
- Expands the Superintendent’s authority to recommend ancillary trustees for brokers.
- Authorizes the Division to adopt rules with respect to the regulation of manufactured home dealers, brokers, and salespersons.
- Reduces the portion of triennial real estate broker’s and salesperson’s license fees to be credited to the Real Estate Education and Research Fund from \$3 to \$1.50 per fee.

Division of Unclaimed Funds

- Creates an affidavit to allow the heirs or next of kin of a decedent to claim the decedent’s unclaimed funds without requiring letters testamentary or letters of administration to be issued upon the estate.
- Revises the law holding a holder of unclaimed funds harmless after delivering funds to the state in terms of the notice the holder is required to send to the Director of Commerce of pending proceedings, the Director’s ability to intervene in proceedings against a holder, and the nature of each party’s liability.
- Prohibits a person from receiving compensation for, or engaging in any activity for the purpose of, recovering unclaimed funds or the contents of a safe deposit box without first having entered into an agreement with the owner or owner’s legal representative that complies with the Unclaimed Funds Law.

State Fire Marshal

- Specifies that when the State Fire Marshal or another authorized fire investigator is investigating a fire that has caused more than \$5,000 of property damage, to determine whether or not arson was involved, they must do so to the extent practicable and in a manner consistent with accepted standards of investigation.
- Permits the OBM Director, after certification of the Director of Commerce, to transfer funds from the State Fire Marshal’s Fund to the Small Government Fire Department Services Revolving Loan Fund, if additional resources are needed.
- Requires a self-service gas station to comply with the most recent version of National Fire Protection Association Standard Number 30A, as incorporated into the State Fire Code, instead of the outdated version 30A-1990, as required under current law.

Division of Liquor Control

- Prohibits a to-go cocktail sold by a specified liquor permit holder from containing more than two ounces of spirituous liquor.
- Eliminates the requirement that the following submissions required of a club applying for a D-4 liquor permit be done under oath:
 - A statement of the organization controlling the club certifying that the club is operated in the interests of a reputable organization; and

- The roster of the membership of the club.

Division of Financial Institutions

- Increases initial registration, renewal, and late fees for mortgage brokers, lenders, and servicers, and increases original license, renewal, and late fees for mortgage loan originators.
- Authorizes the Superintendent of Financial Institutions to charge an additional assessment for renewal fees for mortgage brokers, lenders, servicers, and mortgage loan originators if the amount billed under the statute are less than the estimated expenditures for the following fiscal year.

Division of Securities

Ohio Investor Recovery Fund

(R.C. 1707.47 and 1707.471)

The bill creates the Ohio Investor Recovery Fund (OIRF) for a victim of securities fraud (a purchaser identified in a final order that has suffered a pecuniary loss as the result of an Ohio Securities Law violation or the surviving spouse or dependent children of such a purchaser who is deceased) that has not received restitution from the person that committed the violation pursuant to a final order (a final administrative order issued by the Division of Securities or a final court order in a civil or criminal proceeding initiated by the Division).

Obtaining a restitution assistance award

Under the bill, the following victims are eligible for restitution assistance from the OIRF, with the maximum award limited to the lesser of \$25,000 or 25% of the monetary injury suffered by the victim in the final order:

- A natural person who is an Ohio resident;
- A person, other than a natural person, that domiciled in Ohio.

To receive a restitution assistance award, a claimant must submit an application to the Division on a form prescribed by the Division within 180 days after the date of the final order. The Division may grant an extension for good cause shown, but in no case may the Division accept an application received more than two years following the date of the final order.

The bill prohibits the Division from awarding restitution assistance as follows:

- To more than one claimant per victim;
- To a claimant on behalf of a victim that has received the full amount of restitution owed from the person ordered to pay restitution to the victim in the final order before the application for restitution assistance from the OIRF is filed;
- To a claimant if the final order identifies no pecuniary loss to the victim on whose behalf the application is made;

- To a claimant on behalf of a victim that assisted in the commission of the violation of the Securities Law;
- If the portion of the final order giving rise to a restitution order or otherwise establishing a pecuniary loss to the victim is overturned on appeal.

If, after the Division has made a restitution assistance award from the OIRF, the restitution award in the final order is overturned on appeal and all legal remedies have been exhausted, the claimant must forfeit the restitution assistance award.

Violations

A claimant may not knowingly file or cause to be filed an application or documents supporting an application that contain false, incomplete, or misleading information in any material respect. A claimant that violates this prohibition forfeits all restitution assistance and will be fined not more than \$10,000 by the Division. The Division must commence a proceeding relating to a violation not later than two years after the Division discovered, or through reasonable diligence should have discovered, the violation, whichever is earlier.

Funding the OIRF

The OIRF consists of all cash transfers from the Division of Securities Fund, which may not exceed \$2.5 million in any fiscal year. The OIRF may only be used for paying awards of restitution assistance and any expenses incurred in administering the OIRF.

If the OIRF is reduced below \$250,000 due to payment in full of awards that become final during a month, the Division must suspend payment of further claims that become final during that month and the following two months. At the end of this suspension period, the Division must pay the suspended claims. If the OIRF would be exhausted by payment in full, the Division must prorate the amount paid to each claimant according to the amount remaining in the OIRF at the end of the suspension period.

Under the bill, the state is liable for a determination made by the Division only to the extent that money is available in the OIRF on the date the award is calculated. The bill subrogates the state to the rights of the person awarded restitution assistance to the extent of the award. The subrogation rights are against the person that committed the securities violation or a person liable for the pecuniary loss. The bill also permits the state to obtain a lien on the award in a separation action brought by the state or through state intervention in an action brought by or on behalf of the victim.

Rules

The Division must adopt rules as necessary to implement these provisions, including rules governing the processes for both:

- Reviewing applications for restitution assistance awards; and
- Suspending awards or making a prorated payment of awards when the OIRF balance approaches or reaches a balance below \$250,000.

Elder financial exploitation

(R.C. 1707.49)

The bill lays out procedures for dealers, investment advisers, and their employees to follow when they believe that an account holder who is an eligible adult may be the victim of financial exploitation.

An “eligible adult” is a person aged 60 or older or a person who is eligible to receive adult protective services (a person aged 60 or older who is handicapped by the infirmities of aging or who has a physical or mental impairment that prevents the person from providing for the person’s own care or protection, and who resides in an independent living arrangement).

The term “financial exploitation” means either:

- The wrongful or unauthorized taking, withholding, directing, appropriation, or use of an eligible adult’s money, assets, or property (assets); or
- Any act or omission by a person, including through the use of a power of attorney or guardianship, to do either of the following:
 - Through deception, intimidation, or undue influence, obtain control of an eligible adult’s assets and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the assets;
 - Convert (a civil tort) an eligible adult’s assets and thereby deprive the eligible adult of the ownership, use, benefit, or possession of the assets.

Under the bill, if an employee of a dealer or investment adviser has reasonable cause to believe that an eligible adult who is an account holder may be subject to past, current, or attempted financial exploitation, the employee must follow the employing dealer’s or investment advisor’s internal procedures for reporting past, current, or attempted financial exploitation.

In addition, the dealer or investment adviser may place a hold on any transaction impacted by the suspected exploitation for up to 15 business days. The dealer or investment adviser must report the transactional hold, along with a summary of the facts and circumstances leading up to the hold, in writing immediately to the Division of Securities and to the county department of job and family services for the county where the eligible adult resides. The dealer or investment adviser may continue the hold for up to another 15 business days (1) at the request of an investigating federal or state agency or (2) if the dealer or investment adviser has not heard from either the Division or the county department within the initial 15-day hold period.

The bill specifies that these provisions are not to be construed as limiting a dealer’s or investment adviser’s ability to seek injunctive relief from a court of competent jurisdiction at any time for any past, current, or attempted financial exploitation. It further provides that any person participating in good faith in making a report or placing a transactional hold is immune from any civil or administrative liability arising from the report or hold.

Any record made available to a state agency under these provisions is considered an investigative record and must therefore be retained by the Division and may not be available to

inspection by persons other than those having a direct economic interest in the information or the transaction under investigation, or by law enforcement agencies, state agencies, federal agencies, and other entities as set forth by rules adopted by the Division. The dealer or investment adviser must maintain, for not less than five years, any record of a transactional hold, any report relating to the hold, and any notification of the hold.

Division of Industrial Compliance

Sale of second-hand bedding and toys

(R.C. 3713.02)

The bill requires any person or entity wishing to sell or offer for sale second-hand bedding or used toys to register with the Superintendent of Industrial Compliance. Under current law, only persons or entities seeking to import, manufacture, renovate, wholesale, or reupholster stuffed toys or articles of bedding are required to register.

Plumbing inspector certification

(R.C. 3703.01; conforming change in R.C. 3703.03)

Under current law, boards of health in city and general health districts are authorized to inspect plumbing in nonresidential buildings, provided they employ a plumbing inspector certified by the Division of Industrial Compliance. Health districts may also contract with other health districts or county building departments to inspect plumbing on their behalf, so long as the other health district or county building department employs a Division of Industrial Compliance certified inspector. If a board of health employs a plumbing inspector or contracts for plumbing inspections, the Division of Industrial Compliance is barred from conducting plumbing inspections in that board's territory.

The bill eliminates the Division of Industrial Compliance's authority and responsibility to certify plumbing inspectors. In its place, it relies on the existing plumbing inspector certification offered by the Board of Building Standards. The bill also eliminates previous prohibitions on health districts inspecting plumbing, collecting fees for inspecting plumbing, or contracting with other health districts to inspect plumbing on the other health district's behalf, without employing a Division of Industrial Compliance certified inspector. It does not put in place a similar requirement mandating a Board of Building Standards certified inspector.

The bill also changes the prohibition on the Division of Industrial Compliance inspecting plumbing in health districts where the board of health employs, or has contracted for the services of, a plumbing inspector. Under the bill, the board of health must notify the Division of its intent to inspect plumbing in the district, in writing, and either employ a plumbing inspector or contract for the services of one. Under current law, the prohibition applies so long as the board of health employs, or contracts for the services of, a plumbing inspector.

Building inspection fees

(R.C. 3791.07)

Under continuing law, the Division of Industrial Compliance completes various inspections of plans, industrialized units, and buildings. Current law allows the Board of Building

Standards to adopt a fee schedule for those inspections. The bill transfers that authority to the Superintendent of Industrial Compliance. It also makes adoption of the fee schedule mandatory, rather than permissive, and requires it to be adopted in rules pursuant to the Administrative Procedure Act.

Manufactured homes

(R.C. 4781.07, 4781.281, 4781.56, and 4781.57)

The bill makes several technical changes by replacing outdated references to the former Manufactured Homes Commission with the reference to the Division of Industrial Compliance, the agency currently holding the responsibility for manufactured homes (other than their sale). The Commission was abolished in 2018 by H.B. 49 of the 132nd General Assembly, the main budget act for the FY 2018-FY 2019 biennium.

Real estate education and research fund

Real estate broker and salesperson contact information

(R.C. 4735.14)

The bill sets a deadline for a licensed real estate broker and salesperson to notify the Superintendent of Real Estate and Professional Licensing of a change in personal residence address: 30 days after the change. Existing law requires the notification, but does not specify a deadline.

The bill also requires each licensee to maintain a valid email address on file with the Division and to notify the Superintendent of any changes in email address within 30 days after the change.

Ancillary trustees for brokers

(R.C. 4735.05)

The bill expands the Superintendent's authority to recommend an ancillary trustee when there has been an incapacitation or incarceration of a licensed broker, if there is no other licensed broker within the brokerage, to continue the business transactions of the brokerage for a period of time not to exceed the period of incapacitation or incarceration. Under existing law, the Superintendent may recommend an ancillary trustee upon the death of a licensed broker or the revocation or suspension of the broker's license.

Rulemaking relating to manufactured home sales

(R.C. 4781.04)

The bill explicitly authorizes the Division of Real Estate and Professional Licensing to adopt rules pursuant to the Administrative Procedure Act necessary for the administration of its regulatory authority for the licensing of manufactured home dealers, brokers, and salespersons.

Disposition of license fees

(R.C. 4735.15)

The bill reduces the portion of triennial real estate broker's and salesperson's license fees to be credited to the Real Estate Education and Research Fund from \$3 per fee to \$1.50 per fee.

Division of Unclaimed Funds

Small estate affidavit

(R.C. 169.18)

The bill creates an affidavit to allow the heirs or next of kin of a decedent to claim the decedent's unclaimed funds without requiring letters testamentary or letters of administration to be issued upon the estate. Under continuing law, when an estate goes through the probate process, a letter testamentary or letter of administration is issued by a probate court that grants powers to an executor or administrator. The executor or administrator appears to be discharged upon the closing of the estate.

Standard for distribution

Under the bill, if an item of unclaimed funds belonging to a decedent is reported to the Director of Commerce, the Director must distribute the funds without requiring a letter testamentary or letter of administration when all of the following conditions are met:

- At least 210 days have passed since the owner died;
- All unclaimed funds together are valued at \$5,000 or less;
- The person claiming the item is the surviving spouse, any one or more of the deceased owner's natural born or adopted children age 18 or older, or the parent of the deceased owner, with preference given in that order.

Procedure

To claim the item, a person must provide the Director all of the following:

- An unredacted certified death certificate of the deceased owner;
- Other information or documentary evidence the Director determines necessary to pay funds to the proper person, including personal identification and proof of tax identification number for the claimant, deceased owner, or both;
- A list of all individual beneficiaries in the decedent's will or individuals who would inherit pursuant to Ohio's intestacy law if the decedent died intestate;
- A sworn affidavit under penalty of perjury requesting the Director to release the item. The affidavit must include the following information:
 - The deceased owner's name;
 - The date and place of the deceased owner's death;
 - A statement that more than 210 days have passed since the deceased owner's death;

- A statement that either:
 - ❖ An executor, administrator, or commissioner has not been appointed to administer the estate and no application to relieve an estate from administration is pending in any jurisdiction; or
 - ❖ The executor, administrator, or commissioner has been discharged.
- A description and dollar value of each item, not exceeding an aggregate amount of \$5,000 to be paid, transferred, or delivered to the claimant;
- A statement that the deceased owner’s funeral and burial expenses have been paid, that the claimant will pay them, or that the unclaimed funds will be used to pay them;
- If the statement described above indicates that the unclaimed funds will be used to pay the expenses, an additional statement that if the unclaimed funds are sufficient to cover all unpaid funeral and burial expenses, they will be used to cover all the expenses. If the unclaimed funds are insufficient to cover all such expenses, a statement that all the unclaimed funds will go toward the expenses;
- A statement that the claimant is entitled to inherit from the deceased owner either by virtue of being a beneficiary in the decedent’s will or under Ohio’s intestacy law if the decedent died intestate;
- The following statement: “No other person has a superior right to the interest of the decedent in the described unclaimed funds”;
- A statement that the claimant requests that the item be paid, delivered, or transferred to the claimant;
- A statement that the claimant will distribute the unclaimed funds pursuant to the deceased owner’s will or Ohio’s intestacy law if the decedent died intestate;
- The claimant’s affirmation under penalty of perjury that the foregoing affidavit is true and correct.

If the Director determines that the claimant is entitled to claim the item, the Director must distribute the item or pay the amount being held.

Effect of distribution

Distributing funds in response to the affidavit releases the Director to the same extent as by an entry granting release from administration or as if the distribution had been made to a duly appointed executor, administrator, or commissioner. The bill does not require the Director to oversee the application of the payment, delivery, or transfer made.

The bill provides that the payment, delivery, or transfer of the unclaimed funds due to the deceased owner constitutes a full discharge and release to the Director from any claim for the funds or property paid, delivered, or transferred. Instead, a claimant to whom payment is made is liable to anyone prejudiced by an improper payment.

Holder of unclaimed funds held harmless

(R.C. 169.07 and Section 701.30)

Under current law, upon the payment of unclaimed funds to the Director of Commerce, the holder is relieved of further responsibility for the funds and is held harmless by the state from any liability arising out of the transfer of the funds to the state. The bill requires the holder to act in good faith and in compliance with the Unclaimed Funds Law to receive this protection from liability. It also specifies that the holder is held harmless to the extent of the value of the funds determined as of the time of payment to the state.

Current law provides that if legal proceedings are instituted against a holder that has paid unclaimed funds to the state or has entered into an agreement with the state to retain the funds for investment, the holder must notify the Director in writing. Failure to give this notice absolves the state from any liability it may have with regard to these funds. The bill imposes a 14-day deadline for this notice and, if the holder fails to give timely notice, absolves the state from any liability it may otherwise have with regard to the funds beyond the value of the property paid or delivered to the state.

Also under current law, the Director is required to intervene and assume the defense of the proceedings against the holder. The bill instead permits the Director, upon notice of the proceedings, to take any action the Director considers necessary or expedient to protect the interests of the state. Under the bill, if the Director elects not to intervene, and judgment is entered against the holder, the Director must reimburse the holder for the amount paid under the judgment or, if the holder retained any funds, enter into an agreement modified to reflect the satisfaction of the judgment to the extent of the value of the funds paid to the state.

Under the bill, no person has a claim against the state, the holder, or a transfer agent, registrar, or other person acting for or on behalf of a holder for any change in the market value of unclaimed funds occurring after delivery by the holder to the Division of Unclaimed Funds, or after sale of the property by the Division.

Lastly, the bill states that the amendments described above are intended to clarify that the Director is not required to hold the holder harmless or intervene on behalf of a holder if the holder failed to act in good faith or in compliance with the Unclaimed Funds Law. It is not meant to insure or indemnify the holder against the holder's own acts or omissions, bad faith, or breach of a duty owed the unclaimed funds owner or the Director.

Unclaimed funds finder agreements

(R.C. 169.13)

Continuing law permits agreements between the unclaimed funds owner and another person under which the person finds or assists in recovering unclaimed funds in exchange for compensation, so long as certain requirements are met. One requirement is that the agreement must disclose that the Auditor of State will pay the unclaimed funds directly to the owner. The bill instead requires disclosure that the OBM Director will do so.

Current law also states that no person may receive compensation for recovering another person's unclaimed funds under an agreement that is invalid. The bill rewords this to state

instead that a person cannot receive compensation without having first entered into a compliant agreement with the owner or owner's legal representative.

Note that the Unclaimed Funds Law is unclear as to who pays unclaimed funds, and the law likely is inconsistent with actual practice. While, under the bill, the finder's agreement must say that the OBM Director pays the funds in R.C. 169.13(B)(2)(f), continuing law directs unclaimed funds found under these agreements be paid by the Auditor of State (R.C. 169.13(E)). This directive, in turn, appears to be contradicted by R.C. 169.08 (and in the bill R.C. 169.18), which indicates that the Director of Commerce pays the unclaimed funds. Moreover, R.C. 169.08 merely refers to "Director" without specifying which department, but the reference likely is intended to mean the Director of Commerce. Amendments to these provisions could clarify who has the responsibility and authority to pay unclaimed funds.

State Fire Marshal

Fire investigation

(R.C. 3929.87)

Under existing law, 90 days after a fire that has caused a loss of more than \$5,000 of property damage, the State Fire Marshal or another authorized person must investigate the fire to determine whether the property loss was caused by arson. The bill specifies that the State Fire Marshal or the authorized person must investigate to the extent practicable and in a manner consistent with accepted standards of investigation.

Revolving loan program

(R.C. 3737.17)

Under the bill, if the Director of Commerce determines that the balance in the Small Government Fire Department Services Revolving Loan Fund is insufficient to implement the Small Government Fire Department Services Revolving Loan Program, the Director may certify the amount needed to the OBM Director. This amount cannot exceed the amount appropriated to the program for the biennium. Once certified, the OBM Director may transfer from the State Fire Marshal's Fund to the Revolving Loan Fund any amount up to, but not exceeding, the amount certified by the Director of Commerce.

The State Fire Marshal administers the Revolving Loan Program and the fund to make loans to qualifying small governments to expedite major equipment purchases and the construction or renovation of fire department buildings.

Self-service gas stations

(R.C. 3741.14)

The bill requires a self-service gas station to comply with the most recent version of National Fire Protection Association Standard Number 30A, as incorporated into the State Fire Code. Existing law requires a self-service gas station to comply with the National Fire Protection Association standard number 30A-1990, which is not the most recent edition.

Division of Liquor Control

To-go cocktails

(R.C. 4303.185)

The bill prohibits a to-go cocktail sold by a liquor permit holder from containing more than two ounces of spirituous liquor. Current law allows bars, restaurants, breweries, wineries, and microdisilleries to sell to-go cocktails to a personal consumer for off-premises consumption, including via delivery to the location of the personal consumer. The to-go cocktails are sold by the individual drink in sealed, closed containers.

D-4 liquor permit – club oaths

(R.C. 4303.17)

The bill eliminates the requirement that the following submissions required of a club applying for a D-4 liquor permit be done under oath:

- A statement of the organization controlling the club certifying that the club is operated in the interests of a reputable organization; and
- The roster of the membership of the club.

The D-4 permit allows a club to sell beer and intoxicating liquor to its members for on-premises consumption.

Division of Financial Institutions

Residential Mortgage Lending Act fee increase

(R.C. 1322.09, 1322.10, 1322.20, and 1322.21)

The bill increases the licensing and registration fees under the Residential Mortgage Lending Act paid to the Superintendent of Financial Institutions as follows:

Type of fee	Current fee	New fee
Initial registration and renewal fee for mortgage brokers, lenders, and servicers for each office maintained by the registrant	\$500	\$750
Late fee for renewal for each registered office maintained by a mortgage broker, lender, and servicer	\$100	\$150
Initial license and renewal fee for mortgage loan originators	\$150	\$250
Late renewal fee for mortgage loan originators	\$100	\$150

The bill also authorizes the Superintendent to charge an additional assessment for renewal fees for mortgage brokers, lenders, servicers, and mortgage loan originators if the amount billed under the statute are less than the estimated expenditures for the following fiscal year. If the renewal fees billed by the Superintendent are less than the estimated expenditures

of the consumer finance section of the Division of Financial Institutions for the following fiscal year, the Superintendent may assess each registrant at a rate sufficient to equal in the aggregate of the difference between the renewal fees billed and the estimated expenditures. The assessment cannot exceed 1¢ per \$100 of Ohio transaction volume for a 12-month period, as defined by the Superintendent. If an assessment is imposed, it must be between \$500 to \$30,000 for any registrant.

COUNSELOR, SOCIAL WORKER, AND MARRIAGE AND FAMILY THERAPIST BOARD

- Provides a six-month registration extension for master’s level counselor, social worker, and marriage and family therapist trainees who have graduated but not yet completed all requirements for licensure.

Registration for master’s level trainee graduates

(R.C. 4757.10)

Current law requires the Counselor, Social Worker, and Marriage and Family Therapist Board to adopt rules providing for voluntary registration of master’s level counselor, social worker, and marriage and family therapist trainees. The bill provides a six-month registration extension for those registered trainees who have graduated but not yet completed all requirements for licensure.

DEPARTMENT OF DEVELOPMENT

Rename agency as Department of Development

- Changes the name of the Development Services Agency and the Director of Development Services back to the Department of Development and Director of Development, respectively.

Transfer of minority business enterprise and related programs

- Transfers the administration of the minority business enterprise program, the encouraging diversity, growth, and equity program, the women-owned business enterprise program, and the veteran-friendly business procurement program from the Department of Administrative Services (DAS) to the Department of Development.
- Removes the Equal Opportunity Employment Coordinator from being the head of a division, who instead reports to a position determined by the DAS Director.

Minority Development Financing Advisory Board

- Corrects erroneous cross-references to clarify that the Minority Development Financing Advisory Board is not responsible for administering certain tax credit and grant programs administered by the Department of Development.

Job creation tax credit

- Requires the Director of Development to adopt rules establishing alternative job creation tax credit (JCTC) eligibility requirements for businesses that do not meet the minimum employment or payroll thresholds prescribed by administrative rule.
- Limits the total amount of credits awarded under the alternative eligibility criteria to \$25 million per fiscal biennium.
- Allows any employer that receives the JCTC to count work-from-home employees when computing the employer's credit amount and when verifying its compliance with the JCTC agreement.

Small business investment credit

- Reduces the biennial credit allotment for the small business investment credit from \$50 million to \$25 million.

Rename agency as Department of Development

(R.C. 121.02, 121.03, 122.01, 122.011, 122.60, 122.601, 122.603, 122.86, 122.89, 123.01, 149.311, 166.01, 166.03, 174.01, 174.02, 184.01, 1551.01, 1551.33, 1551.35, 5119.34, 5703.21; Repealed R.C. 184.011, 3735.01, and 5701.15; R.C. 140.01, as amended in Section 130.10; Section 518.20)

The bill renames the Development Services Agency (DSA) as the Department of Development. Similarly, the Director of Development Services is renamed the Director of

Development. The change reverses the name change in 2012 by [S.B. 314 of the 129th General Assembly](#). The bill does not make the change uniformly throughout the Revised Code. Instead, the change is reflected in several sections addressing the Department's operations, and the bill directs that references to DSA and its Director throughout the Revised Code mean the renamed Department and its Director.

Ongoing DSA operations are to be continued by the Department, including the following:

- All DSA rules, orders, and determinations are to continue as though made by the Department;
- DSA employees continue as employees of the Department;
- The Department must be substituted for DSA in any pending court or agency proceedings to which DSA is a party.

Transfer of minority business enterprise and related programs

(R.C. 121.07 and 122.92; with conforming changes in numerous other R.C. sections; Sections 518.10 to 518.16)

On July 1, 2021, the bill transfers the responsibility for the administration of certain programs currently under the Department of Administrative Services (DAS) and the Equal Opportunity Employment Coordinator to the Department of Development (DEV) (currently called the Development Services Agency). These programs are the minority business enterprise (MBE) program, the encouraging diversity, growth, and equity (EDGE) program, the women-owned business enterprise program, and the veteran-friendly business procurement program. These programs require state agencies to set aside a certain amount of their contracts each year to award to business enterprises owned by certain eligible individuals and certified under the program. These individuals, respectively, are certain racial minorities, economically and socially disadvantaged individuals, women, and veteran-friendly businesses.

The bill also changes the role of the Equal Opportunity Employment Coordinator, an office created under DAS.¹⁶ Under current law, each office created under this current law provision is the head of a division within the department in which it is created. The bill specifies that the Coordinator is no longer the head of a division, instead reporting to a position to be determined by the DAS Director.

The bill contains numerous general transfer of authority provisions. All records, documents, files, equipment, assets, and other materials of the programs are transferred from DAS to DEV. Business related to the programs begun but not completed by DAS on July 1, 2021, must be completed by DEV. No validation, cure, right, privilege, remedy, obligation, or liability is lost or impaired by reason of the transfer. The rules, orders, and determinations of DAS pertaining to the programs continue in effect under DEV until modified or rescinded. Further, no judicial or administrative action or proceeding pending on July 1, 2021, is affected by the transfer, and those actions must be prosecuted or defended in the name of the Director of DEV or DEV, as

¹⁶ R.C. 121.04, not in the bill.

appropriate. When the Equal Employment Coordinator, the Director of DAS, or DAS is referred to in any rule, contract, grant, or other document related to the administration of these programs, the reference is deemed to refer to the DEV Director or DEV, as appropriate.

The bill exempts the transfer of employees from Ohio's public employees' collective bargaining law. And, subject to general layoff provisions, DAS employees are transferred to DEV. Between July 1, 2021, and June 30, 2022, the DEV Director may establish, change, and abolish positions of DEV and assign, reassign, classify, reclassify, transfer, reduce, promote, or demote DEV employees who are not subject to Ohio's public employees' collective bargaining law. This authority includes assigning or reassigning an exempt employee to a bargaining unit classification, but includes provisions if the new position is in a lower classification. These actions are not subject to appeal to the State Personnel Board of Review.

The bill also provides that the DEV Director may enter into one or more contracts with private or government entities for staff training and development to facilitate the transfer, and that the contracts are not subject to competitive bidding thresholds.

The bill permits the Controlling Board, upon the request of the DEV Director, to increase appropriations for any fund, as necessary, to assist in paying for increases in compensation and salaries as a result of the transfer. The bill requires the OBM Director to make budget and accounting changes made necessary by the transfer.

Finally, the bill requires the Director of the Legislative Service Commission to renumber related DAS rules to the appropriate Ohio Administrative Code Section for DEV. Any new rules or amendments to the rules implementing the transfer that are proposed before June 30, 2023, are not subject to the two-for-one requirement, which prohibits certain state agencies from adopting a new regulatory restriction unless it eliminates two or more restrictions.

Minority Development Financing Advisory Board

(R.C. 122.72, 122.73, 122.74, 122.78, 122.79, and 122.82)

The bill clarifies that the responsibility for oversight of the diesel emissions reduction grant program and several tax credits, including the motion picture and theatre credit, the small business investment credit, and the opportunity zone fund investment credit, rests with the Department of Development, not the Minority Development Financing Advisory Board (MDFAB). These programs and credits, under continuing law, are administered by the Department of Development, but certain erroneous cross references in current law suggest that the MDFAB has that responsibility.

Under continuing law, the MDFAB assists the Department in the administration of several minority business financing programs primarily designed to encourage the establishment and expansion of minority business enterprises.

Job creation tax credit

(R.C. 122.17; Section 701.20)

The bill makes two changes to the job creation tax credit (JCTC). First, it prescribes an alternative JCTC eligibility process for smaller businesses and earmarks \$25 million in credits each biennium for those businesses. Second, the bill allows employers, even those currently in a JCTC

agreement, to count work-from-home employees in computing its credit and verifying its compliance with the agreement.

Under continuing law, the Tax Credit Authority (TCA) is authorized to enter into JCTC agreements with employers to foster job creation and capital investment in the state. The amount of the credit equals an agreed-upon percentage of the amount by which the employer's "Ohio employee payroll" (i.e., the compensation paid by the employer and used in computing the employer's tax withholding obligations) exceeds the employer's "baseline payroll" (i.e., Ohio employee payroll for the 12 months preceding the JCTC agreement). The credit may be claimed against the commercial activity tax (CAT), financial institutions tax (FIT), petroleum activity tax (PAT), domestic or foreign insurance company premiums taxes, or personal income tax. If the amount of the credit exceeds the tax otherwise due, the excess is refundable. Each employer must file an annual report in which it reports its number of employees and payroll, among other metrics.

Alternative eligibility requirements

The bill requires the DEV Director to adopt rules, as soon as possible, establishing alternative JCTC eligibility requirements for businesses that do not meet the minimum employment or payroll thresholds but are otherwise eligible for the credit. Current administrative rules limit credit eligibility to businesses that create at least ten full-time equivalent employment positions and generate an additional \$659,750 in annual payroll (175% of the federal minimum wage multiplied by 52,000).¹⁷ The employment and payroll thresholds are not mandated by state law. The Director may change them or establish alternative eligibility requirements at any time through the standard administrative rulemaking procedure.

The bill limits total credits awarded under the alternative eligibility criteria to \$25 million per fiscal biennium. There is no cap on the amount of JCTCs awarded under the general eligibility criteria.

Work-from-home employees

Continuing law authorizes employers whose JCTC application was approved after September 28, 2017, to treat work-from-home employees the same as employees who work at the employer's project location, as long as the work-from-home employees reside in Ohio and are supervised from the project location. (This is the effective date of the provision in H.B. 49 of the 132nd General Assembly that authorized the inclusion of such employees.) Consequently, the payroll of such work-from-home employees is included in the computation of the credit, and such employees are counted towards any employment and payroll metrics required in the JCTC agreement.

The bill extends this authorization to employers whose application was approved before September 28, 2017, beginning with JCTC reporting periods ending in 2020, allowing those employers to also count those work-from-home employees when computing the employer's credit amount and when verifying its compliance with the JCTC agreement.

¹⁷ Ohio Administrative Code (O.A.C.) 122:7-1-05.

Small business investment credit

(R.C. 122.86)

The bill reduces, from \$50 million to \$25 million, the total biennial credit allotment for the existing income tax credit for investments in smaller businesses, beginning in FY 2022. Under continuing law, the credit is available for an individual, trust, estate, or pass-through entity that acquires an ownership interest (through a cash investment) in a business having assets of \$50 million or less, or annual sales of \$10 million or less, and employing no more than 50 full-time equivalent employees or employing more than half of their U.S. employees in Ohio. To qualify for the credit, the investor must agree to a two-year holding period during which they cannot sell or dispose of the investment. In addition, the business must, within six months of the date the investment is made, spend at least a portion of the investment amount to purchase or acquire assets or to pay employees. The credit equals 10% of the amount of the investment – up to \$1 million.¹⁸

¹⁸ See also, R.C. 5747.81, not in the bill.

DEPARTMENT OF DEVELOPMENTAL DISABILITIES

Technology First Task Force and technology first policy

- Declares that it is the policy of the state to provide individuals with developmental disabilities with access to innovative technology solutions.
- Requires the Department of Developmental Disabilities to coordinate with other state agencies to implement the policy.
- Requires the Director of Developmental Disabilities to establish, in coordination with other state agencies, the Technology First Task Force.

Medicaid rates for ICF/IID services

- Eliminates a formula for determining an ICF/IID's Medicaid payment rate that expires on July 1, 2021.
- Provides that the mean FY 2022 and FY 2023 Medicaid rates for all ICFs/IID after certain modifications are made cannot exceed \$350.87.
- Requires the Department to reduce the FY 2022 and FY 2023 Medicaid rates for ICFs/IID if the federal government requires that the ICF/IID franchise permit fee be reduced or eliminated.

ICF/IID franchise permit fee

- Requires the Department to adjust the franchise permit fee rate and associated ICF/IID invoices so as not to exceed the indirect guarantee percentage if that percentage is adjusted by the U.S. Secretary of Health and Human Services at any time during a fiscal year.

Developmental centers services and cost recovery

- Permits a Department developmental center to provide services to (1) individuals with developmental disabilities who reside in the community and (2) providers who provide services to such individuals.
- Permits the Department to establish a method for recovering the costs associated with providing these services.

County DD board waiver allocation plan

- Eliminates a requirement that each county DD board submit an annual plan to DD for approval.
- Instead, requires county DD boards to annually submit to the Department (1) a waiver allocation projection and (2) assurances that the board employs or contracts with both a business manager and a Medicaid services manager, or has an agreement with another county DD board that employs or contracts with those individuals.

County DD board business manager

- Eliminates the ability of a county DD board to receive a subsidy from the Department for employing a business manager.

County DD boards annual cost reports

- Permits, rather than requires, the Department, or an entity designated by DD, to audit annual cost reports submitted by a regional council or county DD board.
- Specifies that any audit conducted must utilize methodology approved by the U.S. Centers for Medicare and Medicaid Services.
- Eliminates a duplicative provision of law requiring county DD boards to submit annual cost reports to the Department.

Release of records and reports by county DD boards

- Permits disclosure of a certificate, application, record, or report that identifies a resident of an institution for persons with intellectual disabilities when needed for a guardianship proceeding.
- Permits the release of a record or report maintained by a county DD board or an entity under contract with a board when requested by a probate court for a guardianship proceeding or by the Department for certain purposes.

County share of nonfederal Medicaid expenditures

- Requires the Director of Developmental Disabilities to establish a methodology to estimate in FY 2022 and FY 2023 the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible.

County subsidies used in nonfederal share

- Requires, under certain circumstances, that the Director pay the nonfederal share of a claim for ICF/IID services using subsidies otherwise allocated to county boards.

Medicaid rates for homemaker/personal care services

- Provides for the Medicaid rate for each 15 minutes of routine homemaker/personal care services provided to a qualifying enrollee in the Individual Options Medicaid waiver program to be, for 12 months, 52¢ higher than the rate for services to an enrollee who is not a qualifying enrollee.

Innovative pilot projects

- Permits the Director to authorize, in FY 2022 and FY 2023, innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county DD boards.

Ohio Developmental Disabilities Council

- Updates citations to federal law regarding the creation and operation of the Ohio Developmental Disabilities Council.

Technology First Task Force and technology first policy

(R.C. 5123.025 and 5123.026)

The bill declares that it is the policy of the state that individuals with developmental disabilities have access to innovative technology solutions. As part of the policy, it provides that technology can ensure that individuals with developmental disabilities have increased opportunities to live, work, and thrive in their homes, communities, and places of employment through the use of state of the art planning, innovative technology, and supports that focus on these individuals' talents, skills, and interests.

The bill requires the following entities to implement the technology first policy: the Departments of Developmental Disabilities, Education, Medicaid, Job and Family Services, Mental Health and Addiction Services, and Transportation, the Opportunities for Ohioans with Disabilities Agency, and any other state agency that provides technology services to individuals with developmental disabilities.

As the primary agency responsible for implementing this policy, the bill requires the Department of Developmental Disabilities to partner with the Office of InnovateOhio to coordinate the actions taken by other state agencies to implement the policy. The Department and other state agencies may adopt rules to implement this policy. The Department must ensure that other agencies fully implement the policy and, in coordination with the Technology First Task Force established under the bill, must compile and annually submit data to the Governor and Lieutenant Governor regarding the policy's implementation.

The bill requires the Director of Developmental Disabilities to establish the Technology First Task Force, which is tasked with (1) expanding innovative technology solutions within the operation and delivery of services to individuals with developmental disabilities, (2) using technology to reduce the barriers individuals with developmental disabilities experience, and (3) aligning policies for all state agencies that are members of the task force.

The Technology First Task Force consists of representatives from the Office of InnovateOhio, the Departments of Developmental Disabilities, Education, Medicaid, Job and Family Services, Mental Health and Addiction Services, and Transportation, and the Opportunities for Ohioans with Disabilities Agency. The bill permits the Department of Developmental Disabilities to enter into interagency agreements with any of the agencies that are members of the task force. These agreements may specify the roles and responsibilities of the members of the task force, including any financial contributions for which each member is responsible, and the projects and activities the task force will undertake.

Medicaid rates for ICF/IID services

(Repealed R.C. 5124.171, 5124.195, 5124.196, 5125.197, 5124.198, 5124.199, 5124.211, 5124.231, and 5124.28; conforming changes in R.C. 5124.01, 5124.101, 5124.15, 5124.151, 5124.152, 5124.17, 5124.19, 5124.191, 5124.21, 5124.23, 5124.29, 5124.30, 5124.38, 5124.39, 5125.40, 5124.41, and 5124.46; Section 261.150)

Under current law, an ICF/IID's Medicaid payment rate is the higher of the two rates determined under two different formulas. The older formula predates H.B. 24 of the 132nd General Assembly, which enacted the newer one in 2018. The older formula expires beginning with FY 2022, at which time an ICF/IID's rate is to be determined under the newer formula. The bill eliminates language regarding the older formula which becomes obsolete on July 1, 2021, and makes corresponding changes to existing law to reflect the elimination.

The bill requires the Department of Developmental Disabilities to make certain modifications to the new formula. The first modification concerns the target amount and requires the Department to adjust the per Medicaid day rate for ICFs/IID if the mean total per Medicaid day rate for ICFs/IID exceeds \$350.87. If the mean total per Medicaid day rate is greater than \$350.87, the Department must adjust the rate by the percentage by which the mean total per Medicaid day rate exceeds \$350.87.

The second modification concerns the franchise permit fee that continuing law requires ICFs/IID to pay (see below). The bill provides that if the U.S. Centers for Medicare and Medicaid Services requires that the franchise permit fee be reduced or eliminated, the Department must reduce the Medicaid payment rate for ICFs/IID. The reduction must reflect the loss to the state of the revenue and federal Medicaid funds generated from the franchise permit fee.

ICF/IID franchise permit fee

(R.C. 5168.60 and 5168.61)

Continuing law imposes a franchise permit fee on ICFs/IID, which is assessed quarterly. The franchise permit fee is a healthcare related tax imposed on ICFs/IID, which is used to help fund the state share of the Medicaid program for Medicaid services utilized by ICFs/IID. Any healthcare related tax must comply with federal requirements to be considered a permissible source of revenue to pay for a portion of the state share for Medicaid, including that it must (1) be broad-based, (2) be uniformly imposed throughout the state, and (3) not hold the taxpayer harmless.

Under federal law, a healthcare related tax is considered to hold a taxpayer harmless if the state provides for a payment, offset, or waiver that guarantees to hold taxpayers harmless for greater than 6% of the cost of the tax imposed. This 6% threshold is known as the indirect guarantee percentage.¹⁹

The bill provides that in the event that the U.S. Secretary of Health and Human Services adjusts the indirect guarantee percentage (to a percentage other than 6%) at any time during a

¹⁹ 42 U.S.C. 1396b(w)(4)(C).

fiscal year, the Department must adjust the franchise permit fee rate and any associated ICF/IID invoices so as not to exceed the new percentage.

Developmental centers services and cost recovery

(R.C. 5123.034)

The bill permits a Department developmental center to provide services to individuals with developmental disabilities who reside in the community in which the center is located. Additionally, a developmental center may provide services to providers who provide services to these individuals in the community. The bill allows the Department to establish a method for recovering the costs associated with providing these services through a developmental center. There are eight developmental centers in Ohio, each of which is Medicaid-certified and licensed as an ICF/IID.

County DD board waiver allocation plan

(R.C. 5126.054, 5126.055, and 5126.056; repealed R.C. 5123.046)

The bill eliminates a requirement that each county DD board submit an annual plan to the Department for approval that includes, among other things, the number of individuals with developmental disabilities in the county the board serves who are on the board's waitlist, the service needs of each individual on the waitlist, and the projected annual cost for their services.

Instead, the bill requires each county DD board to submit to the Department an annual projection of the number of individuals to whom the board intends to provide home and community-based services based on available funding. Available funding must be based on the board's projected funding as indicated in its annual five-year projection report submitted to the Department.

Additionally, county DD boards are required to provide annual assurances to the Department that the board employs or contracts with a business manager, or has entered an agreement with another county board that employs or contracts with a business manager to have the business manager serve both county boards. The bill also requires county boards to assure the Department that the board employs or contracts with a Medicaid services manager, or has entered an agreement with another county board that employs or contracts with a Medicaid services manager to have the Medicaid services manager serve both. The bill prohibits the superintendent of a county DD board from serving as the board's business manager or Medicaid services manager.

County DD board business manager

(R.C. 5126.121, repealed)

The bill eliminates law that allows county DD boards to receive a subsidy from the Department to employ a business manager. To be eligible for the subsidy under current law, a county board must employ a business manager who satisfies education and experience requirements specified in rules adopted by the Department.

County DD boards annual cost reports

(R.C. 5126.05 and 5126.131; repealed R.C. 5126.12)

The bill makes it discretionary, instead of mandatory, for the Department to perform an audit of the annual cost report submitted by a county DD board or regional council. It adds that any audit that is performed must utilize methodology approved by the U.S. Centers for Medicare and Medicaid Services. Finally, it repeals a section containing a duplicative requirement that county DD boards submit annual cost reports to the Department.

Release of records and reports by county DD boards

(R.C. 5123.89 and 5126.044)

Current law generally requires that all certificates, applications, records, and reports that directly or indirectly identify a resident or former resident of an institution for persons with intellectual disabilities be kept confidential, except under specified circumstances. The bill adds an exception to this general requirement permitting disclosure if the certificate, application, record, or report is needed for a guardianship proceeding.

Current law also generally prohibits disclosure of the identity of an individual or a record or report regarding an eligible individual that is maintained by a county DD board or an entity under contract with a board, except under specified circumstances. The bill adds two exceptions to the general prohibition. The first permits a county DD board or an entity under contract with a board to release a record or report if requested by a probate court for a guardianship proceeding. Any record or report that is released may only be released to the parties of the proceeding. The second exception permits the release of a record or report if requested by the Department for the purpose of a proceeding for admission to an institution for persons with intellectual disabilities or to comply with a court order regarding a person's competence in a criminal case.

County share of nonfederal Medicaid expenditures

(Section 261.100)

The bill requires the Director of Developmental Disabilities to establish a methodology to estimate in FY 2022 and FY 2023 the quarterly amount each county DD board is to pay of the nonfederal share of the Medicaid expenditures for which the board is responsible. With certain exceptions, current law requires the board to pay this share for waiver services provided to an individual whom it determines is eligible for its services. Each quarter, the Director must submit to the board written notice of the amount for which the board is responsible. The notice must specify when the payment is due.

County subsidies used in nonfederal share

(Section 261.130)

The bill requires the Director of Developmental Disabilities to pay the nonfederal share of a claim for ICF/IID services using funds otherwise appropriated for subsidies to county DD boards if (1) Medicaid covers the services, (2) the services are provided to a Medicaid recipient who is eligible for them and the recipient does not occupy a bed that use to be included in the Medicaid-

certified capacity of another ICF/IID certified before June 1, 2003, (3) the services are provided by an ICF/IID whose Medicaid certification was initiated or supported by a county DD board, and (4) the provider of the services has a valid Medicaid provider agreement for the services for the time that they are provided.

Medicaid rates for homemaker/personal care services

(Section 261.140)

The bill requires that the total Medicaid payment rate for each 15 minutes of routine homemaker/personal care services that a Medicaid provider provides to a qualifying enrollee of the Individual Options Medicaid waiver program be 52¢ higher than the rate for services that are provided to an enrollee who is not a qualifying enrollee. The higher rate is to be paid only for the first 12 months, consecutive or otherwise, that the services are provided during the period beginning July 1, 2021, and ending July 1, 2023.

An Individual Options enrollee is a qualified enrollee if all of the following apply:

- The enrollee resided in a developmental center, converted ICF/IID,²⁰ or public hospital immediately before enrolling in the Individual Options Medicaid waiver program.
- The enrollee did not receive before July 1, 2011, routine homemaker/personal care services from the Medicaid provider that is to receive the higher Medicaid rate.
- The Director of Developmental Disabilities has determined that the enrollee's special circumstances (including diagnosis, services needed, or length of stay at the developmental center, converted ICF/IID, or public hospital) warrant paying the higher Medicaid rate.

Innovative pilot projects

(Section 261.120)

For FY 2022 and FY 2023, the bill permits the Director of Developmental Disabilities to authorize the continuation or implementation of innovative pilot projects that are likely to assist in promoting the objectives of state law governing the Department and county DD boards. Under the bill, a pilot project may be implemented in a manner inconsistent with the laws or rules governing the Department and county DD boards; however, the Director cannot authorize a pilot project to be implemented in a manner that would cause Ohio to be out of compliance with any requirements for a program funded in whole or in part with federal funds. Before authorizing a pilot project, the Director must consult with entities interested in the issue of developmental disabilities, including the Ohio Provider Resource Association, Ohio Association of County Boards of Developmental Disabilities, Ohio Health Care Association/Ohio Centers for Intellectual Disabilities, the Values and Faith Alliance, and ARC of Ohio.

²⁰ A converted ICF/IID is an ICF/IID, or former ICF/IID, that converted some or all of its beds to providing services under the Individual Options Medicaid waiver program.

Ohio Developmental Disabilities Council

(R.C. 5123.35)

The bill updates the federal law citations in existing law regarding the creation and the operation of the Ohio Developmental Disabilities Council, which is tasked with serving as an advocate for all persons with developmental disabilities.

DEPARTMENT OF EDUCATION

I. School finance

Funding for FY 2022 and FY 2023

- Requires the Department of Education to pay each city, local, exempted village, and joint vocational school district for each of FY 2022 and FY 2023 an amount equal to the district's payments for FY 2019.
- Requires the Department to make an additional payment to each city, local, or exempted village school district, with at least 50 enrolled students, that experiences an average annual percentage change in its enrollment between FY 2016 and FY 2019 that is greater than zero.
- Requires the Department, for each student enrolled in a community school or STEM school, to deduct from the amount computed for the student's resident district and pay to the school the amount prescribed by continuing law.
- Specifies that, for purposes of computing other payments for FY 2022 and FY 2023 for which a district's "state share index" or "state share percentage" is a factor, the Department must use the state share index or state share percentage computed for the district for FY 2019.
- Specifies that, for purposes of open enrollment, College Credit Plus, and any other payments for which the "formula amount" is used, the formula amount for FY 2022 and FY 2023 equals the formula amount for FY 2019 (\$6,020).

Student wellness and success funding

- Requires student wellness and success funds and enhancement funds to be paid to city, local, exempted village, and joint vocational school districts, community schools, and STEM schools for FY 2022 and FY 2023 in a manner similar to how they were paid for in FY 2020 and FY 2021.
- Requires the Department to calculate a district's or school's student wellness and success funds and enhancement funds for both FY 2022 and FY 2023 using the number of students enrolled in the district or school for FY 2022.
- Requires the Department to use the five-year estimates published by the U.S. Census Bureau in the 2015-2019 American Community Survey (rather than the most recent American Community Survey as under current law) for calculating student wellness and success fund payments.
- Increases the per-pupil amounts used to calculate student wellness and success funds for city, local, and exempted village school districts.
- Uses a multiplier of \$75 for both FY 2022 and FY 2023 (which is the multiplier for FY 2021 under current law) for calculating student wellness and success enhancement funds for city, local, and exempted village school districts.

- Increases the minimum payment of student wellness and success funds that each school district, community school that is not an e-school, and STEM school must receive to \$45,720 for FY 2022 and \$56,160 for FY 2023 (from \$25,000 for FY 2020 and \$36,000 for FY 2021).
- Increases the amount of student wellness and success funds that must be paid to each e-school to \$45,720 for FY 2022 and \$56,160 for FY 2023 (from \$25,000 for FY 2020 and \$36,000 for FY 2021).
- Guarantees that each district and school receives the same amount of student wellness and success funds and enhancement funds for FY 2022 and FY 2023 that it received for the previous fiscal year.
- Requires the Department, after all student wellness and success payments for FY 2022 and FY 2023 have been made to public schools, to distribute any appropriated amounts remaining for these payments through a methodology determined by the Department in consultation with the Office of Budget and Management (OBM).
- Adds to the initiatives for spending student wellness and success funds and enhancement funds: telehealth services (as part of mental and physical health services); culturally appropriate, evidence-based or evidence-informed prevention education; and programs that connect students to community resources.
- Removes the authority for districts and schools to spend student wellness and success funds and enhancement funds for professional development regarding the provision of trauma-informed care and professional development regarding cultural competencies.
- Requires districts and schools to spend student wellness and success funds and enhancement funds in coordination with two community partners, rather than one as under current law.
- Requires districts and schools to satisfy the bill's requirements for all student wellness and success funds and enhancement funds spent after the bill's changes take effect, including funds paid to districts or schools for FY 2020 and FY 2021 that are spent after that date.

Funding adjustment for career-technical education

- Requires the Department to adjust the amounts paid to certain school districts for FY 2022 and FY 2023 to account for the decrease in career-technical education students served by a city, local, or exempted village school district and the corresponding increase in students served by a joint vocational school district beginning in FY 2020.

Payment for districts with decreases in utility TPP value

- Requires the Department to make a payment, for FY 2022 and FY 2023, to each city, local, exempted village, or joint vocational school district with more than a 10% decrease in the taxable value of utility tangible personal property (TPP) that has at least one power plant located within its territory.

Payment for school district with nuclear plant in its territory

- Repeals the requirement that the Department, for each of FYs 2019, 2020, and 2021, make an additional payment to a city, local, or exempted village school district with (1) a nuclear power plant in its territory and (2) a total taxable value of public utility personal property for tax year 2017 that is at least 50% less than that value for tax year 2016.

Recommendations for compensating valuation losses

- Eliminates the requirement that the Department annually recommend to the General Assembly a structure to compensate each school district that experiences at least a 50% decrease in public utility personal property valuation from one year to the next for a percentage of the effect that decrease has on the district's state funding.

Student transportation funding – qualifying ridership

- Specifies that a city, local, or exempted village school district's "qualifying ridership" means the greater of the average number of qualifying riders counted in the morning or counted in the afternoon who are provided school bus service by a school district during the first full week of October that the district is in session with students in attendance.
- Extends the deadline for each district's annual report to the Department of its qualifying ridership to November 1, from October 15.

Auxiliary Services funds

- Permits a religiously affiliated chartered nonpublic school to receive Auxiliary Services funds directly in the same manner as offered to nonreligious chartered nonpublic schools under continuing law.

II. Graduation requirements and assessment

High school graduation requirements

- Requires all public and chartered nonpublic school students to complete the Free Application for Federal Student (FAFSA) aid in order to qualify for a high school diploma, unless an exception applies.
- Requires the Superintendent of Public Instruction's industry-recognized credentials and licenses committee to assign a point value for each credential and to establish the total number of points necessary to satisfy certain high school graduation requirements.
- Permits a student who obtains a state-issued license for practice in a vocation that requires an examination to use that license as a foundational option when using alternative demonstrations of competency and to qualify for an industry-recognized credential state diploma seal.
- Exempts students enrolled in chartered nonpublic schools from certain graduation requirements if, instead of the end-of-course exams, their schools administer a nationally standardized assessment (ACT or SAT) or an alternative assessment to meet state testing requirements.

- Specifies how a public or chartered nonpublic school must address any progress a transfer student made toward earning a locally defined diploma seal at another public or chartered nonpublic school in Ohio.
- Requires transfer students who, in the prior school year, were homeschooled or attended an out-of-state or nonchartered, nonpublic school to generally comply with the high school graduation requirements prescribed under continuing law, but prescribes certain exemptions for them.
- Exempts a student with an individualized education program (IEP) from the requirement to demonstrate competency in math and English language arts if the student’s IEP expressly exempts them from that requirement and the student satisfies certain additional conditions.
- Permits a student to use a remediation-free score on a nationally standardized assessment (ACT or SAT) as an alternative demonstration of competency.
- Clarifies and modifies the “foundational” options a student may use as part of an alternative demonstration of competency.
- Expands the number of conditions a student may satisfy to earn a Citizenship diploma seal or a science diploma seal.

Dyslexia diagnostic assessments

- Except for the kindergarten readiness assessment, requires that diagnostic assessments for grades K-3 and any comparable reading skills assessment for the Third Grade Reading Guarantee include items related to the identification of students with dyslexia.
- Requires test vendors to share student performance data on comparable tools with public schools, chartered nonpublic schools, and the Department.
- Specifies that any assessment that incorporates comparable tools may be used to meet current law requirements related to the administration of a tier one dyslexia screening.

Kindergarten Readiness and reading skills assessment

- Adjusts the period of time in which a school must administer the Kindergarten Readiness Assessment and the kindergarten reading skills assessment to July 1 through the 20th day of instruction.

III. Educator licensure

Disciplinary actions for educator licenses

- Eliminates a provision prohibiting the State Board of Education from refusing to issue a license because of a criminal record unless the refusal is in accord with the limits and requirements that were recently enacted by H.B. 263 of the 133rd General Assembly.
- Specifies that the amendments to teacher licensure disciplinary actions are remedial in nature and apply to any proceeding, investigation, or citation involving an applicant for

an initial license, that, as of the bill's effective date, has not reached final disposition, including all available appeals.

- Specifies that a judicial finding of eligibility for intervention in lieu of conviction for specified criminal offenses are grounds for automatic denial or revocation of a license issued by the State Board.
- Specifies that conspiracy to commit, attempt to commit, or complicity in committing specified criminal offenses are also grounds for automatic denial or revocation of a license.
- Prohibits a court, when issuing a certificate of qualification for employment, from granting an individual relief from collateral sanctions for licensure action taken by the State Board for specified criminal offenses.
- Permits the State Board to deny, suspend, revoke, or limit a license if the applicant engages in an immoral act, incompetence, negligence, or conduct that is unbecoming to the "teaching profession" (rather than to the applicant's "position" as under current law).
- Specifies that a judicial finding of eligibility for intervention in lieu of conviction for the criminal offenses that are *not* grounds for automatic revocation or denial of licenses (rather than all criminal offenses) may be a reason for the State Board to deny, suspend, revoke, or limit a license.
- Removes a requirement that information received under an investigation about a person against whom no action was taken must be expunged within two years of completing the investigation.
- Permits a school district or school located in Ohio or another state to request that the Department provide any report of misconduct that it has received regarding an individual who is under consideration for employment, and requires the Department to provide the contents of the report to the district or school.
- Specifies that unlicensed teachers and pupil services personnel licensed by other licensing boards who are permitted under current law to work in public schools by registering with the Department are subject to the same disciplinary actions and related reporting and enforcement requirements licensed teachers.

Assisting individuals in obtaining school employment

- Generally prohibits a school representative from knowingly engaging in any activity intended to assist another individual in obtaining school employment if the representative knows or has reasonable cause to believe that the individual has committed a sex offense involving a student.

Cheating on assessments

- Prohibits a person from obtaining prior knowledge of a state achievement assessment, using prior knowledge of the contents of an assessment to assist students in preparing

for the assessment, and failing to comply with any rule adopted by the Department regarding security protocols for an assessment.

Teach for America licenses

- Requires the state Superintendent (rather than the State Board) to inactivate (rather than revoke) a resident educator license issued to a participant in the Teach for American (TFA) Program if the participant resigns or is dismissed from TFA prior to completion of TFA's two-year support program.
- Provides that (1) the inactivation of a resident educator license issued to a TFA participant does not constitute a suspension or revocation of the license by the State Board and (2) the State Board and the state Superintendent need not provide the person with an opportunity for a hearing with respect to the inactivation.

Employment of contractors

- Requires that any contractor that is providing services to a public school, chartered nonpublic school, or county board of developmental disabilities must hold a license that the individual would be required to hold if employed directly.

Pre-employment applications and screening process

- Requires each public and chartered nonpublic school to include a written notice on all employment applications explaining that any person knowingly making a false statement on the application is guilty of falsification, which is a first degree misdemeanor.
- Requires each public and chartered nonpublic school to consult the Department's "educator profile" database before making hiring decisions.
- Permits each public or nonpublic school to require an applicant or volunteer to undergo additional criminal records checks.

Review of personnel files

- Requires each public and chartered nonpublic school to review the personnel file of an employee against whom a complaint of misconduct is filed to determine if related instances are contained in the file.
- Requires each public and chartered nonpublic school to send the personnel file of a current or former employee to a different public or chartered nonpublic school regarding that person's application, with exceptions.

Career-technical educator licensure

- Qualifies an individual holding a certificate of high school equivalence for a two-year initial career-technical workforce development educator license or a five-year advanced career-technical workforce development educator license.

School counselor standards

- Requires the Educator Standards Board to include knowledge of the “Career-Technical Assurance Guide” (CTAG) in the Board’s standards for school counselors.

IV. Community schools

Community school sponsor evaluations

- Specifies that a sponsor rated “exemplary” for the two most recent years the sponsor was evaluated may take advantage of certain sponsor incentives.
- Specifies that a sponsor rated “exemplary” or “effective” for the three most recent years the sponsor was evaluated must be evaluated only once every three years.

Montessori preschool payments

- Specifies that a Montessori preschool operated by a community school will no longer receive community school funds for students under age five.

Community School Revolving Loan Fund

- Eliminates the Community School Revolving Loan Fund.

V. STEM schools

STEM and STEAM schools and equivalents

- Permits the Superintendent of Public Instruction, the Chancellor of Higher Education, and the Director of Development to appoint designees to participate in STEM Committee business on their behalf.
- Permits a STEM or STEAM school to submit an amended proposal to the STEM Committee to offer additional grade levels.
- Eliminates the authority for a joint vocational school district (JVSD) or an educational service center (ESC) to apply for designation as a STEM or STEAM school.
- Eliminates the authority for a career center to receive a STEM or STEAM school equivalent designation.
- Revises the required content of the proposal for designation as a STEM or STEAM school or equivalent.
- Repeals the authority for city, local, and exempted village school districts, community schools, and chartered nonpublic schools to apply for grants to support the operation of STEM programs of excellence.
- Specifies that a JVSD or ESC may apply for distinction as a STEM program of excellence.
- Specifies that STEM and STEAM school designations, STEM and STEAM school equivalent designations, and distinctions as STEM programs of excellence are effective for five years unless revoked and may be renewed upon reapplication.

- Specifies that, if the STEM Committee finds that a school is not in compliance as part of the reapplication process or as part of a review during the five-year effective period, it must require the school to develop a corrective action plan, implement the plan, and demonstrate exemplary STEM pedagogy and practices within one year.
- Makes other changes regarding STEM and STEAM school or equivalent oversight and operations.

VI. College Credit Plus

Students in state-operated schools

- Permits students enrolled in the State School for the Deaf, State School for the Blind, or in a school operated by the Department of Youth Services (DYS) to participate in the College Credit Plus (CCP) program in the same manner as students in other public schools.
- Subjects those schools to all CCP program requirements that apply to other public schools.
- Requires payments made to an institution of higher education for courses taken by a student enrolled in those schools to be deducted from the operating funds appropriated to the schools.

Academic eligibility for all students

- Requires a student, as a condition of eligibility for CCP, to (1) be “remediation-free” by meeting established standards, (2) meet an alternative remediation-free eligibility option, or (3) have qualified for and participated in the program prior to the bill’s effective date.

VII. Other

Transportation for community school and chartered nonpublic school students

- Requires each school district with fewer than 20 community schools and chartered nonpublic schools located in the district to develop transportation plans for students enrolled in those schools based on the schools’ start and end times.
- Requires an educational service center to develop transportation plans for community schools and chartered nonpublic schools located in a school district with 20 or more such schools located in the district.
- Prohibits a school district from transporting community or chartered nonpublic school students in grades K-8 using vehicles operated by a mass transit system, unless the district enters into an agreement with the students’ school to do so.
- Requires a school district that transports community or chartered nonpublic school students in grades 9-12 using vehicles operated by a mass transit system to:
 - Enter into a contract with the system that requires students to be transported on routes for fare-payers and students; and

- Ensure that a student’s route does not require more than one transfer.
- Adjusts the deadline for an existing community school to unilaterally accept responsibility to provide transportation for its students to August 1, rather than January 1 of the prior school year as under current law.
- Requires the Department to deduct a prescribed portion of a school district’s state transportation funding if the Department determines the district has consistently, or for a prolonged period, been noncompliant with its obligations regarding student transportation.

Payment in lieu of transportation

- Requires school districts, and community schools that accept responsibility to transport students, to make a determination regarding providing payment in lieu of transportation not later than 30 calendar days prior to the first day of instruction, or within 14 calendar days if the student is subsequent to that deadline.
- Authorizes a district superintendent (or the equivalent of a community school) to make a payment in lieu determination, but requires it to be formalized by the district board of education or the community school governing authority.
- Requires a district or school to issue to a student’s parent or guardian and the State Board a detailed letter explaining why a payment in lieu determination was made.

FAFSA data system

- Requires each public and chartered nonpublic high school to enter into a data sharing agreement with the Chancellor to operate the data system to track the FAFSA completion rate of state public and chartered nonpublic school students.

Computer science education

State plan for computer science education

- Requires the Department, in consultation with the Chancellor, to establish a committee to develop a state plan for primary and secondary computer science education in Ohio.
- Requires the committee to consider a series of topics and include several prescribed items in the state plan.
- Requires the committee to complete the state plan within one year of the bill’s effective date and the Department to post it in a prominent location on its website.

Public school students

- Requires that, generally, students enrolled in school districts, community schools, and STEM schools must have the option to enroll in computer science courses or general education courses that include computer science principles.
- Authorizes districts and schools to apply for, and receive, a renewable waiver from the state Superintendent that exempts them from offering computer science or general education courses in a particular school building for up to five years.

- Requires the Department, in consultation with computer science stakeholders, to establish a program to review and approve proposals from educational providers to offer online computer science courses to high school courses.
- Requires the Department to determine a method to calculate and make payments to educational providers that uses deductions from the foundation payments to the student’s district or school, in a manner similar to CCP payments.

Other computer science education provisions

- Requires the Department, in consultation with the Chancellor, to issue an annual report on computer science education in the state.
- Extends through the 2022-2023 school year an exemption that generally permits school districts, community schools, and STEM schools to have an individual who does not hold a license or endorsement to teach computer science, to teach computer science courses, so long as that individual meets other prescribed requirements.
- Requires the State Board to update its standards and curriculum for computer science education within one year of the bill’s effective date.

Effects of vaping – school district health curriculum

- Requires school districts to include instruction on the harmful effects and legal restrictions against the use of electronic smoking devices (vaping) in its health education curriculum.

Victim counseling

- Permits public and chartered nonpublic schools to provide counseling to victims of sexual harassment or sexually related conduct.

Obsolete reports, plans, or recommendations

- Eliminates various education-related reports, plans, and recommendations that are out-of-date, expired, or no longer have data available.

I. School finance

School financing

(R.C. 3314.088, 3317.0219, 3317.163, 3317.26, and 3326.42; Sections 265.215, 265.220, 265.225, 265.230, and 265.235)

The school funding system in existing law specifies a per-pupil formula amount and then uses that amount, along with a district’s “state share index” (which depends on valuation and, for some districts, also on median income), to calculate a district’s base payment (called the “opportunity grant”). The system also includes payments for targeted assistance (based on a district’s property value and income) and supplemental targeted assistance (based on a district’s percentage of agricultural property), categorical payments, a capacity aid payment, and payments for a graduation bonus, a third-grade reading bonus, and student transportation.

H.B. 166 of the 133rd General Assembly (the main operating budget act for FY 2020 and FY 2021) retained the school financing system in existing law, but it suspended use of that formula for school districts for FY 2020 and FY 2021. Instead, it provided for payments to be made based on FY 2019 funding. It also provided for deductions and transfers for community school and STEM school students as prescribed under continuing law.

The bill continues the suspension of the formula for school districts for FY 2022 and FY 2023 and again provides for payments to be made based on FY 2019 funding. It also provides for deductions and transfers for community schools and STEM school students as prescribed under continuing law. For a more detailed description of the bill's school financing provisions, see the [LBO Redbook for the Department of Education](#) and the LSC Comparison Document for the bill. From the LSC home page, www.lsc.ohio.gov, click on "Budget Central," then on "Main Operating – H.B. 110," and then on "EDU" under "Redbooks" or on "Comparison Document."

Funding for FY 2022 and FY 2023

(Sections 265.215, 265.220, 265.225, 265.230, and 265.235)

School districts

For FY 2022 and FY 2023, the bill requires the Department to pay each city, local, exempted village, and joint vocational school district an amount equal to the district's payments for FY 2019.

It also requires the Department to make an additional payment for FY 2022 and FY 2023 to each city, local, and exempted village school district, with at least 50 enrolled students, that experiences an average annual percentage change in its enrollment between FY 2016 and FY 2019 that is greater than zero.

Community schools and STEM schools

For FY 2022 and FY 2023, the bill requires the Department, for each student enrolled in a community school or STEM school, to deduct from the student's resident district and pay to the school an amount in the manner prescribed by existing law. For this purpose, the bill specifies that (1) the "formula amount," which is used to calculate the "opportunity grant" for each school, equals \$6,020 (the formula amount for FY 2019), (2) the amounts deducted and paid for targeted assistance and economically disadvantaged funds, which are computed based on an amount calculated for a student's resident district, must be the same per-pupil amounts deducted and paid for FY 2019, and (3) the per pupil amount deducted from a school district and paid to a community school that accepts responsibility to transport its students must be the same amount deducted and transferred for that purpose for FY 2019.

Additionally, for FY 2022 and FY 2023, the Department must calculate and pay each community school and STEM school's graduation and third-grade reading bonuses using a formula amount of \$6,020.

Other payments

When computing other payments for FY 2022 and FY 2023 for which a district's "state share index" or "state share percentage" is a factor, the Department must use the state share index or state share percentage computed for the district for FY 2019.

Additionally, for purposes of open enrollment, College Credit Plus, and any other payments for which the “formula amount” is used, the formula amount for FY 2022 and FY 2023 equals \$6,020 (as with payments for community schools and STEM schools under the bill).

Student wellness and success funding

(R.C. 3314.088, 3317.0219, 3317.163, 3317.26, and 3326.42; Sections 265.234 and 265.323)

The bill requires the Department to make payments for student wellness and success to all school districts, community schools, and STEM schools for FY 2022 and FY 2023 in a manner similar to how they were paid for FY 2020 and FY 2021. These funds must be spent for specified purposes that are outlined below. The Department must pay half of these funds by October 31 of the fiscal year for which the payment is calculated and the other half by February 28. The Department is prohibited from later reconciling or adjusting the payment.

For purposes of calculating a district’s or school’s student wellness and success funds and enhancement funds for both FY 2022 and FY 2023, the Department must use the number of students enrolled in the district or school for FY 2022. In other words, the Department must use the current year’s student count for FY 2022 payments and the preceding year’s student count for FY 2023 payments. For the previous biennium, the number of students enrolled in a district for the preceding fiscal year was used for both the FY 2020 and the FY 2021 payments.

Student wellness and success funds

City, local, and exempted village school districts

(R.C. 3317.0219; Section 265.323(B))

The Department must pay student wellness and success funds to city, local, and exempted village school districts on a per pupil basis. The following table lists the ranges of the per pupil payments, and the minimum aggregate amounts for a district, for the current biennium and the bill’s amounts for the next biennium:

Student Wellness and Success Funds – City, Local, and Exempted Village School Districts			
	Fiscal Year	Per Pupil Amount Range	Minimum Aggregate Payment*
Currently	FY 2020	\$20 to \$250	\$25,000
	FY 2021	\$30 to \$360	\$36,000
The Bill	FY 2022	\$38 to \$457	\$45,720
	FY 2023	\$47 to \$562	\$56,160

*Minimum payment does not apply if the district has fewer than five enrolled students.

To determine each district's per pupil amount, the Department groups the districts into quintiles each fiscal year based on the percentages of children with family incomes below 185% of the federal poverty guidelines.²¹ The bill changes the data source for the grouping to the most recent five-year estimates published by the U.S. Census Bureau in the 2015-2019 American Community Survey, rather than the most recently published survey as under current law. Districts in the highest quintile are paid the highest per-pupil amount. Those in the other four quintiles are paid smaller per pupil amounts based on a sliding scale calculation.

Joint vocational school districts; community and STEM schools

(R.C. 3314.088, 3317.163, and 3326.42; Section 265.323(B))

The Department must pay student wellness and success funds, on a full-time equivalency basis, to joint vocational school districts, community schools that are not Internet- or computer-based community schools (e-schools), and STEM schools. This payment is calculated by determining, for each student enrolled in the district or school, the per-pupil amount of student wellness and success funds paid to the student's district of residence and multiplying that amount by the student's full-time equivalency. The bill specifies that each district or school must receive a total minimum aggregate payment of \$45,720 for FY 2022, and \$56,160 for FY 2023.

E-schools do not receive a per-pupil payment. Instead, the bill requires the Department to pay each e-school \$45,720 for FY 2022, and \$56,160 for FY 2023.

The minimum payment amounts for joint vocational school districts, community schools that are not e-schools, and STEM schools, as well as the payment amount for e-schools, equaled \$25,000 for FY 2020 and \$36,000 for FY 2021. Student wellness and success enhancement funds

City, local, and exempted village school districts

(R.C. 3317.0219; Section 265.323(B))

The Department must pay student wellness and success enhancement funds to city, local, and exempted village school districts that received supplemental targeted assistance funding for FY 2019. Under the bill, this payment equals the product of:

- \$75, for FY 2022 and FY 2023 (this multiplier equaled \$50 for FY 2020 and \$75 for FY 2021); times
- The square of the quotient of the district's percentage of resident children with family incomes below 185% of the federal poverty guidelines divided by 36%; times
- The district's total student count.

Joint vocational school districts; community and STEM schools

(R.C. 3314.088, 3317.163, and 3326.42; Section 265.323(B))

The enhancement funds for joint vocational school districts, community schools that are not e-schools, and STEM schools are calculated by determining, for each student enrolled in the district or school, the per-pupil amount of student wellness and success enhancement funds paid

²¹ The 2021 federal poverty guideline for a family of four is \$26,500. 185% of that is \$49,025.

to each student’s district of residence (provided that district is eligible for enhancement funding) and multiplying that amount by the student’s full-time equivalency.

Guarantee

(Section 265.234(A), (B), and (D))

For FY 2022, the bill guarantees that each district and school receives the same amount of student wellness and success funds and enhancement funds that it received for FY 2021. For this purpose, a district’s or school’s FY 2021 amount equals the sum of:

1. The student wellness and success funds and enhancement funds paid in accordance with the statutory formula for FY 2021; plus

2. The additional amount distributed to the district or school from appropriation item 200604, Student Wellness and Success, through a methodology determined by the Department in consultation with the Office of Budget and Management (OBM) (as required by S.B. 310 of the 133rd General Assembly).

For FY 2023, the bill guarantees that each district and school receives the same amount of student wellness and success funds and enhancement funds that it received for FY 2022.

The Department must pay funds calculated for the guarantee by February 28 of the fiscal year for which the payment is calculated.

Distribution of remaining appropriated amounts

(Section 265.234(E))

For FY 2022 and FY 2023, the bill requires the Department, after all student wellness and success payments for that fiscal year have been made to public schools, to distribute any amounts remaining in appropriation item 200604, Student Wellness and Success, through a methodology determined by the Department in consultation with OBM. This payment must be made by February 28 of that fiscal year.

Spending requirements

(R.C. 3317.26; Section 265.234(C))

The bill makes several changes to the spending requirements for student wellness and success funds and enhancement funds that are explained in greater detail below. Districts and schools must satisfy these requirements for all funds spent after the bill’s changes take effect, including any student wellness and success funds and enhancement funds paid for FY 2020 and FY 2021 that are spent after that date.

Initiatives

Districts and schools must spend student wellness and success funds and enhancement funds for certain initiatives listed in current law. The bill changes the list of initiatives as follows:

- Specifies that mental health services and physical health services, which are already part of the list, may include telehealth services;

- Adds culturally appropriate, evidence-based or evidence-informed prevention education, including youth-led programming and social and emotional learning curricula to promote mental health and prevent substance abuse and suicide;
- Adds programs that connect students to community resources, including City Connects, Communities in Schools, or other similar programs (current law permits funds to be used for City Connects programming but does not mention other types of community programs); and
- Removes provisions that permit funds to be used for professional development regarding the provision of trauma-informed care and professional development regarding cultural competencies.

Community partners

The bill also requires districts and schools to spend student wellness and success funding and enhancement funding in coordination with two community partners (rather than one as under current law), as follows:

1. Either a board of alcohol, drug, and mental health services or a community-based mental health treatment or prevention provider (both a board of alcohol, drug, and mental health services and a community-based mental health *treatment* provider may be a community partner under current law, but a community-based mental health *prevention* provider may not be a community partner under current law); and

2. An educational service center, a county board of developmental disabilities, a community-based mental health treatment or prevention provider, a board of alcohol, drug, and mental health services, a board of health of a city or general health district, a county department of job and family services, a nonprofit organization with experience serving children, or a public hospital agency (any of these, except for a community-based mental health prevention provider, may be a community partner under current law).

Funding adjustment for career-technical education

(Section 265.227; conforming changes in Sections 265.220 and 265.225)

The bill requires the Department to adjust the amounts paid to certain school districts for FY 2022 and FY 2023 to account for the decrease in career-technical education students served by a city, local, or exempted village school district and the corresponding increase in students served by a joint vocational school district. To qualify for this adjustment, a city, local, or exempted village school district must have provided a career-technical education program in FY 2019 but, beginning in FY 2020, is a member of a joint vocational school district that provides that program instead.

The adjustment equals the aggregate amount of career-technical education funds paid to the city, local, or exempted village school district for FY 2019 minus those funds deducted from the district for FY 2019 for students enrolled in community and STEM schools.

Payment for districts with decreases in utility TPP value

(Section 265.237)

The act requires the Department to make a payment, for FY 2022 and FY 2023, to each city, local, exempted village, or joint vocational school district with more than a 10% decrease in the taxable value of utility tangible personal property (TPP) that has at least one power plant located within its territory. To qualify for the FY 2022 payment, a district must have experienced this decrease between tax years 2017 and 2021 or tax years 2020 and 2021. To qualify for the FY 2023 payment, a district must have experienced this decrease between tax years 2017 and 2022 or tax years 2021 and 2022.

Eligibility determination

The Tax Commissioner must determine which districts are eligible for this payment no later than May 15, 2022 (for the FY 2022 payment) or May 15, 2023 (for the FY 2023 payment). For each eligible district, the Commissioner must certify the following information to the Department:

1. If the district is eligible for the FY 2022 payment, its total taxable value for tax year 2021 and the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2021; and
2. If the district is eligible for the FY 2023 payment, its total taxable value for tax year 2022 and the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2022; and
3. If the district is eligible for either payment, the taxable value of the utility TPP decrease and the change in taxes charged and payable on the change in taxable value.

Payment amount

The act requires the Department, for purposes of computing the payment, to replace the three-year average valuations used in computing a district's state education aid for FY 2019 with the district's total taxable value for tax year 2021 (for the FY 2022 payment) or tax year 2022 (for the FY 2023 payment). It then must recompute the state education aid for FY 2019 without applying any funding limitations enacted by the General Assembly.

The amount of a district's payment is equal to the *greater* of 1 or 2 as described below:

1. The lesser of either:
 - a. The positive difference between the district's state education aid for FY 2019 prior to the recomputation and the district's recomputed state education aid for FY 2019; or
 - b. The absolute value of the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2021 (for the FY 2022 payment) or for tax years 2017 and 2022 (for the FY 2023 payment).
2. 0.50 times the absolute value of the change in taxes charged and payable on the district's total taxable value for tax years 2017 and 2021 (for the FY 2022 payment) or for tax years 2017 and 2022 (for the FY 2023 payment).

Payment deadline

The Department must make FY 2022 payments between June 1 and June 30, 2022, and must make FY 2023 payments between June 1 and June 30, 2023.

Payment for school district with nuclear plant in its territory

(R.C. 3317.029, repealed)

The bill repeals the requirement that the Department, for each of FYs 2019, 2020, and 2021, make an additional payment to a city, local, or exempted village school district with (1) a nuclear power plant in its territory and (2) a total taxable value of public utility personal property for tax year 2017 that is at least 50% less than that value for tax year 2016.

Recommendations for compensating valuation losses

(R.C. 3317.27, repealed)

The bill eliminates the requirement that the Department annually recommend to the General Assembly a structure to compensate each city, local, exempted village, and joint vocational school district that experiences at least a 50% decrease in public utility personal property valuation from one year to the next for a percentage of the effect that decrease has on the district's state funding.

Student transportation funding – qualifying ridership

(R.C. 3317.0212)

The bill specifies that a city, local, or exempted village school district's "qualifying ridership" means the greater of the average number of qualifying riders counted in the morning or counted in the afternoon who are provided school bus service by a school district during the first full week of October that the district is in session with students in attendance. Currently, this count is the average number of qualifying riders who are provided school bus service during the first full week of October.

A district's "qualifying ridership" is used to calculate its transportation funding under the formula in permanent law. However, because the bill suspends the formula for FY 2022 and FY 2023 and instead provides for districts to receive the same amount of transportation funding for those fiscal years as they received for FY 2019, the change to the "qualifying ridership" count does not impact the calculation of districts' transportation funding for FY 2022 and FY 2023.

The bill also extends the deadline for each district's annual report to the Department of its qualifying ridership, and any other information requested by the Department, to November 1 from October 15.

Auxiliary Services funds

(R.C. 3317.024; Section 265.170)

The bill permits all chartered nonpublic schools, instead of only nonreligious affiliated schools as under current law, to choose whether to (1) receive Auxiliary Services funds directly from the Department or (2) receive those funds through the school districts in which they are located. For any year in which a religious chartered nonpublic school chooses direct payment,

the bill requires submission of an affidavit to the Department certifying that funds will be spent in a lawful manner and for a permissible purpose under continuing law.

Currently, a chartered nonpublic school that is not religiously affiliated must notify the Department by April 1 of each odd-numbered year to receive Auxiliary Services funding directly for the biennium that begins the following July 1. However, the bill temporarily permits any chartered nonpublic school (regardless of religious affiliation) to choose direct payment for the 2021-2022 and 2022-2023 school years by notifying the Department by July 31, 2021, rather than April 1.

Auxiliary Services funds are used to purchase goods and services for students who attend chartered nonpublic schools, such as textbooks, digital texts, workbooks, instructional equipment, library materials, or tutoring and other special services.²²

II. Graduation requirements and assessments

High school graduation requirements

(R.C. 3313.61, 3313.618, 3313.619, 3313.6113, and 3313.6114; conforming in R.C. 3301.0714)

The bill makes a series of changes to the high school graduations requirements that a student who entered ninth grade for the first time on or after July 1, 2019 (the Classes of 2023 and on) generally must meet to qualify for a high school diploma.

Background

In addition to meeting the state’s minimum curriculum requirements, continuing law generally requires these students to demonstrate competency in math and English language arts and earn at least two diploma seals to qualify for a high school diploma.

Continuing law also permits students who entered ninth grade for the first time on or after July 1, 2014, but prior to July 1, 2019, (the Classes of 2018 through 2022) to meet those requirements to qualify for a high school diploma.

A student must demonstrate competency by attaining a “competency score” on each of the Algebra I and English Language Arts II end-of-course exams. However, if a student does not attain a competency score on one or both of those exams after two administrations of them, the student may use alternative demonstrations of competency. There are several alternative demonstrations of competency: (1) earning credit through the College Credit Plus Program in the failed subject area, (2) providing evidence of military enlistment, or (3) completing one “foundational” option and either another “foundational” option or a “supporting” option.

Continuing law prescribes a system of 12 diploma seals for which a student may qualify. There are two categories of diploma seals: state-defined diploma seals and locally defined diploma seals. Both types of diploma seals have requirements prescribed in statute, but a state factor, usually the Department, is often involved in implementing the requirements for state-defined seals, while the requirements for locally defined seals are solely implemented by the

²² See R.C. 3317.06 and 3317.062, neither in bill.

student’s school. There are nine state-defined seals and three locally defined seals; a district or school must adopt guidelines for at least one locally defined seal a student must earn at least two diploma seals, and at least one of them must be a state-defined seal.²³

FAFSA requirement

The bill establishes a new requirement that each student must provide evidence of having completed and submitted the Free Application for Federal Student Aid (FAFSA). However, the bill exempts a student from meeting this requirement if either the student’s:

1. Parent or guardian has submitted a written letter, in a manner prescribed by the Department, to the student’s district or school stating the student will not complete and submit the FAFSA; or
2. District or school has made a record, in a manner prescribed by the Department, describing circumstances that make it impossible or impracticable for the student to complete the FAFSA.

See also “**FAFSA data system**” below.

Industry-recognized credentials

The bill requires the Superintendent of Public Instruction’s industry-recognized credentials and licenses committee to assign a point value for each credential and establish the total number of points that a student must earn to satisfy certain high school graduation criteria prescribed under continuing law. Specifically, the bill requires a student to earn the total number of points to qualify for an industry-recognized credential diploma seal or to use industry-recognized credentials as a foundational option when using alternative demonstrations of competency. Current law specifies only that a student must earn an industry-recognized credential for either of those purposes.

In addition, the bill requires the Department, when calculating the number of students who earned an industry-recognized credential in the state report card’s Prepared for Success Component, to include only students who earned a credential, or group of credentials, at least equal to that total number of points.

State-issued licenses

The bill specifies that students who obtain a state-issued license for practice in a vocation that requires an examination may use that license to qualify for an industry-recognized credential diploma seal or as a foundational option when using alternative demonstrations of competency. Under current law, the only way a student may qualify for an industry-recognized credential state diploma seal is by earning an industry-recognized credential.

²³ For more information, the Department of Education’s guidance about graduation requirements is available [here](#).

Chartered nonpublic schools

The bill changes how students enrolled in chartered nonpublic schools that do not administer the end-of-course exams meet the requirements to demonstrate competency and earn state diploma seals. First, it specifies that students who are enrolled in chartered nonpublic schools that administer only the nationally standardized assessment (ACT or SAT) must be considered to have demonstrated competency if they score a remediation-free score on that assessment. If so, they are exempt from having to take the Algebra I or English Language Arts II end-of-course exams.

Similarly, students enrolled in chartered nonpublic schools that administer only an alternative assessment approved by the Department are exempt from demonstrating competency or earning state diploma seals. However, the bill clarifies that those students are exempt only from the assessment requirements. In addition, it expressly states that those students must complete the new FAFSA requirement, unless they meet one of the exemptions prescribed for that requirement (see above).

In addition to those changes, the bill also generally requires chartered nonpublic schools to offer remedial support to any student who fails to attain a competency score on one or both of the Algebra I or English Language Arts II end-of-course exams. Public schools already have to offer such support.

Transfer students and graduation requirements

The bill addresses how transfer students must comply with the state's high school graduation requirements in several ways. It addresses two types of transfer students:

1. Students who transfer between public and chartered nonpublic schools; and
2. Students who transfer into a public or chartered nonpublic school after, in the prior school year, being homeschooled, attending an out-of-state school, or attending a nonchartered, nonpublic school in Ohio.

Students who transfer between public and chartered nonpublic schools

The bill changes how public and chartered nonpublic schools must address any progress a transfer student made toward completing a locally defined diploma seal at the student's prior public or chartered nonpublic school. It requires a student's new school to recognize a locally defined diploma seal that the student earned at the prior school, regardless of whether the new school has adopted guidelines for that diploma seal. In addition, it requires the new school to include a method to give, to the extent feasible, a proportional amount of credit for any progress the student made toward earning that diploma seal at the prior school.

Students who transfer into public and chartered nonpublic schools

The bill generally requires transfer students who, in the prior school year, were homeschooled or attended an out-of-state or nonchartered, nonpublic school to generally comply with continuing law's requirements to demonstrate competency and earn state diploma seals.

However, to demonstrate competency in math and English language arts, the bill exempts such students who transfer in 12th grade and fail to attain a competency score on the Algebra I

or English language arts II end-of-course exam from having to retake that exam prior to using alternative demonstrations of competency.

For diploma seals, the bill permits such students to use a final course grade equivalent to a “B” or higher in courses completed prior to enrolling in their new school to meet diploma seal requirements, as follows:

1. A student may use a grade from courses that correspond to the American history and American government end-of-course exams to earn a Citizenship diploma seal;
2. A student may use a grade from a course that corresponds to the science end-of-course exam to earn a science diploma seal; and
3. A student may use a grade in an “appropriate” course, as determined by the student’s new school, to earn the Technology diploma seal.

It also prohibits those students from using a grade for an American history, American government, or science course complete prior to enrolling in their new school if, subsequent to that enrollment, those students take a course associated with the American history, American government, or science end-of-course exam.

Other demonstration of competency changes

Exemption for certain students with IEPs

The bill exempts a student with a disability who has an individualized education program (IEP) from demonstrating competency in math and English language arts under certain circumstances. To qualify for that exemption, the student’s IEP must expressly exempt the student from that requirement and the student must satisfy certain conditions regarding state testing.

Specifically, the student must take the Algebra I and English language arts II end-of-course exams or, if the student qualifies for alternate assessments, the alternate assessments in math and English language arts. If the student does not attain a competency score on an end-of-course exam or a score established by the State Board of Education on the alternate assessment, the student must be offered and receive remedial support from the student’s district or school and retake the exam or assessment. If the student still does not attain a competency score or an established score, the student is then exempt from the requirement to demonstrate competency.

ACT or SAT score as alternative demonstration of competency

The bill specifies that a student may use a remediation-free score on a nationally standardized assessment (ACT or SAT) as an alternative demonstration of competency in a subject area in which a student did not attain a competency score. For English language arts, the student must be remediation-free on both English and reading on the assessment.

“Foundational” options

The bill requires a student to earn *cumulative* score of proficient or higher on three or more state technical assessments in order to use those assessments as a “foundational” option

when using alternative demonstrations of competency. Under current law, a student must earn a score of proficient or higher on three state technical assessments.

In addition, the bill clarifies that an apprenticeship used as a “foundational” option must be registered with the Ohio State Pre-Apprenticeship Council. It further clarifies that a pre-apprenticeship used as a “foundational” option must align with standards established by the Departments of Education and Job and Family Services, in consultation with the Governor’s Office of Workforce Transformation, under continuing law.

Diploma seal requirement changes

Citizenship diploma seal

The bill expands the ways in which a student may earn a Citizenship diploma seal in two ways. First, it permits any student to earn that diploma seal by attaining a final course grade of a “B” or higher in an American history and American government course offered by the student’s high school. In addition, the bill qualifies a student with significant cognitive disabilities for that diploma seal if that student attains a score established by the State Board on the alternate assessment in social studies.

Under current law, a student may only qualify for the Citizenship diploma seal by attaining:

1. A score of proficient or higher on both the American history and American government end-of-course exams;
2. A score equivalent to a proficient on appropriate advanced placement (AP) or international baccalaureate (IB) exams; or
3. A final course grade of a “B” or higher in appropriate CCP courses.

Science diploma seal

The bill expands the ways in which a student may qualify for a science diploma seal. Under the bill, a student with significant cognitive disabilities may earn it by attaining a score set by the State Board on the alternate assessment in science. In addition, the bill permits any student to earn the seal by attaining a final course grade equivalent of a “B” or higher in a prescribed science course offered by the student’s high school. Specifically, a student may complete:

1. A chemistry, physics, or other physical science course;
2. An advanced biology or other life science course; or
3. An astronomy, physical geology, or other earth or space science course.

Under current law, a student may only qualify for the science diploma seal by attaining a score of proficient or higher on the science end-of-course exam, a score equivalent to a proficient on an appropriate AP or IB exam, or a final course grade of a “B” or higher in an appropriate CCP course.

Dyslexia diagnostic assessments

(R.C. 3301.079 and 3313.608)

Except for the kindergarten readiness assessment, the bill requires that the diagnostic assessments for grades K-3 in reading and comparable reading skill assessment tools for the Third Grade Reading Guarantee include items related to dyslexia identification. Those assessments and comparable tools must include a sufficient number of items to test phonological awareness, phonemic awareness, rapid naming skills, nonsense word fluency, and correspondence between sounds and letters to identify students who may need further measures to determine if the student has dyslexia.

The bill additionally requires the test vendors to share student performance data on comparable tools related to dyslexia as described above with each district and community, STEM, and chartered nonpublic school and the Department.

Finally, it specifies that any diagnostic assessment adopted by the State Board or any comparable reading tool approved by the Department, as described above, may be used to meet the current law requirement to administer a tier one dyslexia screening. Beginning in the 2022-2023 school year school districts and other public schools are required to administer annual dyslexia screenings.²⁴

Kindergarten Readiness and reading skills assessments

(R.C. 3301.0715 and 3313.608)

The bill adjusts the period of time in which a school must administer the Kindergarten Readiness Assessment and the kindergarten reading skills assessment (for the Third Grade Reading Guarantee), from the first day of the school year (July 1) through November 1 as under current law, to July 1 through the 20th day of instruction of the school year.

III. Educator licensure

Disciplinary actions for educators

(R.C. 2953.25, 3314.101, 3319.221, 3319.31, 3319.311, 3319.313, 3319.319, 3319.39, 3319.40, 3326.081, 3328.18, 4117.103, and 5153.176; Section 803.10)

Effect on H.B. 263

The bill eliminates a prohibition against the State Board refusing to issue an educator license because of a criminal record unless the refusal is in accordance with the limits and requirements that were recently enacted by H.B. 263 of the 133rd General Assembly, which apply to all licensing agencies and take effect October 9, 2021. Instead, it maintains and amends a procedure for determining licensure eligibility that is specific to teachers and school employees. With respect to issuing an initial license, the State Board must determine whether to issue an initial license to an applicant by following the requirements set forth in H.B. 263, except as described below.

²⁴ R.C. 3323.251, not in the bill.

The bill also specifies that its amendments to teacher licensure disciplinary actions are remedial in nature and apply to any proceeding, investigation, or citation involving an applicant for an initial license, that, as of the bill's effective date, has not reached final disposition, including all available appeals.²⁵

Automatic revocation or denial of license

The State Board is required under current law to revoke an individual's educator license or deny issuance or renewal of a license, without an administrative hearing, if the individual has pled guilty to, been found guilty of, or been convicted of specified criminal offenses.

The bill broadens this provision by specifying that both of the following also are grounds for automatic license revocation or denial:

1. A judicial finding of eligibility for intervention in lieu of conviction for any of the criminal offenses already listed in current law. (Under current law, the State Board is permitted, but not required, to deny, limit, suspend, or revoke a license for a judicial finding of eligibility in lieu of conviction for those offenses.)

2. A plea of guilty to, a finding of guilt, or a conviction of, or a judicial finding of eligibility for intervention in lieu of conviction for *conspiracy to commit, attempt to commit, or complicity in committing* any of the criminal offenses listed under current law or under the bill's provisions.

The criminal offenses listed in current law and the criminal offenses specified in the bill's provisions are listed in the table below (see "**Comparison of criminal offenses**").

Collateral sanctions for certain criminal offenses

The bill prohibits a court, when issuing a certificate of qualification for employment, from granting an individual relief from "collateral sanctions" for a licensure action by the State Board for a violation of criminal offenses specified in the bill. In other words, a certificate of qualification for employment cannot exempt an individual from the disciplinary consequences for teacher licensure of a conviction, guilty plea, or finding of guilt or a judicial finding of eligibility for intervention in lieu of conviction for those specified offenses.

A "collateral sanction" is a penalty, disability, or disadvantage that is related to employment or occupational licensing as a result of the individual's conviction of or plea of guilty to an offense. A certificate of qualification for employment is a document that provides relief from certain bars on employment or occupational licensing for an individual who has been released from incarceration and all supervision for a specified period of time.

The bill's list of criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment is a subset of those criminal offenses that are grounds for automatic revocation or denial of a license. These offenses are listed in the table below (see "**Comparison of criminal offenses**").

²⁵ See R.C. 9.78, not in the bill.

Comparison of criminal offenses

The following table compares the specific criminal offenses listed in current law and the bill that result in automatic revocation or denial of licenses and the specific criminal offenses listed in the bill for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment.

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Endangering children through abuse, torture, or cruelty (R.C. 2919.22(B)(1) or (2))	✓	✓
Endangering children through corporal or other punishment that is excessive and creates substantial risk of serious physical harm (R.C. 2919.22(B)(3))	✓	✓
Endangering children through repeated, unwarranted discipline that poses substantial risk of seriously impairing the child's mental health or development (R.C. 2919.22(B)(4))	✓	✓
Aggravated murder (R.C. 2903.01)	✓	✓
Murder (R.C. 2903.02)	✓	✓

²⁶ R.C. 3319.31(C)(1).

²⁷ R.C. 2953.25(C)(5)(h).

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Voluntary manslaughter (R.C. 2903.03)	✓	✓
Involuntary manslaughter (R.C. 2903.04)	✓	✓
Reckless homicide (R.C. 2903.041)	✓	
Felonious assault (R.C. 2903.11)	✓	✓
Aggravated assault (R.C. 2903.12)	✓	✓
Permitting child abuse (R.C. 2903.15)	✓	✓
Kidnapping (R.C. 2905.01)	✓	✓
Abduction (R.C. 2905.02)	✓	✓
Child stealing before July 1, 1996 (former R.C. 2905.04)	✓	✓
Criminal child enticement (R.C. 2905.05)	✓	✓
Extortion (R.C. 2905.11)	✓	
Trafficking in persons (R.C. 2905.32) (added by the bill for both licensure actions and collateral sanctions employment certificates)	✓	✓
Rape (R.C. 2907.02)	✓	✓
Sexual battery (R.C. 2907.03)	✓	✓
Unlawful sexual conduct with a minor (R.C. 2907.04)	✓	✓

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Gross sexual imposition (R.C. 2907.05)	✓	✓
Sexual imposition (R.C. 2907.06)	✓	✓
Importuning (R.C. 2907.07)	✓	✓
Felonious sexual penetration in violation of former R.C. 2907.12	✓	✓
Compelling prostitution (R.C. 2907.21)	✓	✓
Promoting prostitution (R.C. 2907.22)	✓	✓
Procuring (R.C. 2907.23)	✓	
Soliciting (R.C. 2907.24)	✓	
Loitering to engage in solicitation (R.C. 2907.241)	✓	
Prostitution (R.C. 2907.25)	✓	
Disseminating matter harmful to juveniles (R.C. 2907.31)	✓	✓
Displaying matter harmful to juveniles (R.C. 2907.311)	✓	✓
Pandering obscenity (R.C. 2907.32)	✓	✓
Pandering obscenity involving a minor (R.C. 2907.321)	✓	✓

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Pandering sexually oriented matter involving a minor (R.C. 2907.322)	✓	✓
Illegal use of a minor in nudity-oriented material or performance (R.C. 2907.323)	✓	✓
Deception to obtain matter harmful to juveniles (R.C. 2907.33)	✓	✓
Compelling acceptance of objectionable materials (R.C. 2907.34)	✓	✓
Aggravated arson (R.C. 2909.02)	✓	✓
Soliciting or providing support for an act of terrorism (R.C. 2909.22)	✓	✓
Making a terroristic threat (R.C. 2909.23)	✓	✓
Terrorism (R.C. 2909.24)	✓	✓
Aggravated robbery (R.C. 2911.01)	✓	✓
Robbery (R.C. 2911.02)	✓	
Aggravated burglary (R.C. 2911.11)	✓	✓
Burglary (R.C. 2911.12)	✓	
Personating an officer (R.C. 2913.44)	✓	

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Inciting to violence (R.C. 2917.01)	✓	
Aggravated riot (R.C. 2917.02)	✓	
Riot (R.C. 2917.03)	✓	
Inducing panic (R.C. 2917.31)	✓	
Unlawful possession or use of a hoax weapon of mass destruction (R.C. 2917.33)	✓	
Unlawful abortion (R.C. 2919.12)	✓	
Unlawful abortion upon a minor (R.C. 2919.121)	✓	
Abortion manslaughter (R.C. 2919.13)	✓	
Interference with custody that would have been child stealing had it occurred before July 1, 1996 (R.C. 2919.23)	✓	✓
Bribery (R.C. 2921.02)	✓	✓
Intimidation (R.C. 2921.03)	✓	✓
Intimidation of attorney, victim, or witness in a criminal case (R.C. 2921.04)	✓	✓
Retaliation (R.C. 2921.05)	✓	
Perjury (R.C. 2921.11)	✓	
Escape (R.C. 2921.34)	✓	

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Theft in office (R.C. 2921.41)	✓	✓
Illegal conveyance or possession of a deadly weapon, dangerous ordnance, or object indistinguishable from a firearm in a school safety zone (R.C. 2923.122)	✓	
Illegal conveyance or possession of a deadly weapon or dangerous ordnance in a courthouse (R.C. 2923.123)	✓	
Improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function (R.C. 2923.161)	✓	
Unlawful possession of dangerous ordnance or illegally manufacturing or processing explosives (R.C. 2923.17)	✓	
Improperly furnishing firearms to a minor (R.C. 2923.21)	✓	✓

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Corrupting another with drugs (R.C. 2925.02)	✓	✓
Aggravated trafficking or trafficking in drugs, including marihuana (R.C. 2925.03)	✓	
Illegal manufacture of drugs or illegal cultivate of marihuana (R.C. 2925.04)	✓	
Illegal assembly or possession of chemicals for the manufacture of drugs (R.C. 2925.041)	✓	
Aggravated funding of drug trafficking, funding of drug trafficking, and funding of marihuana trafficking (R.C. 2925.05)	✓	
Illegal administration or distribution of anabolic steroids (R.C. 2925.06)	✓	
Permitting drug abuse (R.C. 2925.13)	✓	
Deception to obtain a dangerous drug (R.C. 2925.22)	✓	
Illegal processing of drug documents (R.C. 2925.23)	✓	
Tampering with drugs (R.C. 2925.24)	✓	

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Trafficking in harmful intoxicants or improperly dispensing or distributing nitrous oxide (R.C. 2925.32)	✓	
Illegal dispensing of drug samples (R.C. 2925.36)	✓	
Possession of counterfeit controlled substances, aggravated trafficking or trafficking in counterfeit controlled substances, promoting and encouraging drug abuse, and fraudulent drug advertising (R.C. 2925.37)	✓	
Contaminating a substance for human consumption or use or contamination with a hazardous chemical, biological, or radioactive substance; spreading a false report of contamination (R.C. 2927.24)	✓	
Placing a harmful or hazardous object or substance in a food or confection, or furnishing to a person a food or confection so adulterated (R.C. 3716.11)	✓	

	Criminal offenses for which a guilty plea, finding of guilt, conviction (under current law), or judicial finding of eligibility for intervention in lieu of conviction (under the bill) results in automatic revocation or denial of license ²⁶	Criminal offenses for which an individual cannot be granted relief from collateral sanctions on a certificate of qualification for employment ²⁷
Violation of an ordinance of a municipal corporation that is substantively comparable to an offense listed above	✓	✓

Discretionary disciplinary action

The bill permits the State Board to deny, suspend, revoke, or limit a license if the applicant engages in an immoral act, incompetence, negligence, or conduct that is unbecoming to the “teaching profession” (rather than to the applicant’s “position” as under current law). It further specifies that the State Board does not need to consider whether there is a connection between the immoral act, incompetence, negligence, or conduct and the individual’s ability to perform the duties associated with the license or position.

The bill also specifies that a judicial finding of eligibility for intervention in lieu of conviction for any of the offenses that are *not* grounds for automatic license revocation or denial of licenses may be a reason for the State Board to deny, suspend, revoke, or limit a license. Under current law, the State Board is permitted, but not required, to deny, limit, suspend, or revoke a license for a judicial finding of eligibility for intervention in lieu of conviction for all criminal offenses.

Current law, not changed by the bill but subject to H.B. 263 of the 133rd General Assembly (see above) also permits the State Board to deny, limit, suspend, or revoke a license for (1) a felony, offense of violence, or theft offense that are not grounds for automatic revocation or denial of a license, (2) a drug abuse offense that is not a minor misdemeanor and is not grounds for automatic revocation or denial of a license, (3) a violation of an ordinance of a municipal corporation that is substantively comparable to these offenses, and (4) failure to comply with provisions of law regarding school management plans²⁸ and required reporting²⁹ of employee misconduct.

²⁸ R.C. 3313.536, not in the bill.

²⁹ See also R.C. 3314.40, 3326.24, 3328.19, and 5126.253, none in the bill.

Inactivation of licenses

Under current law, upon the arrest, summons, or indictment of a school employee for an alleged violation of specified offenses, the employee must be suspended from all duties that require the care, custody, or control of a child. This requirement applies to all licensed and nonlicensed employees of school districts, educational service centers, community schools, STEM schools, college-preparatory boarding schools, and chartered nonpublic schools. In the case of a licensed employee, the arrest, summons, or indictment and suspension must be reported promptly to the Department. The suspension must continue through the conclusion of the criminal action against the employee.

The bill requires the Superintendent of Public Instruction, on behalf of the State Board, to inactivate the license of a school employee who is suspended as described above. The inactivation must remain in force during the pendency of the criminal action against the person. The bill specifies that (1) the inactivation does not constitute a suspension or revocation of the license by the State Board and (2) the state Superintendent need not provide the person with an opportunity for a hearing with respect to the inactivation. If the State Board does not revoke the license, the state Superintendent must reactivate the license upon conclusion of the criminal action against the person.

Investigations for purposes of disciplinary actions

The State Board is authorized under current law to investigate any information received about an individual that reasonably appears to be a basis for disciplinary action. It is not required to conduct an investigation regarding the automatic revocation or denial of a license.

The bill removes a requirement that the State Board contract with the Attorney General to conduct these investigations. It also removes a requirement that information received under an investigation about a person against whom no action was taken must be expunged within two years of the completion of the investigation.

Release of information obtained during an investigation

The bill permits the appointing or hiring officer of a school district or school located in Ohio or another state to request that the Department provide any report of misconduct that the Department has received regarding an individual whom the district or school is considering for employment. Upon receiving a request, the Department must provide the contents of any report of misconduct it has received to the requesting officer and must notify the officer that the information provided is confidential and may not be disseminated to another person or entity.

If the Department provides the contents of a report under this provision, the Department must document the information provided in the record of any investigation undertaken based on the report. The documentation must include a list of the information provided, the date the information was provided, and the name and contact information of the appointing or hiring officer to whom it was provided.

Registration in lieu of State Board licenses

Currently, unlicensed teachers are permitted to teach in certain high-performing school districts so long as they register with the Department.³⁰ In addition, recently enacted law, which takes effect April 12, 2021, eliminated a requirement that certain health care professionals who are licensed by other state licensing boards also hold a separate license from the State Board of Education in order to work in schools, and instead requires them simply to register with the Department. This registration in lieu of a separate license applies to school speech language pathologists, audiologists, school nurses, physical therapists, occupational therapists, and social workers who are licensed by their respective professional boards.³¹

The bill subjects those registrants to the same disciplinary actions as licensed teachers. Thus, the State Board may refuse to register an unlicensed teacher, limit the registration upon issuing it, or suspend, revoke, or limit it for the same reasons that the State Board may take those actions against a licensed teacher. Similarly, the State Board may conduct any investigations regarding an unlicensed teacher's registration

Assisting individuals in obtaining school employment

(R.C. 3319.318, 3314.03, 3326.11, and 3328.24)

The bill prohibits a "school representative" from knowingly engaging in any activity intended to assist another individual in obtaining school employment to teach school age children, if the representative knows or has reasonable cause to believe that the individual has committed a sex offense involving a student.

This prohibition does not apply if either:

1. The school representative is transmitting administrative and personnel files to the prospective employer; or
2. The information has been reported to law enforcement or the public children services agency and one of the following applies: (a) law enforcement has determined there is insufficient information to indict the individual for the alleged offense, (b) the individual has not been indicted within four years after the date of the report, or (c) the individual has been acquitted or otherwise exonerated of the offense.

³⁰ R.C. 3302.151, not in the bill.

³¹ R.C. 3319.221, as enacted by H.B. 442 of the 133rd General Assembly, effective April 12, 2021, not in the bill. Current law requires that, as a condition of registration, an individual have a criminal records check and be enrolled into the "rapback" program. The Retained Applicant Fingerprint Database (or rapback) is a database of fingerprints of individuals on whom Bureau of Criminal Identification and Investigation has conducted criminal records checks when determining eligibility for employment or licensure. Through it, an office like the Department will receive reports of subsequent arrests or convictions of registrants. (See also R.C. 109.5721, 3319.316, and 3319.391.)

Cheating on assessments

(R.C. 3319.151 and 3319.99)

Prohibited actions

Current law prohibits a person from revealing to any student any specific question that the person knows is part of a state achievement assessment or in any other way assisting a student to cheat on that assessment. If a person violates this provision, the person is guilty of a minor misdemeanor.

The bill prohibits a person from taking several other actions regarding state achievement assessments, but it does not establish any type of criminal penalty for violations of these additional provisions. The additional prohibited actions are:

1. Obtaining prior knowledge of the contents of a state achievement assessment;
2. Using prior knowledge of the content of a state achievement assessment to assist students in preparing for the assessment; and
3. Failing to comply with any rule adopted by the Department regarding security protocols for a state achievement assessment.

Consequences for teacher licensure and employment

The bill requires the State Board, after conducting an investigation, to take any action (license suspension, revocation, or limitation) that it considers appropriate against the license of a school employee who takes any of the prohibited actions described above, based on the nature and extent of the violation. Current law, however, requires the State Board to suspend a school employee's license for one year for revealing test content.

The bill also specifies that the State Board must give the employee notice of an allegation regarding cheating on assessments *upon beginning an investigation* and an opportunity to respond *prior to taking any disciplinary action* (current law does not specify the timing by which these actions must occur).

Finally, the bill specifies that those actions regarding state achievement assessments that are prohibited by the bill, in addition to what is prohibited under current law, are grounds for termination of a teacher contract and for termination of a nonteaching employee.

Teach for America licenses

(R.C. 3319.227)

The bill requires the state Superintendent, on behalf of the State Board, to inactivate a resident educator license issued to a participant in the Teach for American (TFA) Program if the participant resigns or is dismissed from TFA prior to completion of TFA's two-year support program. Currently, the State Board is required to revoke a TFA participant's resident educator license when the participant resigns or is dismissed. Additionally, the bill states that (1) the inactivation of a resident educator license issued to a TFA participant does not constitute a suspension or revocation of the license by the State Board and (2) the State Board and the state

Superintendent need not provide the person with an opportunity for a hearing with respect to the inactivation.

Employment of contractors

(R.C. 3319.0812, 3314.03, 3326.11, and 3328.24)

The bill requires that any contractor that is providing services to a public or chartered nonpublic school or a county board of developmental disabilities must hold any license that the individual would be required to hold if employed directly by the district, school, or county board. The district, school, or county board must obtain verification of licensure from the contractor's employer prior to the contractor commencing the provision of services.

Pre-employment applications and screening

(R.C. 3319.393, 3314.03, 3326.11, and 3328.24)

Written notice on employment applications

The bill requires each school district, other public school (community school, STEM school, and college-preparatory boarding school), and chartered nonpublic school to include on all employment applications the following notice:

ANY PERSON WHO KNOWINGLY MAKES A FALSE STATEMENT IS
GUILTY OF FALSIFICATION UNDER SECTION 2921.13 OF THE
REVISED CODE, WHICH IS A MISDEMEANOR OF THE FIRST DEGREE.

Pre-employment screening process

Before making hiring decisions, the bill requires each school district, other public school, and chartered nonpublic school to consult the Department's "Educator Profile" database, currently on the website as "CORE" – Connected Ohio Records for Educators. After consulting the database, a district or school may consult with the Department's Office of Professional Conduct to determine if an applicant has been the subject of a disciplinary report by a school official to the state Superintendent or had any disciplinary actions taken by the Department. A district or school also may consult any of the applicant's prior education-related employers.

The bill also permits a district or school to offer conditional employment to an individual pending the completion of the screening process, and permits the district or school to release the individual from employment if the screening process uncovers misconduct for which an individual may not be employed in a school.

Finally, the bill permits a district or school to require an applicant or volunteer to undergo background checks in addition to the criminal records checks already required under continuing law.

Review of personnel files

(R.C. 3313.94, 3314.03, 3326.11, and 3328.24)

The bill requires each school district, other public school, and chartered nonpublic school, when a complaint is filed against an employee alleging misconduct by that employee, to conduct

a review of the employee’s personnel file to determine if any recorded or reported instance of related misconduct or disciplinary actions are contained in the file. Further, each district or school that receives a request for the personnel file of a current or former employee from a different public or chartered nonpublic school (regarding that employee’s application) must either: (1) send that file to the requestor within 20 business days of receiving the request or (2) if the school determines it is not possible to send the file within 20 business days, promptly notify the requestor and indicate the reason the information cannot be sent within that time.

Career-technical educator licensure

(R.C. 3319.229)

The bill qualifies an individual holding a certificate of high school equivalence for a two-year initial career-technical workforce development educator license or a five-year advanced career-technical workforce development educator license. Current law requires a high school diploma for these licenses.

School counselor standards

(R.C. 3319.61)

The bill requires the Educator Standards Board to include knowledge of the career-technical credit transfer program (“Career-Technical Assurance Guide” (CTAG)) into the Board’s standards for school counselors.

CTAG is a result of criteria, policies, and procedures established by the Chancellor of Higher Education to ensure transfer of credit for career-technical courses “without unnecessary duplication or institutional barriers.”³²

IV. Community schools

Community school sponsor evaluations

(R.C. 3314.016)

The bill directs the Department to evaluate once every three years any sponsor rated “exemplary” or “effective” for the three most *recent* years the entity was evaluated, instead of for at least three *consecutive* years as under current law.

The bill also specifies that certain sponsor incentives are available to any sponsor rated “exemplary” for the two most *recent* years the sponsor was evaluated, instead of for at least two *consecutive* years as under current law. Those incentives, unchanged by the bill, include: (1) automatic renewal of the written agreement with the Department, (2) the ability to extend the term of the sponsorship contract, (3) an exemption from certain deadline and expiration requirements, (4) no limit on the number of community schools the entity may sponsor, and (5) no territorial restrictions on sponsorship.

³² See R.C. 3333.162, not in the bill.

Background

Generally, the Department must rate all community school sponsors as either “exemplary,” “effective,” “ineffective,” or “poor,” on an annual basis, based on the following components: (1) student academic performance, (2) adherence to the quality practices prescribed by the Department; and compliance with all applicable laws and administrative rules. However, as discussed above, an exception to annual evaluations exists for certain higher performing sponsors.

Montessori preschool payments for students under age five

(R.C. 3314.06)

The bill removes a provision that requires the Department to pay an amount equal to the formula amount for each student under age four admitted to a Montessori preschool operated by a community school. Instead, the bill specifies such a school will receive no community school funds for students under age five.

Community School Revolving Loan Fund

(R.C. 3314.30 and 3314.31, repealed)

The bill eliminates the Community School Revolving Loan Fund and the Community School Security Fund, the latter of which was created to accept payment of funds borrowed from the Revolving Loan Fund.

Under current law, a community school may borrow from the Community School Revolving Loan Fund, which consists of federal moneys for the development and operation of community schools, to pay the costs associated with any provision of the community school’s contract. The maximum borrowable amount is \$250,000. According to the Office of Budget and Management, the fund, established in 2003, has never been accessed by a community school.

V. STEM schools

STEM and STEAM schools and equivalents

(R.C. 3326.02, 3326.03, 3326.032, 3326.04, 3326.07, 3326.08, 3326.14, 3326.23, and 3326.51; R.C. 3326.05 and 3326.111, repealed)

The bill makes numerous changes to the law governing STEM and STEAM schools and equivalents.

A STEM school is an independent, public school for any of grades K-12 established through a collaborative endeavor of both public and private entities, including at least one school district. As the name suggests, STEM schools emphasize study in the disciplines of science, technology, engineering, and math, but they also offer all courses required for graduation and are authorized to award their graduates high school diplomas. A STEAM school is a type of STEM school where the “A” denotes “arts.” Each school, whether a STEM school or a STEAM school, is approved for operation by the Department of Education’s STEM Committee.

A STEM or STEAM school equivalent meets the curriculum requirements of a STEM or STEAM school but is governed under its own laws or articles of incorporation and does not

receive funding as a STEM or STEAM school. It is a designation that may be granted to a community school, a career center, or chartered nonpublic school.

STEM Committee membership

(R.C. 3326.02)

The bill permits the Superintendent of Public Instruction, the Chancellor of Higher Education, and the Director of Development to appoint designees to participate in STEM Committee business on their behalf. It also specifies that a designee must be the same person for the time period the designation is effective.

Grades offered by STEM and STEAM schools

(R.C. 3326.03)

The bill permits a STEM or STEAM school to submit an amendment proposal to the STEM Committee in order to offer additional grade levels. Under continuing law, STEM and STEAM schools may offer any of grades kindergarten through twelve.

STEM and STEAM school designations for JVSDs and ESCs

(R.C. 3326.03 and 3326.51)

The bill eliminates the authority for a joint vocational school district (JVSD) or an educational service center (ESC) to apply for designation as a STEM or STEAM school. However, it permits a school operated by a JVSD that was designated as a STEM or STEAM school prior to the bill's effective date to maintain that designation if the school continues to comply with all applicable STEM school law and its proposal for designation as a STEM or STEAM school.

STEM and STEAM school equivalent designations for career centers

(R.C. 3326.032)

The bill eliminates the authority for a career center to receive a designation as a STEM or STEAM school equivalent in the same manner as a community school or a chartered nonpublic school. For this purpose, a career center is a school that enrolls students in any of grades 9-12 and in which a career-technical planning district (CTPD) provides career-technical education services that meets the State Board's standards. A CTPD may be a JVSD, a comprehensive career-technical program offered by a city, exempted village, or local school district, or career-technical program offered to other districts under contract.

Proposals for STEM and STEAM schools and equivalents

(R.C. 3326.03, 3326.032, and 3326.07)

The bill requires the proposal for a STEM or STEAM school or equivalent to include evidence that the school will:

1. Exhibit school-wide cultural strategies reflecting innovation, an entrepreneurial spirit, inquiry, and collaboration with individual accountability;
2. Offer a rigorous, diverse, integrated, and problem-based or project-based curriculum (rather than only project-based as under current law) with the goal to prepare students for post-

secondary learning experiences (rather than with the goal to prepare students for college as under current law);

3. Have a curriculum that emphasizes the use of design-thinking as a school-wide approach and provides opportunities for students to engage in personalized learning (rather than emphasizes personalized learning and teamwork skills as under current law);

4. Participate in regular STEM-focused professional development and share knowledge of best practices (rather than utilize an established capacity to capture and share knowledge for best practices and innovative professional development with the Ohio STEM Learning Network or its successor as under current law); and

5. In the case of a STEM or STEAM school equivalent, has established partnerships with institutions of higher education and businesses, as well as arts organizations if the proposal is for a STEAM school equivalent (existing law already requires this for STEM and STEAM schools).

It also eliminates the existing requirement for the proposal to include evidence that the school's curriculum incorporates scientific inquiry and technological design.

Distinctions as STEM programs of excellence

(R.C. 3326.03 and 3326.04)

The bill repeals the authority for city, local, and exempted village school districts, community schools, and chartered nonpublic schools to apply for grants to support the operation of STEM programs of excellence. Instead, it specifies that a JVSD or ESC may apply for a distinction as a STEM program of excellence. Additionally, it specifies that nothing prohibits a school operated by a JVSD that was designated as a STEM or STEAM school prior to the bill's effective date from electing to apply for distinction as a STEM program of excellence.

The bill requires a proposal for distinction as a STEM program of excellence to satisfy requirements that are substantially similar to the requirements for proposals for STEM and STEAM schools and equivalents.

Effective period for designations and distinctions

(R.C. 3326.03, 3326.032, and 3326.04)

The bill specifies that STEM and STEAM school designations, STEM and STEAM school equivalent designations, and distinctions as STEM programs of excellence are effective for five years unless revoked (see below). However, prior to the end of the five-year period, the STEM committee may review a school's designation or distinction if it has reason to believe that a school is not in compliance with the law and its proposal.

Correspondingly, the bill requires the Department to maintain records of the application status and renewal deadlines for each designation and distinction.

Renewal of designations and distinctions

(R.C. 3326.03, 3326.032, and 3326.04)

The bill requires STEM and STEAM schools and equivalents and JVSDs and ESCs granted distinctions as STEM programs of excellence to reapply for designation or distinction every five

years. The STEM Committee must authorize the continuation of a school’s designation or distinction if it finds that the school is in compliance with all applicable laws and its proposal.

Revocation of designations and distinctions

(R.C. 3326.03, 3326.032, 3326.04, and 3326.08)

The bill specifies that, if the STEM Committee finds that a school is not in compliance as part of the reapplication process or as part of a review during the five-year effective period, it must require the school to:

1. Develop a corrective action plan in collaboration with the Department and the Ohio STEM Learning Network; and
2. Implement the plan and demonstrate exemplary STEM pedagogy and practices within one year of the plan’s development.

The bill requires the Committee to revoke a school’s designation or distinction if the school fails to implement the corrective action plan within one year.

Additionally, the Committee must order a STEM or STEAM school that is not operated by a city, local, or exempted village school district to close after its designation is revoked. Currently, the Committee may, but is not required to, order any STEM or STEAM school, including those operated by school districts, to close if the Department finds it is not in compliance with applicable laws and its proposal for designation.

Annual list of written assurances

(R.C. 3326.23)

The bill exempts a STEM or STEAM school that is governed and controlled by a city, local, or exempted village school district from the annual requirement to provide to the Department written assurances of compliance with various requirements.

Repeal of miscellaneous provisions

(R.C. 3326.03, repealed R.C. 3326.05, repealed R.C. 3326.11, and R.C. 3326.14)

The bill repeals all of the following:

- The requirement that the STEM Committee award grants to STEM and STEAM schools;
- The authority for the STEM Committee to make recommendations to the General Assembly and the Governor for the training of STEM educators;
- The requirement that, if a STEM or STEAM school receives a grant under the federal Race to the Top Program, the governing body of that school must pay teachers based on performance as if it was a school district board of education; and
- The authority for any student enrolled in the 9th grade or lower in a STEM or STEAM school to take one or more of the five Ohio Graduation Tests (OGT) at any of the times those tests are administered. (The last class for which the OGT was required for graduation was the class of 2018.) However, the bill retains the existing requirement that a STEM or

STEAM school must administer the state achievement assessments as if it were a school district.

VI. College Credit Plus

College Credit Plus program

(R.C. 3365.01, 3365.03, 3365.032, and 3365.07)

The bill makes two changes to the College Credit Plus (CCP) program, both regarding student eligibility. The CCP program allows high school students who are enrolled in public or nonpublic high schools or who are home-instructed to enroll in nonsectarian college courses to receive high school and college credit. Generally, the program governs arrangements in which the student, upon successful completion of such a course, receives transcribed credit from the college. CCP courses may be taken at any public or participating private or out-of-state college.

Students in state-operated schools

The bill permits students enrolled in the State School for the Deaf, the State School for the Blind, or in a school operated by the Department of Youth Services (DYS) to participate in the CCP program in the same manner as students in other public schools. Consequently, under the bill, those students and the state-operated schools are subject to all existing program laws and requirements that apply to CCP participants and other public schools. The bill, however, does not address where students in the custody of DYS will attend college courses under the CCP program and the transportation or security for such students.

The bill requires payments made to institutions of higher education for CCP courses taken by students enrolled at the State School for the Deaf or the State School for the Blind or a school operated by DYS to be deducted from the amount appropriated by the General Assembly for support of those schools.

Academic eligibility for all students

The bill removes the prescribed condition for students who are not “remediation-free” and instead creates an alternative remediation-free eligibility option, which the Chancellor of Higher Education, in consultation with the Superintendent of Public Instruction, must define. Current law requires a student, as a condition of eligibility for the CCP program, to be “remediation free.” However, a student who scores within one standard error of measurement below the threshold on a standard assessment determining remediation-free status may fulfill eligibility requirements if the student also (1) has at least a 3.0 cumulative high school grade point average (GPA) or (2) receives a recommendation from a school counselor, principal, or career-technical program advisor. The bill removes the eligibility for a student within one standard error of measurement. However, it grandfathers in students who qualified under that condition prior to the bill’s effective date.

VII. Other

Transportation for community school and chartered nonpublic school students

The bill prescribes a series of new requirements for city, local, and exempted village school districts to meet while providing transportation services, as required under continuing law, to community school and chartered nonpublic students. The bill establishes (1) new requirements regarding transportation plans for community school and chartered nonpublic school students, (2) limits on the use of mass transit system vehicles to transport them, and (3) a requirement to transport them when their schools are open. In addition, the bill changes the deadline by which a community school may accept responsibility to transport its students.

Generally, a school district must provide transportation for students in grades K-8 who live more than two miles from school, whether they attend district schools; public community schools; STEM schools; or private schools that hold a state charter. There are exceptions, however, such as when transportation to a community or STEM school or private school exceeds 30 minutes, or when the district board determines transportation to be impractical and offers to pay a parent instead. Also, there are mechanisms for community schools to take over the responsibility to transport their students. For a detailed discussion of the law on student transportation see the LSC Members Brief, [Transportation of Students](#).

Transportation plans

(R.C. 3327.016; conforming change in R.C. 3313.48)

The bill generally requires city, local, and exempted school districts to develop transportation plans, including routes and schedules, for students enrolled in community schools and chartered nonpublic schools based on those schools' start and end times. The transportation plans must result in those students arriving to school within an hour before its start time and must not result in a student being picked up from school more than an hour after its end time.

Under the bill, community schools and chartered nonpublic schools must establish school start and end times for a school year by June 1 of the prior school year. Each school then must provide those times to the city, local, or exempted village school districts that the school expects will provide transportation services to its students.

A school district generally must use those start and end times to develop a transportation plan by July 1 for community and chartered nonpublic school students whom the district is required to transport and who enroll by June 1 of the prior school year. For any student who enrolls in a community or chartered nonpublic school after June 1, the district must develop a transportation plan within 14 calendar days after receiving a request for transportation services from the student's parent or guardian.

Exception –ESC to develop transportation plans

As an exception to the general requirements described above, the bill prescribes a different statutory procedure for school districts that have 20 or more community or chartered nonpublic schools located in a school district. In that case, the educational service center (ESC) with which the school district has a service agreement, or the ESC with the most territory in the

district's county if the district does not have a service agreement, must develop transportation plans.³³ The transportation plans also must result in those students arriving to school within an hour before the start time and must not result in a student being picked up from school more than an hour after the end time.

The ESC must convene a meeting with the school district and all community or chartered nonpublic schools located in the district. Each district or school must provide any information the ESC considers necessary. By July 15, the ESC must approve a transportation plan for each community or chartered nonpublic school.

Limits on use of mass transit systems

(R.C. 3327.017)

The bill prescribes several limits on the use of vehicles operated by mass transit systems by school districts to provide or arrange for transportation of community school and chartered nonpublic school students.

For students enrolled in grades K-8, the bill prohibits a district from transporting them using mass transit vehicles unless the district enters into an agreement with the students' community or chartered nonpublic school authorizing that transportation. The bill expressly requires both the district and school to approve the agreement in order for it to be effective.

For students enrolled in grades 9-12, the bill specifies that, if a school district elects to transport them using vehicles operated by a mass transit system, the district must enter into a contract with the mass transit system that requires each student to be transported by a vehicle operating on a route designed for transporting fare-paying passengers and students. It also requires the district to ensure that a student's route does not require more than one transfer.

Transportation when schools are open for instruction

(R.C. 3327.01)

The bill requires a school district to transport community or chartered nonpublic school students to and from school on each day that their school is open for instruction, regardless of whether the district's school buildings are similarly open. However, the bill also maintains a provision of continuing law that exempts school districts from transporting community school and chartered nonpublic school students on Saturday or Sunday, unless the district and school have an agreement in place to provide such transportation.

³³ Each school district with a student count of 16,000 or less must have a service agreement with an ESC. Districts with larger student counts are expressly permitted by not required to have such an agreement. See R.C. 3313.843, not in the bill.

Deadline for community school to accept responsibility to transport students

(R.C. 3314.091)

A school district and community school may enter into a bilateral agreement under which the community school will transport its students. Or, a community school may take over the transportation responsibility unilaterally without entering into an agreement with the students' resident school district by notifying the school district by January 1 of the previous school year. The bill adjusts that deadline to August 1 of the school year for which the community school will be providing or arranging transportation.

A newly opening community school must notify the district by April 15 prior to its first year of operation if it wishes to unilaterally accept transportation responsibility. The bill does not change this deadline nor does it affect the provision for bilateral agreements between districts and community schools.

Deduction of state funding for school district noncompliance

(R.C. 3327.021)

The bill requires the Department to deduct a portion of city, local, or exempted village school district's state transportation funding if the Department determines that the district has consistently, or for a prolonged period, been noncompliant with certain statutory obligations regarding student transportation.

Specifically, the bill requires the Department to monitor each city, local, or exempted village school district's compliance with:

1. Its general obligations under the law to transport students;
2. Its new obligation under the bill to generally transport community school and chartered nonpublic school students on days that the schools are open (see above);
3. Its new obligation under the bill regarding transportation plans for community schools and chartered nonpublic schools (see above); and
4. The bill's new prohibition against transporting community school and chartered nonpublic school students in grades K-8 using mass transit, unless the district has an agreement to do so with the students' school (see above).

If the Department determines a consistent or prolonged period of noncompliance on the part of the school district to meet those obligations, the Department must deduct from the district's state transportation funding an amount equal to the total daily amount of that funding for each day the district is noncompliant.

However, the bill expressly states that the requirement to monitor district compliance and deduct state transportation funding does not affect a school district's authority to provide payment in lieu of transportation.

Payment in lieu of transportation

(R.C. 3327.02)

The bill requires a city, local, or exempted village school district, or a community school that has accepted responsibility to provide transportation, to make a determination regarding whether to provide payment in lieu of transportation for a student not later than 30 calendar days prior to the district's or school's first day of instruction. For students who enroll within that 30-day period or later, the district or school must make the determination within 14 calendar days of a student's enrollment.

It also authorizes a superintendent to make that determination, but requires that it be formalized at the next meeting of the school district board of education or community school governing authority.

In addition, the district or school must issue to a student's parent or guardian and the State Board a letter with a detailed description of the reasons why the payment in lieu determination was made.

FAFSA data system

(R.C. 3313.6026; conforming changes in R.C. 3314.03, 3326.11, and 3328.24)

The bill requires each school district and each other public and chartered nonpublic high school to enter a data sharing agreement with the Chancellor of Higher Education to operate a data system, created by the bill, to track the Free Application for Federal Student Aid (FAFSA) completion rate of Ohio's public and chartered nonpublic school students. (See "**FAFSA data system**" under "**DEPARTMENT OF HIGHER EDUCATION**," below.) Each district or school must provide principals and school counselors with access to the data system to assist with efforts to support and encourage students to complete the FAFSA form.

Computer science education

State plan for computer science education

(R.C. 3301.23)

The bill requires the Department, in consultation with the Chancellor, to establish a committee to develop a state plan for primary and secondary computer science education in Ohio. The committee must be established within 30 days of the bill's effective date. It must consist of:

1. The Superintendent of Public Instruction, or designee;
2. The Chancellor, or designee;
3. Computer science stakeholders appointed by the state Superintendent, in consultation with the Chancellor that include representatives of:
 - a. Teachers;
 - b. Career-technical education;
 - c. Institutions of higher education;

- d. Businesses; and
- e. State and national computer science organizations.

In developing the state plan, the committee must consider:

1. Best practices and challenges associated with implementing primary and secondary computer science curriculum in Ohio;
2. Demographic data for students who receive computer science education;
3. Benchmarks to create a sustainable supply of teachers certified to provide computer science education;
4. Best practices to form public and private partnerships for funding, mentoring, and internships for teachers providing computer science instruction;
5. A requirement for all students to complete a computer science course prior to high school graduation;
6. The establishment of a work-based learning pilot program that:
 - a. Includes high schools, universities, and local industry; and
 - b. Permits the Department and the Chancellor to develop pathways to align computer science education in Ohio with the state’s workforce needs.
7. Any other topics determined appropriate by the committee.

The state plan must include:

1. Any examination of the challenges that prevent school districts from offering computer science courses;
2. A requirement that the Department collect data regarding computer science courses offered by school districts and school buildings operated by districts, including the names of courses and whether the courses were developed using the standards and model curriculum adopted by the State Board, and post that data on its website; and
3. Any findings the committee determines appropriate based on its consideration of the topics described above.

The bill requires the committee to complete the state plan within one year of the bill’s effective date. The Department must post the completed state plan in a prominent location on its website.

Public school students and computer science courses

(R.C. 3301.231 and 3301.232; conforming changes in R.C. 3314.03 and 3326.11)

Option to enroll

The bill requires that, generally, students enrolled in city, local, exempted village, and joint vocational school districts, community schools, and STEM schools must have the option to enroll in computer science courses or general education courses that include computer science principles. Specifically, it requires that:

1. For the 2022-2023 school year and after, students in 11th and 12th grades must have the option to enroll in a computer science course offered by the student's district or school, or an online computer science course offered by an educational provider and approved by the Department;

2. For the 2023-2024 school year and after, students in 9th and 10th grades must have the option to enroll in an age-appropriate, standalone computer science course offered by the student's district or school, or in an online computer science course offered by an educational provider and approved by the Department; and

3. For the 2024-2025 school year and after, students in grades K-8 must have the option to enroll in an age-appropriate general education course that incorporates computer science principles and is offered by the student's district or school.

However, the bill specifies these requirements must not be construed as prohibiting a district or school from offering computer science courses, or general education courses that incorporate computer science principles, to students enrolled in any of grades K-12.

Courses offered by public schools

The bill generally requires school districts, community schools, and STEM schools to offer computer science or general education courses as described above. However, it also creates a procedure for a school district board of education, community school governing authority, or STEM school governing body to request a waiver from offering courses in a specific school building.

The state Superintendent must consider each waiver request and either approve or disapprove the waiver based on standards adopted by the State Board. For an approved waiver, the state Superintendent must specify how long the waiver will be in effect, which may be for up to five years. A district board, governing authority, or governing body may apply to renew the waiver.

Additionally, the bill requires districts and schools annually to submit to the Department, in a form and manner prescribed by the Department, data reporting the number of students enrolled in computer science courses and the type of such courses. The type of courses must be disaggregated by the course code and whether the course is offered by the district or an educational provider.

Courses offered by educational providers

The bill requires the Department, in consultation with computer science stakeholders, to establish a program to provide high school students with access to online computer science courses as described above. Under the program, the Department must develop a process to solicit and review proposals from educational providers to offer online computer science courses. The Department must only approve a proposal if:

1. Each course included in the proposal is high-quality, rigorous, and aligned with the State Board's standards and model curriculum; and

2. A student may earn high school credits that apply to the state's minimum curriculum requirements prescribed under continuing law in each course included in the proposal.

The Department must determine a method to calculate and make payments to educational providers who enroll students in online computer science courses approved by the Department. The bill requires that the “method shall be deducted” from the foundation payments made to a participating student’s district or school, in a manner similar to how the Department calculates and makes payments under the College Credit Plus (CCP) program.

Department’s rulemaking authority

The bill requires the Department to adopt rules to implement its provisions regarding computer science and general education courses and the offering of those courses. Additionally, it expressly states that those provisions do not affect CCP.

Other computer science education provisions

Annual report

(R.C. 3301.233)

The bill requires the Department, in consultation with the Chancellor, to issue an annual report on computer science education that includes information regarding:

1. School districts, community schools, and STEM schools that offer computer science courses;
2. The types of computer science courses offered by districts and schools;
3. The number of teachers who hold a valid educator license or license endorsement in computer science or any other areas determined appropriate by the Department, in consultation with the Chancellor; and
4. The type of computer science courses, and the grade levels for those courses, taught by teachers who hold a license or endorsement described above.

The bill further requires that information to be disaggregated by:

1. Region of the state;
2. For school districts, whether the district is urban, rural, or suburban, and any other classification determined appropriate by the Department, in consultation with the Chancellor; and
3. Demographic data of students enrolled in computer science courses, including race and ethnic group, gender, and whether the students are economically disadvantaged, and that such data be reported by district or school and computer science course code.

Finally, the report must include the number of undergraduate students who study computer science in Ohio institutions of higher education, disaggregated by region of the state, student demographics, and, if data is available, student participation in a pathway partnership in the previous five-year period.

Computer science education licensure exemption

(Section 733.61 of H.B. 166 of the 133rd General Assembly as amended in Section 610.10 of the bill)

The bill extends through the 2022-2023 school year an exemption that permits a school district, community school, or STEM school to allow an individual with a valid educator license in any of grades 7-12 to teach a computer science course if, prior to teaching the course, the individual completes a professional development program approved by the district superintendent or school principal. That program must provide content knowledge specific to the course the individual will teach. The superintendent or principal must approve any professional development program endorsed by the College Board, the organization that creates and administers the national Advanced Placement examinations, as appropriate for the course the individual will teach.

The individual may not teach a computer science course elsewhere than the school district or school that employed the individual when the individual completed the professional development program.

Beginning July 1, 2023, a district or school may allow an individual to teach a computer science course only if the individual satisfies the requirements of permanent law, unchanged by the act. That law requires an individual who teaches computer science either to (1) hold an educator license in computer science, (2) hold a license endorsement in computer technology and pass a computer science context examination, or (3) hold a supplemental teaching license for computer science.

Licenses and endorsements to teach computer science

(R.C. 3319.236 and Section 733.61 of H.B. 166 of the 133rd General Assembly as amended in Section 610.10 of the bill)

The bill specifies that, for the purposes of computer science licensure or endorsements, “computer science courses” means any courses reported in the Education Management Information System (EMIS) as computer science courses.

State Board’s standards and curriculum

(R.C. 3301.079)

The bill requires the State Board to update its standards and curriculum for computer science education within one year of the bill’s effective date.

Effects of vaping – school district health curriculum

(R.C. 3313.60(A)(5))

The bill requires school districts to include instruction on the harmful effects and legal restrictions against the use of electronic smoking devices (vaping) in its health education curriculum. This is in addition to the requirement to provide instruction on the harmful effects of and legal restrictions against the use of drugs of abuse, alcoholic beverages, and tobacco, as required by continuing law.

Victim counseling

(R.C. 3319.47)

The bill permits school districts, other public schools, and chartered nonpublic schools to provide counseling to victims of sexual harassment or sexually related conduct.

Obsolete reports, plans, or recommendations

(R.C. 3311.741, 3313.488, 3313.603, 3314.013, and 3314.017; Repealed R.C. 3301.0724, 3301.122, 3301.46, 3301.922, 3313.901, 3314.033, and 3314.37)

The bill eliminates the following education-related reports, plans, and recommendations that are out-of-date, expired, or no longer have data available:

Section number	Description
R.C. 3301.0724 (Repealed)	An annual report by the Department of Education to the General Assembly regarding aggregate spending on specified compensation components for the previous school year for teachers and other school employees employed by each school district.
R.C. 3301.122 (Repealed)	A ten-year strategic plan developed by the Superintendent of Public Instruction that is aligned with the strategic plan developed for higher education to be submitted to the General Assembly (due December 1, 2009).
R.C. 3301.46 (Repealed)	A joint plan proposing a standard method and form for documenting high school transcripts, credit transfer and articulation, and any electronic clearing house for student transcript transfer developed jointly by the Department and the Chancellor of Higher Education (due April 30, 2009).
R.C. 3301.922 (Repealed)	An annual report regarding participation by public and chartered nonpublic schools to screen students for body mass index and weight status to be submitted by the Department to the Governor and the General Assembly.
R.C. 3311.741(E)	A report evaluating a municipal school district's performance to be submitted by the state Superintendent to the Governor and the General Assembly (due November 15, 2017).
R.C. 3313.488(E)	A monthly report by the state Superintendent to the Speaker of the House and the President of the Senate for each month that a school district is unable to meet its expenses.
R.C. 3313.603(D)	A report that analyzes student performance data to determine if there are mitigating factors that warrant extending graduation qualification exemptions for students who entered 9 th grade between July 1, 2010 and July 1, 2016, by the Department, in collaboration with the Chancellor of Higher Education (due December 1, 2015).

Section number	Description
R.C. 3313.901 (Repealed)	A plan for accelerating the modernization of the career-technical education curriculum by the State Board of Education (to be presented July 1, 1990, with annual progress reports issued through FY 2000).
R.C. 3314.013(D)	Standards for operation of internet- or computer-based community schools (e-schools) by the Director of the Governor’s Office 21 st Century Education to the Speaker of the House and the President of the Senate (due July 1, 2012).
R.C. 3314.017(J)	Study committee recommendations regarding community schools that primarily serve students enrolled in dropout prevention and recovery programs that offer blended learning, portfolio learning, and credit flexibility to the General Assembly (due April 17, 2020).
R.C. 3314.033 (Repealed)	Recommendations by the State Board to the General Assembly regarding the standards governing the operation of e-schools and other educational courses delivered by electronic media (due September 30, 2003).
R.C. 3314.37 (Repealed)	A five-year research and development initiative to collect and analyze data with which to improve community school dropout prevention and recovery programs, known as the ISUS Institutes (initiative ended on June 30, 2013).

ENVIRONMENTAL PROTECTION AGENCY

Fees

- Makes ten types of Ohio Environmental Protection Agency (OEPA) fees (currently set to expire on specified dates in 2022) permanent.
- Eliminates a \$15 application fee for the following:
 - A registration certificate necessary for certain scrap tire collection facilities;
 - A permit, or variance, or plan approval under the Solid and Hazardous Waste Law.
- Eliminates a non-Title V air contaminant source fee schedule that only applied from January 1, 1994, to December 31, 2003.

Scrap tires removed from “no fault” sites

- Increases, from 5,000 to 10,000, the number of scrap tires that can be removed from a person’s property by OEPA at no cost to the property owner if certain conditions apply (i.e., placement of scrap tires was not the fault of the property owner).
- Allows the OEPA Director to increase the 10,000 scrap tire threshold.

“Lead free” definition

- Replaces the current definition of “lead free” that specifies the maximum permissible percentage of lead that any solder, flux, pipes, pipe fittings, plumbing fittings, and plumbing fixtures may contain, with a requirement that the OEPA Director adopt rules establishing the definition of “lead free.”
- Requires the Director, when establishing the definition, to use standards that are not less stringent than those established under the federal Safe Drinking Water Act.

Lead and copper notification rules

- Eliminates a requirement that the OEPA Director adopt rules setting specific administrative penalties that apply to community or nontransient noncommunity water systems for violations of notice requirements regarding lead and copper laboratory results.
- Authorizes the Director to instead assess the administrative penalties under existing statutory guidelines that apply to other violations of the Safe Drinking Water Law.
- Generally shifts reporting and other requirements regarding lead and copper contamination from statute to a rules-based system administered by the Director.
- Increases the timeframe (from two business days to not more than 30 business days after the receipt of lab results) within which the owner or operator of a community or nontransient noncommunity water system must notify residents when a tap sample does not exceed the applicable lead threshold.

- Requires the owner or operator of those systems to update and resubmit maps according to a schedule determined by the Director but no less frequently than required under the Safe Drinking Water Act, rather than every five years as in current law.
- Eliminates a requirement that the Director provide financial assistance from the Drinking Water Assistance Fund to community and nontransient noncommunity water systems for the purpose of fulfilling the notice and mapping requirements.

Certified and accredited laboratories under the VAP

- Eliminates the OEPA Director’s authority to certify laboratories for purposes of performing analyses under the Voluntary Action Program (VAP).
- Instead, specifies that a laboratory must hold a valid accreditation from a specified outside accreditation body to perform analyses under the VAP.
- Generally requires a person participating in the VAP to use the services of an accredited laboratory to perform analyses, but specifies that data analyzed by a certified laboratory before the bill’s effective date may still be utilized.
- Retains the Director’s authority to enter the property of a certified laboratory and conduct audits for purposes of investigation and extends this authority to accredited laboratories.
- Prohibits the Director from contracting with an accredited laboratory to perform an audit if the laboratory performed any analyses that formed the basis for the issuance of a no further action letter in connection with the audit.
- Eliminates outdated provisions governing the VAP.

Water pollution control: practical qualification level

- Specifies that, for purposes of determining compliance with a pollutant discharge limit set below the practical quantification level (PQL), any reported value below PQL constitutes compliance (instead of any level “at or below”).

Isolated wetland mitigation ratio table reference

- Corrects an incorrect division reference to the Ohio Administrative Code.

Fees

(R.C. 3745.11, 3734.57, and 3734.901)

During the biennial budget process every two years, the Environmental Protection Agency (OEPA) seeks the renewal of certain fees levied on regulated entities. These fees have been continued every budget since their enactment and are currently set to expire on specified dates in 2022. The bill eliminates this two-year renewal cycle and makes these fees permanent. The fees made permanent are as follows:

1. The annual emissions fees for synthetic minor facilities;

2. The annual discharge fees for holders of NPDES permits issued under the Water Pollution Control Law;

3. The application fees for plan approvals for wastewater treatment works under the Water Pollution Control Law;

4. The initial and renewal license fees for public water system licenses issued under the Safe Drinking Water Law;

5. The fee for plan approvals for public water supply systems under the Safe Drinking Water Law;

6. The fees for state certification of laboratories and laboratory personnel for purposes of the Safe Drinking Water Law;

7. The fees for applications and examinations for certification as operators of water supply systems or wastewater systems under the Safe Drinking Water Law and the Water Pollution Control Law;

8. The application fees for permits, variances, and plan approvals under the Water Pollution Control Law and the Safe Drinking Water Law;

9. The 50¢ per tire fee on the sale of tires, deposited in the Scrap Tire Management Fund, and the additional 50¢ per tire fee deposited in the Soil and Water Conservation District Assistance Fund; and

10. The following four fees levied on the transfer or disposal of solid waste:

a. The 90¢ per ton fee, deposited in the Hazardous Waste Facility Fund;

b. The 75¢ per ton fee, deposited in the Waste Management Fund;

c. The \$2.85 per ton fee, deposited in the Environmental Protection Fund;

d. The 25¢ per ton fee, deposited in the Soil and Water Conservation District Assistance Fund.

The bill also eliminates a \$15 application fee for both of the following:

1. A registration certificate necessary for certain scrap tire collection;

2. A permit, or variance, or plan approval under the Solid and Hazardous Waste Law.

Finally, the bill eliminates an obsolete non-Title V air contaminant source fee schedule that applied from 1994 to 2003.

Scrap tires removed from “no fault” sites

(R.C. 3734.85)

The bill increases, from 5,000 to 10,000 (or more if the OEPA Director approves a larger amount), the number of scrap tires that can be removed from a person’s property by OEPA at no cost to the property owner. The bill maintains the stipulation that all of the following conditions apply:

1. The tires were placed on the property *after* the property owner acquired title to the property, or the tires were placed on the property *before* the owner acquired title to the property by bequest or devise;

2. The property owner did not have knowledge that the tires were being placed on the property, or the property owner posted the property signs prohibiting dumping or took other action to prevent the placing of tires on the property;

3. The property owner did not participate in or consent to the placing of the tires on the property;

4. The property owner received no financial benefit from the placing of the tires on the property or otherwise having the tires on the property;

5. Title to the property was not transferred to the property owner for evading scrap tire abatement liability; and

6. The person responsible for placing the tires on the property, in doing so, was not acting as an agent for the property owner.

Lead free definition

(R.C. 6109.10)

The bill eliminates the current definition of “lead free” that specifies the maximum permissible percentage of lead that any solder, flux, pipes, pipe fittings, plumbing fittings, and plumbing fixtures may contain. Instead, it requires the OEPA Director adopt rules establishing the definition of “lead free.” The Director, in establishing the new definition, must use standards that are not less stringent than those established under the federal Safe Drinking Water Act.

Under current law, by definition, the following items are lead free:

1. Solder or flux that contains no more than 0.2% lead; and
2. Wetted surfaces of pipes, pipe fittings, or plumbing fittings or fixtures that contain no more than a weighted average of 0.025% lead.

Current law prohibits a person from doing any of the following:

1. Using any pipe, pipe fitting, plumbing fitting, plumbing fixture, including a drinking water fountain, solder, or flux that is not lead free in the installation or repair of a public water system or in any plumbing in a residential or nonresidential facility providing water for human consumption;

2. Introducing into commerce any pipe, pipe fitting, plumbing fitting, or plumbing fixture, including a drinking water fountain, that is not lead free;

3. Selling solder or flux that is not lead free while engaged in the business of selling plumbing supplies; and

4. Introducing into commerce any solder or flux that is not lead free unless the solder or flux has a prominent label stating that it is illegal to use the solder or flux in the installation or repair of any plumbing providing water for human consumption.

The penalty for violating these prohibitions varies depending on the *mens rea* (culpable state of mind) of the offender and other factors.

Lead and copper notification rules

(R.C. 6109.121; R.C. 6109.01 and 6109.23, not in the bill)

The bill eliminates a requirement that the OEPA Director adopt rules setting specific administrative penalties that apply to community or nontransient noncommunity water systems for violations of notice requirements regarding lead and copper laboratory results. Instead, the bill authorizes the Director to establish the administrative penalties under existing statutory guidelines that apply to other violations of the Safe Drinking Water Law.

In general, the bill shifts reporting and other requirements that the owner or operator of such water systems must follow regarding lead and copper contamination from statute to rule. This shift includes requirements concerning the following subjects:

1. Administrative penalties, as discussed above;
2. Laboratory sampling and reporting requirements;
3. Notification requirements that the owner or operator of a community or nontransient noncommunity water system must follow regarding laboratory results;
4. Certification requirements concerning the notification requirements;
5. OEPA Director notifications where a system fails to make required notices; and
6. System mapping requirements that show areas of a system that are known or likely to contain lead service lines and lead fixtures.

Specifically, the bill requires the rules to include requirements that the owner or operator of a community or nontransient noncommunity water system do both of the following:

1. When a tap sample for lead or copper is *below* the applicable lead threshold, provide notice of the results to residents within a time period specified in rules that is not more than 30 days after the receipt of lab results, rather than within two business days as in current law;
2. Under rules concerning mapping requirements, update and resubmit the maps according to a schedule determined by the Director, but no less frequently than required under the Safe Drinking Water Act, rather than every five years as in current law.

The bill eliminates a requirement that the Director provide financial assistance from the Drinking Water Assistance Fund to community and nontransient noncommunity water systems for the purpose of fulfilling the notice and mapping requirements.

Under current law, a community water system is a public water system that has at least 15 service connections used by year-round residents or that regularly serves at least 25 year-round residents. A nontransient noncommunity water system is a public water system that regularly serves at least 25 of the same persons over six months per year and is not a community water system.

Certified and accredited laboratories under the VAP

(R.C. 3746.01, 3746.04, 122.65, 3746.07, repealed; R.C. 3746.071 (3746.07), 3746.09, 3746.10, 3746.11, 3746.12, 3746.13, 3746.17, 3746.18, 3746.19, 3746.20, 3746.21, 3746.31, and 3746.35)

Current law establishes the Voluntary Action Program (VAP) administered by OEPA. Under the VAP, a person may undertake cleanup of a contaminated property to specific standards. When those standards are met, a certified professional (a person certified by OEPA to assess the cleanup) may issue a “no further action letter.” This letter verifies that the property, in the view of the certified professional and based on an analysis performed by a certified laboratory, has been remediated and meets appropriate standards. After the issuance of a no further action letter, the OEPA Director may issue a covenant not to sue. This covenant releases the person who undertook a voluntary action from all civil liability to the state to:

1. Perform investigational activities at the property that was the subject of the voluntary action; and
2. Perform remedial activities to address a release of hazardous substances or petroleum at the property (with certain conditions).

The bill eliminates a requirement that OEPA certify laboratories for purposes of assessing whether cleanup standards have been met under the VAP. Instead, it requires each laboratory to hold a valid accreditation from an outside accreditation body, as follows:

1. For analysis of asbestos:
 - a. The American Industrial Hygiene Association, Asbestos Analysts Registry;
 - b. The National Institute of Standards Technology, National Voluntary Laboratory Accreditation Program (NELAP) for asbestos fiber analysis; or
 - c. An accreditation body recognized by the National Environmental Laboratory Accreditation Conference (NELAC).
2. For analysis of any constituents other than asbestos:
 - a. An accreditation body recognized by NELAC;
 - b. A NELAP accreditation from an accreditation body recognized by NELAC.

The bill generally requires a person participating in a voluntary action to use the services of an accredited laboratory to perform analyses. But, it specifies that data analyzed by a laboratory certified by OEPA before the bill’s effective date may still be used for a voluntary action. Because this data may still be utilized, the bill retains the Director’s authority to audit any work performed by a certified laboratory before the bill’s effective date. For these purposes, the Director may do any of the following:

1. Enter the property of a certified laboratory for purposes of investigation;
2. Conduct a special audit when a no further action letter was issued under the VAP but the analyses were performed by a certified laboratory for which certification was suspended or revoked before the bill’s effective date; and

3. Audit work performed by a certified laboratory to determine if the laboratory's performance of its duties has resulted in the issuance of a no further action letter that is not consistent with cleanup standards.

The bill expands the Director's investigation and auditing authority so that it also applies to accredited laboratories. It also prohibits the Director from contracting with an accredited laboratory to perform an audit if the laboratory performed any analyses that formed the basis for the issuance of a no further action letter in connection with the audit. This prohibition is a continuation of a prohibition that applies to certified laboratories. Finally, the bill eliminates outdated provisions governing the VAP that applied before the Director adopted the rules governing the VAP.

Water pollution control: practical qualification level

(R.C. 6111.13)

The bill specifies that, for purposes of determining compliance with a water pollutant discharge limit set below the practical quantification level (PQL), any reported value below PQL (instead of any level "at or below" PQL) constitutes compliance. A PQL is the minimum concentration of an analyte (substance whose chemical constituents are being measured) that can be measured with a high degree of confidence that the analyte is present at the reported concentration.

Isolated wetland mitigation ratio table reference

(R.C. 6111.027)

The bill corrects an incorrect division reference to the Ohio Administrative Code in the law governing isolated wetlands. Current law references mitigation ratios established under division (F) of rule 3745-1-54 of the Administrative Code. However, after the most recent revision to that rule, that reference is no longer accurate. The bill corrects this by instead only referring to rule 3745-1-54.

FACILITIES CONSTRUCTION COMMISSION

- Requires a school district, instead of the Facilities Construction Commission as in current law, to notify the Superintendent of Public Instruction if the district will exceed the limit on net indebtedness specified in continuing law.

Notification of district net indebtedness

(R.C. 133.06)

The bill requires a school district, instead of the Facilities Construction Commission, as in current law, to notify the Superintendent of Public Instruction if the district will exceed the limit on net indebtedness specified in continuing law.

Background

Continuing law generally prohibits a school district from incurring net indebtedness exceeding 9% of its tax valuation. A district also may not submit to its voters the question of incurring new debt that will make the district's net indebtedness exceed 4% of its tax valuation, unless the state Superintendent consents to the submission. (Except for limited debt to purchase energy conservation improvements in its buildings, or alternative fuel vehicles, a district may not issue debt in excess of 0.1% of its tax valuation without voter approval.)

School districts, however, may exceed those limits when necessary to raise the district share to participate in a school facilities project. The district must notify the state Superintendent whenever a district will exceed either limit.

DEPARTMENT OF HEALTH

Summary orders at nursing homes and assisted living facilities

- Permits the Director of Health (ODH Director) to issue orders, take corrective action, and impose fines without providing a nursing home, residential care (assisted living) facility, or other home with notice and an opportunity for a hearing if the Director determines immediate action is necessary to protect resident health or safety.
- Permits a home to request a hearing under the Administrative Procedure Act after a summary order is issued.

Inspections of assisted living facilities

- Authorizes the ODH Director to inspect a residential care (assisted living) facility every 30 months, instead of every 15 months as in current law, once the facility has had two consecutive 15-month inspections without any substantiated violations and other related conditions are met.

Long-term care bed buyback program

- Requires the Department of Health (ODH), in consultation with the Departments of Aging and Medicaid, to establish a long-term care bed buyback program during FY 2022 and FY 2023.
- Provides that under the program, nursing facility operators may voluntarily, permanently surrender for compensation one or more licensed long-term care beds due to a decrease in bed utilization.
- Requires ODH to solicit program applications from nursing home operators, setting forth program requirements and the criteria that will be used to evaluate competing bed surrender proposals.
- Requires a nursing facility that has received payment for the surrender of long-term care beds to provide notice to ODH that includes specified information.

Hospital licensure

- Within three years of the bill's effective date, requires a hospital operating in Ohio to be licensed by the ODH Director rather than registered as under current law.
- Specifies that any existing law reference to a hospital that is not included in the bill is to be construed as a reference to a hospital licensed under the bill's licensure requirements.

Home visiting services

- Allows families with children up to age five (instead of age three) to receive home visits through the Help Me Grow Program.
- Changes the frequency of the ODH summit on home visiting services to once every two years, instead of twice a year.

Technological resources

- Removes a requirement that providers conducting home visits under the Help Me Grow Program, WIC clinics, and Medicaid managed care organizations promote the use of technological resources that provide information on having a healthy pregnancy and healthy baby.

Smoking and tobacco

Minimum age to sell tobacco products

- Prohibits employees under 18 from selling tobacco products.

Dispensing tobacco cessation drugs without a prescription

- Authorizes pharmacists and pharmacy interns to dispense tobacco cessation drugs without a prescription in accordance with physician-established protocols.

Moms Quit for Two grant program

- Continues the Moms Quit for Two grant program for the delivery of tobacco cessation interventions to women who are pregnant or living with children and reside in communities with the highest incidence of infant mortality.

Smoke-Free Workplace Law

- Expands the Smoke-Free Workplace Law to include electronic smoking devices and vapor products.

Vapor products certificate of operation

- Requires any person seeking to sell vapor products to obtain a certificate of registration prior to doing so.
- Imposes a \$500 annual fee for a certificate of registration.
- Imposes a maximum fine of \$1,000, or \$100 if the violation is within 90 days of a certificate's expiration, for the sale, offer to sell, or possession with intent to sell without a certificate of registration.
- Specifies all fees and fines collected in relation to the vapor product certificate of registration program are to be deposited in the Tobacco Use Prevention Fund and used for administration of the certificate program or for tobacco and nicotine prevention or cessation interventions.

Renovation, Repair, and Painting Rule

- Authorizes the ODH Director to enter into agreements with the U.S. Environmental Protection Agency for the administration and enforcement of the federal Renovation, Repair, and Painting (RRP) Rule, which establishes requirements regarding lead-based paint hazards associated with renovation, repair, and painting activities.
- Allows the Director to do both of the following:

- Accept available assistance in support of those agreements; and
- Adopt rules to administer and enforce the federal RRP Rule.

Lead abatement fines and penalties

- Allows the Director of Health to impose an administrative fine of up to \$5,000 for violations of the law governing lead abatement, which must be deposited into the Department of Health's existing General Operations Fund.
- Increases, from \$1,000 to \$5,000, the maximum allowable civil penalty that a court of common pleas may impose against a person for violations of the law governing lead abatement.

Summary orders at nursing homes and assisted living facilities

(R.C. 3721.081)

Orders and action

In circumstances where the Director of Health (ODH Director) determines immediate action is necessary to protect resident health or safety, because a nursing home, residential care (assisted living) facility, or other home is not acting with sufficient promptness or efficiency to protect resident health or safety, the bill authorizes the Director to do either or both of the following without providing notice and an opportunity for a hearing:

1. Issue orders, including specifying actions that a home must immediately take;
2. Take direct action to protect resident health and safety if the home fails to act on an order issued.

The orders may be issued or action taken as necessary to protect the health or safety of residents of a home, including removing a threat to resident health or safety, transferring residents until a threat is resolved, and appointing a temporary administrator for the home.

Expenses and fines

A home is responsible for any expenses incurred to comply with an order. If the ODH Director takes action, a home must reimburse the Department of Health (ODH) for all necessary expenses.

The bill authorizes the Director to impose a fine of up to \$250,000, plus interest, for each instance of noncompliance with a summary order issued under the bill. All reimbursements, fines, and interest must be credited to the General Operations Fund in the state treasury.

Requests for hearings

A home that is subject to a summary order may request a hearing under the Administrative Procedure Act. The request must be received by the Director within 30 days after the notice of the order was mailed. The hearing must be held between 15 and 60 days after the request, unless the parties agree otherwise. The Director must issue a final adjudication order no

later than 90 days after the hearing is complete. A summary order remains in effect, unless reversed by the Director, until a final adjudication order is issued.

A final adjudication order may be appealed in accordance with the Administrative Procedure Act. The final adjudication order is not suspended while the appeal is pending.

Inspections of assisted living facilities

(R.C. 3721.02)

Under current law, before a nursing home or residential care (assisted living) facility may be licensed, it must be inspected by the ODH Director and the State Fire Marshal, or a fire department approved by the Fire Marshal. A home must be inspected every 15 months thereafter.

The bill extends the period for inspections by the ODH Director from 15 months to 30 months if all of the following apply:

- The facility has had at least two consecutive 15-month inspections with no substantiated violations;
- During that same time period, there were no substantiated violations from any other inspections or from any investigations of complaints;
- There are no outstanding violations from any previous inspections or investigations during any other time period.

An assisted living facility still must be inspected by the State Fire Marshal or an approved fire department once every 15 months.

Long-term care bed buyback program

(Section 291.50)

The bill requires ODH, in consultation with the Departments of Aging and Medicaid, to establish during FY 2022 and FY 2023 a long-term care bed buyback program under which nursing facility operators may voluntarily, permanently surrender for compensation one or more licensed long-term care beds due to a decrease in bed utilization. To be eligible for the program:

1. The bed must be located in a county with a bed excess, as calculated by ODH; and
2. After the bed is surrendered, the county must have sufficient beds remaining to address the bed need in the county, as calculated by ODH.

Applications

ODH must solicit applications from nursing home operators to participate in the program. In the solicitation, ODH must set forth program requirements and criteria that will be used to evaluate competing proposals. In evaluating the applications, ODH must consider which facilities best meet the bed buyback program requirements and shall give priority to operators that are current with their franchise permit fee payments. The bill prohibits a nursing facility operator from submitting a certificate of need involving any of the long-term care beds licensed at the

nursing facility or a change of operator application while the operator has a pending bed buyback program application.

If an application is denied, the applicant may request that ODH reconsider. ODH must then conduct a reconsideration of its decision. Its redetermination is final.

Notification

Not later than three business days after accepting payment from ODH for the surrender of a long-term care bed under the program, the operator of a licensed nursing facility must notify the ODH Director that (1) the operator is participating in the long-term care bed buyback program, (2) the operator has accepted payment for the surrender of beds, and (3) the number of beds that are being permanently surrendered by the operator. Upon the notice, those beds are permanently removed from the nursing facility's licensed bed capacity.

Hospital licensure

(R.C. 3722.02 (primary), 3722.01 to 3722.14, and 3722.99; conforming changes in numerous other R.C. sections)

Beginning three years after its effective date, the bill requires each hospital operating within Ohio to hold a license from the ODH Director, rather than be registered as under current law. Should a hospital fail to obtain the license by the required date, it will be subject to civil and criminal penalties.

Because the bill does not amend all of the references to registered hospitals in the Revised Code, it also specifies that, beginning three years after its effective date, any existing law reference to a hospital is to be construed as a reference to a hospital licensed under the bill's licensure requirements.

Effective date of mandatory licensure and interim period

For three years after the bill's effective date, existing law requirements are maintained, and the bill's new requirements apply only to hospitals that have obtained licenses. As described in more detail below, ODH may begin to consider applications for licensure one year after the bill's effective date. Hospitals will then have two years to become licensed. During that period, some facilities may be both licensed under the new hospital licensing plan and subject to existing law requirements. Once the bill's license mandate becomes effective, each hospital within the state must be licensed by the ODH Director in order to operate.

Definitions

The bill defines "**hospital**" to mean an institution or facility that provides inpatient medical or surgical services for a continuous period longer than 24 hours or a hospital operated by a health maintenance organization. Note that a **hospital** includes a "**children's hospital**," defined to mean a hospital or a distinct portion of a hospital that provides general pediatric medical and surgical care in which at least 75% of annual inpatient discharges for the preceding two calendar years were individuals younger than 18.

Entities not subject to hospital licensure

The bill specifies that its licensure requirements do not apply to the following:

- A hospital operated by the federal government;
- An ambulatory surgical facility or other health care facility licensed by the ODH Director;
- A nursing home or residential care (assisted living) facility licensed by the ODH Director;
- A hospital or inpatient unit licensed by the Department of Mental Health and Addiction Services (OhioMHAS);
- A residential facility licensed by OhioMHAS or the Department of Developmental Disabilities;
- A community addiction services provider certified by OhioMHAS;
- A facility providing services under a contract with the Department of Developmental Disabilities;
- A facility operated by a licensed hospice care program and that is used exclusively for the care of hospice patients;
- A facility operated by a licensed pediatric respite care program and that is used exclusively for the care of pediatric respite care patients;
- A health maintenance organization that does not operate a hospital;
- The site where a health care practice is operated, regardless of whether the practice is organized as an individual or group practice;
- A clinic providing ambulatory patient services where patients are not regularly admitted as inpatients;
- An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation, and providing 24-hour nursing care pursuant to an exemption from certain Ohio Board of Nursing licensing requirements.

Note on maternity units and newborn care nurseries

Ohio law requires hospital maternity units and newborn care nurseries to be licensed by the ODH Director. The bill maintains this licensure – but only for the period during which a hospital is not required to be licensed. After hospital licensure is mandatory, the bill repeals the law governing maternity unit and newborn care nursery licensure because they will be covered by the hospital’s license.

Penalties for operating without a license

Should a hospital operate without a license, the bill requires the ODH Director to do the following:

- Notify the hospital that it is operating without a license and provide it with an opportunity to apply for licensure;
- Direct the hospital to cease operations;

- Impose a civil penalty of not more than \$250,000 as well as a penalty of not less than \$1,000 and not more than \$10,000 for each day the hospital operates without a license.

The bill also authorizes the Director to petition the court of common pleas of the county in which the hospital is located for an order enjoining the hospital from operating.

Moreover, a hospital can be subject to criminal penalties for operating without a license. Violations are first degree misdemeanors, punishable by a fine of not more than \$1,000 and a jail term of not more than 180 days.³⁴ In addition, the bill imposes an additional penalty of \$1,000 for each day the hospital operates without a license.

Applications for licensure

Each private or public entity, including a state university, seeking to operate a hospital must apply to the ODH Director for a license. The Director cannot consider any application until one year from the bill's effective date. Applications must be submitted in the form and manner prescribed by the Director in rules.

Eligibility

To be eligible for licensure, an applicant must satisfy the following:

- Have submitted a complete application, including payment of the fee specified in rules adopted by the Director;
- Be certified under Title XVIII of the Social Security Act (Medicare), or accredited by a national accrediting organization approved by the federal Centers for Medicare and Medicaid Services;
- Demonstrate the ability to comply with standards established in rules adopted by the Director;
- Specify the number of beds for the hospital, including skilled nursing beds, long-term care beds, and special skilled nursing beds.

Multiple buildings or hospital campus

If an applicant seeks to operate as a hospital a facility that consists of multiple buildings adjacent to one another, the applicant must submit a single application for licensure.

In the case of a facility that consists of multiple buildings that are not adjacent, an applicant may submit a single application for licensure, but the Director may consider it only if the applicant demonstrates that the buildings are in the immediate vicinity of one another so as to constitute a medical center or medical campus.

License issuance, validity, and renewals

If an applicant meets the eligibility requirements, the Director must issue to the applicant a license to operate a hospital. The license is valid for three years and may be renewed for additional three-year periods. Applications for renewal must be submitted to the Director in the

³⁴ R.C. 2929.24 and 2929.28, not in the bill.

manner prescribed in rule. The bill provides for staggered renewals in the initial years of the licensure structure.

The bill further provides that a license is valid only for the entity and premises named in the application. It also requires the license holder to post a copy of the license in a conspicuous place in the hospital.

License transfer

If a hospital is assigned, sold, or transferred to a new owner, the new owner must apply for a license transfer within 30 days of the assignment, sale, or transfer.

The new owner is responsible for complying with any action taken or proposed by the Director (see “**Violations**” and “**Real and Present Danger**” below). If a notice has been issued under the Administrative Procedure Act, the new owner becomes party to the notice.

Hospital inspections

On the filing of a license application, the ODH Director may inspect the hospital prior to issuing or denying the license. The bill also appears to allow for inspections as part of the license renewal process.

Process to avoid inspections

An applicant may avoid an inspection by submitting to the Director a copy of the hospital’s most recent on-site survey report from an accrediting body demonstrating that the hospital is in deemed status.

Confidentiality of on-site survey reports

The bill specifies that an on-site survey report from an accrediting body that is submitted in accordance with the bill’s provisions is confidential and not a public record.

Unit inspections

At least once every 36 months, the bill requires the Director to inspect each licensed hospital’s maternity unit, newborn care nursery, and any unit providing any of the following services:

- Pediatric intensive care;
- Solid organ and bone marrow transplantation;
- Stem cell harvesting and reinfusion;
- Cardiac catheterization;
- Open heart surgery;
- Operation of linear accelerators;
- Operation of cobalt radiation therapy units;
- Operation of gamma knives.

Compliance inspections

To monitor compliance with the bill and the rules adopted under it, the Director may at any time inspect a licensed hospital.

Inspection fees

Any inspection conducted under the bill's provisions is subject to a fee. Upon conducting the inspection, the Director must provide the applicant or license holder with a fee statement. Not later than 15 days after receiving the fee statement, the applicant or license holder must submit the total amount of the fee.

Rulemaking

Health, safety, welfare, and quality standards

Not later than one year after the bill's effective date, the bill requires the ODH Director to adopt rules establishing health, safety, welfare, and quality standards for licensed hospitals, including standards for the following:

- Maternity units;
- Newborn care nurseries;
- Hospital services, including pediatric intensive care, solid organ and bone marrow transplantation, stem cell harvesting and reinfusion, cardiac catheterization, open heart surgery, operation of linear accelerators, operation of cobalt radiation therapy units, and operation of gamma knives.

Standards and procedures for licensure

Not later than one year after the bill's effective date, the ODH Director must adopt rules establishing standards and procedures for the licensure of hospitals, including all of the following:

- Procedures for applying and renewing licenses;
- Procedures for transferring licenses;
- Procedures for inspections following complaints;
- Fees for initial applications, license renewals, and license transfers, as well as inspections;
- Standards and procedures for imposing civil penalties;
- Standards and procedures for correcting violations, including through the submission of correction plans;
- Standards and procedures for identifying, monitoring, managing, reporting, and reducing exposures to risk conditions, such as Legionella, including through the use of environmental facility assessments, the development of water management plans, and the use of disinfection measures;
- Standards and procedures for data reporting;
- Standards and procedures for emergency preparedness;

- Standards and procedures for the provision of technical assistance.

Penalties

With respect to the rules governing the imposition of civil penalties, the Director must establish a scale for determining the amount of a civil penalty that may be imposed. The scale must include per day amounts for ongoing violations. The total amount of a civil penalty must not exceed \$250,000 for each violation.

Other rules

The bill authorizes the Director to adopt any other rules as necessary to implement the bill's provisions.

Administrative Procedure Act

Rules adopted under the bill's provisions must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119).

Violations

The bill specifically requires each licensed hospital to comply with its provisions and the rules adopted under it. If the ODH Director finds that an applicant or license holder has violated any of the bill's requirement or the rules, the bill authorizes the Director to do any of the following:

- Suspend, revoke, or refuse to issue or renew a license;
- Provide the license holder an opportunity to correct the violation;
- Provide the license holder with a plan to correct or mitigate the violation;
- Prohibit the license holder from admitting new patients;
- Impose a civil penalty;
- If the Director believes there is a danger of immediate and serious harm to the public, summarily suspend either a license or type of health care service.

Any decision or determination to take any of the foregoing actions is subject to the Administrative Procedure Act.

Summary suspensions

If the Director suspends a license or health care service, the bill requires the Director to issue a written order of suspension and furnish a copy to the license holder either by certified mail or in person. If the license holder requests an adjudication, the adjudication must be held within 30 days but not less than 15 days after the request, unless another date is agreed to by the license holder and director. The summary suspension remains in effect, unless reversed by the Director, until the Director issues a final adjudication order.

The Director must issue a final adjudication order not later than 90 days after the adjudication. If the Director fails to do so within the 90-day period, the summary suspension is void, but any final adjudication order issued subsequent to the 90-day period is valid. In the event

an appeal and while the appeal is pending, a court of common pleas is prohibited from issuing an order reversing the summary suspension.

Injunctive relief

If the Director suspends or revokes a license and the license holder continues to operate a hospital, the Director may ask the Attorney General to apply to the common pleas court of the county where the hospital is located for an order enjoining the license holder from continuing to operate the hospital.

Real and present danger

The bill authorizes the ODH Director to take certain actions if the Director determines that a real and present danger exists at a hospital. “**Real and present danger**” is defined to mean imminent danger or serious physical or life-threatening harm to one or more occupants of a hospital.

The actions that the Director may take include:

- Petitioning a court for injunctive relief, which may include closing the hospital or transferring its occupants to other hospitals or appropriate settings;
- If the Director opts not to pursue injunctive relief, providing written notice of proposed action;
- If the hospital notifies the Director that it has corrected the conditions giving rise to a real and present danger, conducting inspections to determine if the danger remains;
- Performing on-site hospital monitoring.

Notice of proposed action

When providing notice of proposed action, the Director must deliver that notice to the hospital’s administrator, governing board, and statutory agent. This may be done either by hand or certified mail.

Appointment of a special master and on-site monitoring

If a court grants injunctive relief, the bill allows it to appoint a special master to oversee hospital operations. The special master has the powers and authority over the hospital and a length of appointment as the court considers necessary. The special master’s salary and any costs incurred by the master are the hospital’s obligation.

The bill prohibits a special master from entering into any employment contract on behalf of a hospital or purchase with the hospital’s funds any capital goods totaling more than \$10,000, unless the special master has obtained approval from the hospital or the court.

The bill also authorizes the Director to appoint ODH employees to conduct on-site monitoring. Appointment of monitors is not subject to appeal. The bill prohibits ODH from appointing any of the following as a monitor: an employee of a hospital for which monitors are appointed, a person employed by the hospital within the previous two years, or a person who currently has a consulting contract with ODH or a hospital. Every monitor must have the professional qualifications necessary to monitor correction of the conditions that give rise to or,

in the Director’s judgment, will give rise to a real and present danger. The number of monitors present at a hospital at any given time may not exceed one for every 50 patients, or fraction thereof.

On finding that that the real and present danger for which injunctive relief was granted has been eliminated and that the hospital has demonstrated the capacity to prevent the real and present danger from recurring, the court must terminate its jurisdiction over the hospital and return control and management to the hospital.

If the real and present danger cannot be eliminated practicably within a reasonable time following appointment of a special master, the court may order the special master to close the hospital and transfer all patients to other hospitals or other appropriate care settings.

Technical assistance

The bill authorizes the ODH Director to provide each hospital with technical assistance in all of the following areas:

- Infectious diseases, including measures to prevent and control their spread;
- Quality improvement projects, including health equity and disparities;
- Population health initiatives;
- Data analytics;
- Workforce recruitment and development.

The bill also allows the Director to engage with one or more quality improvement organizations to assist in providing technical assistance. Such an organization must provide the assistance without compensation from ODH. The Director may terminate the assistance of a quality improvement organization at any time.

The Director may use any fees or civil penalties collected in accordance with the bill’s provisions to fund the provision of technical assistance to licensed hospitals, including contracting with entities to provide training or technical assistance determined necessary by the Director.

Hospital governing board

Each licensed hospital is required by the bill to have a governing board to oversee its management, operation, and control. The governing board is specifically responsible for both:

- Overseeing the appointment, reappointment, and assignment of privileges to medical staff; and
- Establishing protocols for the admission and treatment of patients.

Admitting privileges

The bill repeals the law governing the admission and medical supervision of hospital patients, including admissions initiated by advanced practice registered nurses and physician assistants.³⁵

Opioid reporting

The bill revises the law governing reports of the number of babies diagnosed as opioid dependent at birth. Under current law, each licensed maternity unit, newborn care nursery, and maternity home must report those numbers to the ODH Director quarterly. Beginning three years after the bill's effective date, the duty to report will fall instead on hospitals operating maternity units or newborn care nurseries. However, until the three years have run, maternity units, newborn care nurseries, and maternity homes must continue to report to the Director. Note that after the three years have elapsed, maternity homes will continue to be required to report.

Disease reporting

Beginning three years after the bill's effective date, each hospital must report to the ODH Director the contagious, environmental, or infectious diseases, illnesses, or health conditions or unusual infectious agents or biological toxins for which it provides treatment to patients.

The bill requires the Director to adopt rules that:

- Specify the diseases, illnesses, conditions, infectious agents, and biological toxins to be reported;
- Specify the frequency with which a hospital must report; and
- Prescribe the manner in which reports are to be made.

Any information reported is protected health information as described under continuing law and may be released only in accordance with that law. Under the bill, information that does not identify an individual may be released in summary, statistical, or aggregate form.

Under continuing law not amended by the bill, hospitals are among a list of health care providers required to report to local boards of health the existence of certain diseases.³⁶ Health providers may do this by submitting an electronic report to the Ohio Disease Reporting System.

General operations fund

The bill specifies that any fees and civil penalties collected under it must be deposited in the state treasury and used solely for purposes of administering and enforcing the bill's provisions.

³⁵ R.C. 3727.06.

³⁶ R.C. 3701.17 and 3701.23, not in the bill, and O.A.C. 3701-3-03 and 3701-3-05.

Home visiting services

(R.C. 3701.61 and 3701.613 with conforming changes in R.C. 5167.16)

The bill expands eligibility to receive home visiting services through the Help Me Grow Program to include families with children under age five. Current law limits home visits to families with pregnant women or children under age three. The goals of home visits include improving maternal and child health, reducing family violence, improving school readiness, improving economic self-sufficiency, and reducing smoking.

Moreover, the bill reduces, from twice a year to every two years, the frequency with which ODH must facilitate a summit to share the latest research on home visiting programs and to discuss how to make home visiting programs more effective.

Technological resources

(R.C. 3701.132 and 3701.61; repealed R.C. 5167.172)

The bill repeals the law that requires the Help Me Grow Program, WIC clinics, and Medicaid managed care organizations to promote the use of technological resources, such as text messaging applications, that provide information on having a healthy pregnancy and healthy baby.

Smoking and tobacco

Minimum age to sell tobacco products

(R.C. 2927.02)

The bill expands the offense of illegal distribution of tobacco products by prohibiting tobacco businesses from permitting employees under 18 from selling tobacco products. A violation is a fourth degree misdemeanor on a first offense and a third degree misdemeanor on a subsequent offense.

The bill also provides that it is not a violation of either of the following other prohibitions for an employer to permit an employee age 18, 19, or 20 to sell a tobacco product:

- The prohibition against a tobacco business distributing tobacco products to any person under 21;
- The prohibition against a tobacco business distributing tobacco products in a place lacking a conspicuous, required sign relating to the underage sale of tobacco products.

Dispensing tobacco cessation drugs without a prescription

(R.C. 4729.42 and 4731.90)

Provider and protocol requirements

The bill authorizes a pharmacist, or pharmacy intern practicing under the direct supervision of a pharmacist, to dispense tobacco cessation drugs without a prescription in accordance with a physician-developed protocol to individuals who are seeking to quit using tobacco-containing products. The following requirements must be met in order for the authorization to apply:

- The pharmacist or intern must successfully complete an accredited or approved course on tobacco cessation therapy;
- The pharmacist or intern must practice in accordance with a physician-established protocol that specifies a definitive set of treatment guidelines and the locations where the tobacco cessation drugs may be dispensed.

The bill requires the protocol to include provisions to implement the following requirements:

- Use by the pharmacist or intern of a screening procedure to determine if an individual is a good candidate to receive tobacco cessation drugs dispensed by a pharmacist or intern;
- Referral by the pharmacist or intern of high-risk individuals or individuals with contraindications to a primary care or other provider;
- Development and implementation of a follow-up care plan in accordance with guidelines adopted in rules;
- Parental or guardian consent for individuals younger than 18.

Documentation and notice

The bill requires documentation related to screening, dispensing, and follow-up care plans to be maintained in the pharmacy's records. Not later than 30 days after a screening is conducted, the pharmacist or pharmacy intern must provide notice to the individual's primary care provider, or to the individual if the primary care provider is unknown.

Prohibition

The bill prohibits a pharmacist or pharmacy intern from dispensing tobacco cessation drugs without a prescription unless the bill's requirements are met. It also prohibits a pharmacist from delegating the pharmacist's authority to dispense or supervise the dispensing of tobacco cessation drugs.

Rules

The bill requires the Pharmacy Board to adopt rules in accordance with the Administrative Procedure Act to implement its provisions. The rules must specify which tobacco cessation drugs may be included in a protocol. The Department of Health must be consulted before adopting rules that specify those drugs.

Regarding rules related to requirements for protocols, the Pharmacy Board must consult with the State Medical Board.

Moms Quit for Two grant program

(Section 291.30)

The bill continues Moms Quit for Two. Authorized in each biennium since 2015, it is a grant program administered by ODH that awards funds to government or private, nonprofit entities demonstrating the ability to deliver evidence-based tobacco cessation interventions to

women who are pregnant or living with children and reside in communities that have the highest incidence of infant mortality, as determined by the ODH Director.

Program funds cannot be used to provide tobacco cessation interventions to Medicaid-eligible women.

Smoke-Free Workplace Law

(R.C. 3794.01)

The bill expands the Smoke-Free Workplace Law to include electronic smoking devices and vapor products. Current law prohibits smoking in a public place or a place of employment. For a first violation of this prohibition, ODH issues a warning letter to the offending individual or proprietor. Subsequent fines are set in accordance with the following:

Violation #	Proprietor Violation	Individual Violation
2 nd	\$100	\$100
3 rd	\$500	\$100
4 th	\$1,000	\$100
5 th and subsequent	\$2,500	\$100

ODH may also sue repeat offenders seeking a court requiring the offender to stop the offending behavior.³⁷

Vapor products certificate of operation

(R.C. 2927.025 to 2927.0210)

The bill sets up a registration structure for persons seeking to sell vapor products. Vapor products are products, other than cigarettes or other tobacco products, that contain or are made or derived from nicotine and that are intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. Vapor products include any component of an electronic smoking device.

Under the bill, individuals are prohibited from selling, offering to sell, or possessing with intent to sell vapor products unless they have obtained a certificate of registration from ODH for the place of business where the vapor products are to be sold.

The bill specifies that a certificate of registration does not constitute property, is not subject to attachment and execution, and is not alienable.

³⁷ R.C. 3794.02 and 3794.09, not in the bill; O.A.C. 3701-52-09.

Application

To obtain a certificate, the applicant must file an application with ODH. The application fee is \$100 (plus the \$500 annual fee discussed below under “**Fees and renewal**”). Additionally, ODH may require an applicant to submit documentation verifying that the location where vapor products are to be sold meets all relevant building and safety codes. ODH is authorized to conduct an investigation to determine whether or not an applicant should be issued a certificate of registration.

ODH must issue a certificate of registration to an applicant unless it finds any of the following:

- The application contains materially false information, or the applicant has submitted materially false information to ODH in the past;
- The applicant has failed to pay any taxes due to the state;
- The applicant has failed to provide documentation showing the location where vapor products are to be sold meets all relevant safety codes;
- The applicant, during the previous three years, has been convicted of or pleaded guilty or no contest to either:
 - The illegal distribution of cigarettes, other tobacco products, or alternative nicotine products; or
 - An illegal tobacco product or alternative nicotine product transaction scan.
- ODH determines, subsequent to an investigation, that the applicant is unsuitable to receive a certificate of registration.

Fees and renewal

A certificate of registration is valid for one year. The annual fee for the certificate is \$500. ODH may renew the registration of any applicant if the applicant has paid all related fines and fees. A certificate of registration subject to administrative or court proceedings is not eligible for renewal.

Revocation of certificate

ODH is authorized to suspend or revoke a certificate of registration at its discretion.

Any person aggrieved by a denial of an application, or the refusal to renew, the suspension, or revocation of a certificate of registration may appeal to ODH.

Fines

The holder of an expired certificate of registration who continues to sell vapor products is subject to a fine of \$100, if the violation occurred within 90 days of the certificate expiring. Otherwise, a person selling vapor products without a certificate of registration is subject to a fine of up to \$1,000. ODH may waive all or any part of such fines if it is proved that failure to obtain or renew a certificate or registration was due to reasonable cause.

Tobacco use prevention fund

All fees and fines collected in relation to the certificate of registration are to be deposited into the Tobacco Use Prevention Fund for administering the registration requirements and for tobacco and nicotine prevention or cessation interventions.

Renovation, Repair, and Painting Rule

(R.C. 3742.11)

The bill authorizes the ODH Director to enter into agreements with the U.S. Environmental Protection Agency (USEPA) for the administration and enforcement of the federal Renovation, Repair, and Painting (RRP) Rule. Under the RRP Rule, firms performing renovation, repair, and painting projects that disturb lead-based paint in homes, child care facilities, and pre-schools built before 1978 must be certified by USEPA (or a USEPA-authorized state), use certified renovators who are trained by USEPA-approved training providers, and follow lead-safe work practices.

The bill also allows the Director to accept available assistance in support of the agreements. The Director may adopt rules to administer and enforce the federal RRP Rule. If the Director adopts rules, the rules must specify the following:

1. Provisions governing applications for certification to undertake renovation, repair, and painting projects;
2. Provisions governing the approval and denial of certification and the renewal, suspension, and revocation of certification;
3. Fees for any certification issued or renewed under the Rule;
4. Requirements for training and certification, which must include levels of training and periodic refresher training for certifications issued under the Rule;
5. Procedures to be followed by a person certified under the Rule to undertake renovation, repair, and painting projects and to prevent public exposure to lead hazards and ensure worker protection during renovation, repair, or painting projects;
6. Provisions governing the imposition of civil penalties (up to \$5,000 per violation) for violations of procedures adopted under the Rule;
7. Record-keeping and reporting requirements for a person certified under the Rule;
8. Procedures for the approval of training providers under the Rule, including specific training course requirements; and
9. Any other procedures and requirements that the Director determines necessary for implementation of the Rule.

Lead abatement fines and penalties

(R.C. 3742.16, 3742.18, and 3742.19)

The bill authorizes the ODH Director to impose an administrative fine of up to \$5,000, in addition to the Director's current authority to deny, suspend, or revoke a license, accreditation, or certification, for one or more of the following reasons:

1. A violation of any provision of the law governing lead abatement;
2. Failure to pay fees for lead abatement professional licenses (for example, a lead abatement contractor or worker), fees for training program accreditation, or fees for any required certification;
3. Any material misrepresentation in an application for a license, accreditation, certification, or approval;
4. Interference with a lead poisoning investigation;
5. Failure to meet the lead abatement licensing requirements; or
6. Employing or using lead abatement personnel that are not licensed.

Administrative fines must be deposited in ODH's General Operations Fund.

The bill also increases, from \$1,000 to \$5,000, the maximum civil penalty that a court of common pleas may impose for violations of the laws governing lead abatement. Currently, if the Director makes a request, the Attorney General may commence a civil action for civil penalties and injunctive and other equitable relief against any person who violates those laws.

DEPARTMENT OF HIGHER EDUCATION

Restriction on instructional fee increases

- For the 2021-2022 and 2022-2023 academic years, permits state universities, the Northeast Ohio Medical University, and university branch campuses to increase instructional and general fees by not more than 2% over the previous academic year.
- For the 2021-2022 and 2022-2023 academic years, permits community colleges, state community colleges, and technical colleges to increase instructional and general fees by not more than \$5 per credit hour over the previous academic year.
- Excludes from the fee restrictions: room and board, student health insurance, auxiliary goods or services fees provided to students at cost, pass-through fees for licensure and certification exams, study abroad fees, elective service charges, fines, voluntary sales transactions, and fees to offset the cost of providing textbooks to students.

Textbook auto-adoption at state institutions

- Requires each state institution of higher education to consider a textbook auto-adoption policy prior to academic year 2022-2023.

Ohio Innovative Partnership – Choose Ohio First Scholarship

- Eliminates the Ohio Research Scholars Program part of the Ohio Innovative Partnership, but retains the Choose Ohio First Scholarship Program.
- Removes medicine, dentistry, and medical and dental education from the list of academic fields in which students may receive Choose Ohio First scholarships.
- Repeals the primary care medical student, primary care nursing student, and primary care dental student components of the Choose Ohio First Scholarship Program.
- Specifically includes “health professions” in the scholarship program’s purpose statement.
- Requires the Chancellor of Higher Education to determine which proposals will receive Choose Ohio First Scholarship Program awards based on the extent to which a proposal recruits underrepresented populations in certain academic fields.
- Requires the Chancellor to “endeavor to provide,” rather than guarantee, that students from all regions of the state are able to participate in the Choose Ohio First Scholarship Program.
- Requires all students receiving a Choose Ohio First scholarship (rather than half) to be involved in work-based learning through a co-op, internship, experience in a university, college, or private laboratory, or other work-based learning experience.
- Repeals a provision that permits the Chancellor to authorize an institution of higher education to award a scholarship amount exceeding the amount permitted under current law in certain circumstances.

- Repeals the requirement that the Controlling Board approve Choose Ohio First scholarship awards prior to their distribution.
- Specifies that the Choose Ohio First Scholarship Program Reserve Fund must consist of amounts designated for the purposes of the fund by the General Assembly, the federal government, or other sources.
- Make other changes regarding the administration of the Choose Ohio First Scholarship Program.

FAFSA data system

- Requires the Chancellor and the Management Council of the Ohio Education Computer Network to establish a data system to track the Free Application for Federal Student Aid (FAFSA) complete rate of Ohio’s public and chartered nonpublic school students.
- Permits the Chancellor to publish and share aggregate FAFSA data, including completion counts and rates for Ohio and each district or school.

Withholding student transcripts

- Permits the Chancellor to adopt rules regarding when a state institution of higher education may withhold official transcripts from a student.

OhioCorps Program

- Renames the “OhioCorps Pilot Program” as the “OhioCorps Program.”
- Eliminates the limit on the program’s operation to the 2019-2020 and 2020-2021 school years.
- Revises the eligibility criteria for the OhioCorps scholarship.

Computer science

- Requires that, beginning in the 2022-2023 academic year, each state university must recognize a student’s successful completion of certain advanced computer science courses as meeting general admissions requirements to the university.
- Requires each educator preparation program to require each candidate for an educator license who enters the program in the 2022-2023 academic year, or any academic year thereafter, to receive instruction in computer science and computational thinking.

As used in this chapter of the analysis:

A **state institution of higher education** means any of the 13 state universities, the Northeast Ohio Medical University, and each community college, state community college, technical college, and university branch campus. The state universities are the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State

University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

Restriction on instructional fee increases

(Section 381.160)

For FY 2022 and FY 2023 (the 2021-2022 and 2022-2023 academic years), the bill limits each state university, the Northeast Ohio Medical University, and each university branch campus to not more than a 2% increase in its in-state undergraduate instructional and general fees over what the institution charged in the prior academic year.

For those same years, each community college, state community college, and technical college may not increase its instructional and general fees more than \$5 per credit hour over what it charged in the previous academic year.

Increases for all other special fees, including newly created ones, are subject to the approval of the Chancellor of Higher Education.

However, the bill's limits on fee increases explicitly *exclude*:

- Room and board;
- Student health insurance;
- Fees for auxiliary goods or services provided to students at the cost incurred to the institution;
- Fees assessed to students as a pass-through for licensure and certification exams;
- Fees in elective courses associated with travel experiences;
- Elective service charges;
- Fines;
- Voluntary sales transactions; and
- Fees to offset the cost of providing textbooks to students, which may appear directly on a student's tuition bill as assessed by the institution's bursar.

As in previous biennia when the General Assembly capped tuition increases, the bill's provisions do not apply to increases required to comply with institutional covenants related to the institution's obligations or to meet unfunded legal mandates or legally binding prior obligations or commitments. Further, the Chancellor, with Controlling Board approval, may approve an increase to respond to exceptional circumstances identified by the Chancellor.

Additionally, institutions with an undergraduate tuition guarantee program may increase fees in accordance with that separate provision. Under that program, each entering cohort of undergraduate students of a state university pays an immediate increased rate for instructional

and general fees, but that rate is guaranteed not to increase again for that particular cohort for the next four years.³⁸

Textbook auto-adoption at state institutions

(Section 733.20)

The bill requires state institutions of higher education, prior to the 2022-2023 academic year, to evaluate their respective implementation of textbook affordability initiatives, by working collaboratively with the institution's faculty senate, to consider adopting a textbook auto-adoption policy. Citing the textbook auto-adoption policy at Wright State University as an example, the bill specifies that faculty members may retain full authority in selecting textbooks and materials appropriate for their classes.

By August 15, 2022, the board of trustees of each state institution must adopt a resolution or otherwise vote to affirm or decline adoption of the policy crafted by the administration and faculty senate. If the board adopts that policy, the bill requires transmission of a copy of the resolution to the Chancellor of Higher Education.

Ohio Innovative Partnership – Choose Ohio First Scholarship

(R.C. 3333.61, 3333.613, 3333.615, 3333.62, 3333.63, 3333.64, 3333.65, 3333.66, 3333.68, and 3333.69; repealed R.C. 3333.611, 3333.612, 3333.614, and 3333.67)

Ohio Research Scholars Program

The bill eliminates the Ohio Research Scholars Program, which is part of the Ohio Innovative Partnership, but retains the Choose Ohio First Scholarship Program. In doing so, it also replaces all references to the Ohio Innovative Partnership with references to the Choose Ohio First Scholarship Program.

Under existing law, the Ohio Research Scholars Program awards grants to state colleges and universities to use in recruiting scientists as faculty members, and the Choose Ohio First Scholarship Program assigns scholarships to state colleges and universities to recruit Ohio residents in certain academic fields.

The Choose Ohio First Scholarship Program assigns a number of scholarships to state universities and the Northeast Ohio Medical University (NEOMED) to recruit Ohio residents as undergraduate students. They may do so in collaboration with other state institutions of higher education and private colleges and universities in Ohio.

Academic fields for Choose Ohio First scholarships

The bill removes medicine, dentistry, and medical and dental education from the list of academic fields in which students may receive Choose Ohio First scholarships. It retains, however, existing law that permits students in the fields of science, technology, engineering, and mathematics and science, technology, engineering, and mathematics education to receive scholarships.

³⁸ R.C. 3345.48, not in the bill.

The bill also repeals the primary care medical student, primary care nursing student, and primary care dental student components of the scholarship program.

Finally, the bill specifically includes “health professions” in the scholarship program’s purpose statement.

Criteria for scholarship proposals

The bill requires the Chancellor to determine which proposals will receive Choose Ohio First Scholarship awards based on the extent to which a proposal recruits underrepresented populations in certain academic fields.

It also changes the existing list of criteria, at least one of which must be satisfied, that the Chancellor must use to determine which proposals will receive awards. Specifically, it adds:

1. The extent to which the state university or NEOMED has committed to, or demonstrated, an increase in total graduates in the academic fields specified above; and
2. An associate’s degree to the criteria concerning the extent to which the proposal facilitates the completion of a degree in a cost-effective manner.

It also removes the following criteria:

1. The amount of other monetary or nonmonetary resources that the proposal will use;
2. The demonstrated productivity or future capacity of the students or scientists to be recruited;
3. The extent to which other resources will be used to supplement students’ scholarships; and
4. The extent to which the proposal:
 - a. Is integrated with the Centers of Research Excellence;
 - b. Is collaborative with other institutions of higher education;
 - c. Facilitates a more efficient use of existing facilities and programs;
 - d. Will create additional capacity in educational or economic areas of need;
 - e. Will encourage graduates of two-year institutions in certain academic fields to transfer to state colleges or universities;
 - f. Encourages students to transfer into certain academic programs;
 - g. Permits students to attend a state university or NEOMED who otherwise could not afford it;
 - h. Increases the likelihood that students will successfully complete their degree programs;
 - i. Ensures that a student awarded a scholarship is prepared to complete a degree program; and
 - j. Increases the number of women participating in the program.

Statewide participation

The bill requires the Chancellor to “endeavor to provide,” rather than guarantee, that students from all regions of the state are able to participate in the Choose Ohio First Scholarship Program. It also repeals a provision that requires the Chancellor to endeavor to distribute scholarships so that all regions of the state benefit from the economic impact development of the program.

Participation in work-based learning

The bill expands to all students receiving a Choose Ohio First scholarship (rather than half of those students) the requirement to be involved in work-based learning through a co-op, internship, experience in a university, college, or private laboratory, or other work-based learning.

But it also permits state and private institutions to appeal to the Chancellor for a waiver in cases where exceptional circumstances make placement of all students impractical or significantly unachievable. (Existing law permits private four-year Ohio institutions to submit a proposal for Choose Ohio First scholarships and requires them to comply with all program requirements that apply to state institutions.)

Agreement governing use of scholarships

The bill repeals the law that requires the agreement that each state and private institution must enter, regarding the use of Choose Ohio First scholarships, to include performance measures, reporting requirements, and an obligation to fulfill pledges of other resources for the proposal.

It also repeals a provision that permits the Chancellor, if making awards to a program or initiative that will be in collaboration with other state or private institutions, to enter into an agreement to grant the award directly to the collaborating institution.

Recruitment initiatives

The bill repeals the requirement that the Chancellor encourage state institutions to submit Choose Ohio First proposals for initiatives that recruit either:

1. Residents who enrolled in colleges and universities in other states or countries to enroll in state universities or colleges as graduate students in certain academic fields; or
2. Graduate students from an Ohio college or university who received, or will receive, a degree in certain academic fields to participate in a graduate-level teacher education master’s program in a field that satisfies certain criteria.

Scholarship amounts

The bill repeals a provision permitting the Chancellor to authorize an institution to award a scholarship in an amount exceeding the amount permitted under current law to (1) undergraduate students enrolled in a program leading to a teaching profession in certain academic fields and (2) graduate students who qualify for scholarships under the recruitment initiatives described above.

Extension of awards

The bill permits the Chancellor to grant a one-time extension of a Choose Ohio First Scholarship award for up to four years. Currently, state universities or NEOMED must reapply each time an award expires in order to renew.

Controlling Board approval

The bill repeals the requirement that the Controlling Board approve scholarship awards prior to their distribution.

Reserve Fund

The bill specifies that the Choose Ohio First Scholarship Program Reserve Fund must consist of amounts designated for the purposes of the fund by the General Assembly, the federal government, or other sources.

FAFSA data system

(R.C. 3333.301)

The bill requires the Chancellor and the Management Council of the Ohio Education Computer Network to establish a data system to track the Free Application for Federal Student Aid (FAFSA) completion rate of Ohio's public and chartered nonpublic school students. The Chancellor and the Council must develop guidelines and procedures to operate the system.

The bill also authorizes the Chancellor to publish and share aggregate FAFSA data, including completion counts and rates for Ohio and each school district, community school, STEM school, college-preparatory boarding school, and chartered nonpublic school. The bill states that the data may be used for the benefit of schools, to increase public understanding regarding FAFSA, and to assist in encouraging student completion of the FAFSA form.

Finally, the bill requires each school district and each other public and chartered nonpublic high school to enter into a data sharing agreement with the Chancellor to operate the data system. (See "**FAFSA data system**" under "**DEPARTMENT OF EDUCATION,**" above.)

The Chancellor and the Council appear already to operate a FAFSA data system, the FAFSA Data Service. However, it appears that currently only school districts, community schools, and STEM Schools are eligible to participate and that participation is voluntary.³⁹

Withholding student transcripts

(R.C. 3333.0417)

The bill permits the Chancellor to adopt rules regarding when a state institution of higher education may withhold official transcripts from a student, including when a student owes money to the institution. In adopting those rules, the bill requires the Chancellor to consider

³⁹ For more information, see the FAFSA Data Service's [website](#) and the Management Council's [website](#).

(1) promoting the state’s postsecondary education attainment goals, (2) workforce goals, and (3) helping adult students complete their education.

OhioCorps Program

(R.C. 3333.80, 3333.801, and 3333.802)

The bill renames the “OhioCorps Pilot Program” as the “OhioCorps Program” and makes several other changes to that program’s operations. Specifically, it eliminates law that limits the program’s operation to the 2019-2020 and 2020-2021 school years. It also delays the deadline for the Chancellor’s report to the General Assembly, regarding the program’s implementation, to the end of the 2021-2022 school year, rather than the end of the 2020-2021 school year as under current law.

Finally, the bill changes two of the eligibility criteria for an OhioCorps scholarship. It requires a student to achieve a remediation-free score in math, reading, or English on a nationally standardized assessment (ACT or SAT), rather than requiring the student to achieve a remediation-free score on the entire assessment as under current law. In addition, it requires a student to complete and attain a passing grade in at least one College Credit Plus (CCP) course. Under current law, a student must do so in at least one math and one English language arts CCP course.

OhioCorps is established to guide at-risk high school and qualifying middle students toward a pathway to higher education through mentorship programs operated by state institutions of higher education. Students who participate in the mentorship programs, enroll in a state institution, and meet other eligibility criteria may qualify for OhioCorps scholarships.

State university admissions and computer science education

(R.C. 3345.063)

Beginning with the 2022-2023 academic year, the bill requires each state university to recognize a student’s successful completion of an advanced computer science course in high school as a unit for admission to the university under certain circumstances. Specifically, a state university must do so if the course is aligned with the State Board of Education’s computer science standards and if the student completed the course to meet one of several requirements contained in the minimum high school curriculum requirements. The state university must apply the completed course to a general university admissions requirement similar to the high school curriculum requirement the student met with the course.

The following table indicates how, under the bill, a student could use a computer science course to meet a high school curriculum requirement, and how a state university must recognize the course as meeting a general admissions requirement.

Completed Course	Minimum high school curriculum requirement	State university general admissions requirement
An advanced computer science course equal to one unit of instruction	One unit of math instruction	One unit toward a general math requirement
An advanced computer science course equal to one unit of instruction	One unit of science instruction	One unit toward a general science requirement
An advanced computer science course equal to one unit of instruction	One general elective unit	One unit toward a general elective requirement
A computer coding course equal to one unit of instruction	One unit of foreign language instruction	One unit toward a general foreign language requirement

In addition, the bill requires each state university to post a description of its recognition of advanced computer science as a core unit for admission to the university in a prominent location on the university’s website.

Educator preparation programs and computer science

(R.C. 3333.049)

The bill specifies that each educator preparation program must require each candidate for an educator license who enters the program in the 2022-2023 academic year and after to receive instruction in computer science and computational thinking, as applied to student learning and classroom instruction and as appropriate for the grade level and subject area of the candidate’s prospective educator license.

DEPARTMENT OF JOB AND FAMILY SERVICES

Case plans and family service plans

- Beginning January 1, 2023, makes it mandatory for a public children services agency (PCSA) or private child placing agency (PCPA) to include in its case plan for a child in temporary custody (unless it is not in the child's best interest) a permanency plan that describes agency-provided services to achieve permanency for the child if reasonable efforts at family reunification are unsuccessful.
- Requires permanency plan services to be provided concurrently with efforts at family reunification.
- Requires the Director of Job and Family Services (JFS Director) to adopt, according to R.C. Chapter 119, case plan rules for the concurrent provision of permanency plan services for a child in temporary custody.
- Repeals the family service plan option from the requirement that a PCSA maintain a case plan or a family service plan for any child for whom the PCSA provides in-home services under an alternative response to a child abuse or neglect report.

Kinship caregiver placement efforts

- Requires a PCSA or PCPA with temporary custody of a child or a child placed in a planned permanent living arrangement (TC/PPLA child) to make intensive efforts to identify potential kinship caregivers using certain search technology .
- Requires a court to review a PCSA's or PCPA's efforts to locate appropriate and willing kinship caregivers for a TC/PPLA child in the agency's custody at every hearing concerning that child.
- Requires a PCSA or PCPA to include a summary of its efforts to find an appropriate and willing kinship caregiver for a TC/PPLA child as part of the semiannual administrative review of the child's case plan, unless a court has deemed such efforts unnecessary.
- Allows a court to issue, under certain circumstances, an order determining that a TC/PPLA child's current placement is in the child's best interest and that further intensive efforts at finding kinship caregivers are unnecessary.
- Provides that a TC/PPLA child's current caregivers are to be considered to be the child's kin with equal standing with relatives regarding permanency if the court determines the current placement is in the child's best interest and intensive efforts to find kinship caregivers are unnecessary.
- Excuses a PCSA or PCPA from considering a TC/PPLA child's relative as a permanent placement option if the relative has failed to show interest within six months of receiving notice of the child's placement in the temporary care of the PCSA or PCPA.
- Provides that nothing in the kinship caregiver placement efforts provisions of the bill prevents a PCSA or PCPA from search for an appropriate kinship caregiver.

Kinship guardianship assistance (KGA)

- Requires the JFS Director, not later than nine months after the bill's effective date, to submit amendments to the state Title IV-E plan in order to implement Title IV-E kinship guardianship assistance (federal KGA) available (1) on behalf of an eligible child to relatives, and (2) to any relative on behalf of a kinship guardianship (KG) young adult.
- Requires implementation of the state plan amendments to begin 15 months after the bill's effective date if the Secretary of Health and Human Services approves the plan and the General Assembly has appropriated funds sufficient to operate the program required by the amended plan.
- Allows a PCSA to enter into an agreement with a child's relative to provide state kinship guardianship assistance (state KGA), if state funds are available and certain conditions are met.
- Requires implementation of state KGA no later than 15 months after the bill's effective date if the amended state plan for federal KGA (described above) is approved.
- Excludes federal KGA and state KGA from the definition of gross income for child support purposes.
- Allows for specified relatives receiving federal KGA or state KGA to participate in Ohio works first if other conditions are also met.
- Allows kinship caregivers to participate in the kinship permanency incentive program if they are not receiving state KGA or federal KGA on behalf of a KG young adult.
- Repeals requirements governing PCSA placement of children with special needs determined impossible to adopt and the duty to periodically redetermine and report the child's status to the Department of Job and Family Services (JFS).

PASSS payment program

- Codifies and transfers, from PCSAs to JFS, complete administration of the post adoption special services subsidy (PASSS) program, under which payments are made on behalf of an adopted child with a physical or developmental disability or mental or emotional condition as needed and under certain conditions.
- Permits JFS to contract with any person to carry out PASSS duties.
- Prohibits PASSS payments to any person:
 - 18 years or older beyond the end of the school year during which the person attains that age; or
 - A mentally or physically disabled person who is 21 or older.
- Requires JFS to adopt rules necessary to implement, and to actually implement, the recodified PASSS by July 1, 2022.

Foster care and adoption home assessors

- Adds certain individuals to the list of individuals qualified to perform the duties of an assessor for purposes of foster care and adoption.

Bills of Rights for foster youth and resource families

- Requires JFS to adopt by rule, in accordance with R.C. Chapter 119 a Foster Youth Bill of Rights and a Resource Family Bill of Rights.
- Provides that if a right in the Foster Youth Bill of Rights conflicts with a right in the Resource Family Bill of Rights, the Foster Youth Bill of Rights prevails.
- Defines a “resource caregiver” as a foster caregiver or a kinship caregiver and a “resource family” as a foster home or the kinship caregiver family.
- Provides that the rights created for foster youth and resource families do not create grounds for a civil action against JFS, the recommending agency, or the custodial agency.

Notification for sibling of adopted person

- Provides that an adopted person’s legal parents may be notified that an adopted person’s sibling has been placed into out-of-home care after an adoption has been finalized.
- Defines “sibling,” for notification purposes only, as a former biological sibling, former legal sibling, or any person who would have been considered a sibling if not for a termination or other disruption of parental rights.

Criminal records check for individuals overseeing a child

- Adds certain crimes to the Bureau of Criminal Identification and Investigation criminal background check for persons responsible for out-of-home child care and members of a household for a host family hosting a child under a host family agreement.

Background checks for institutions and associations

- Requires an institution or association to obtain certain background information before employing a person or engaging a subcontractor, intern, or volunteer if:
 - The institution or association is a residential facility; or
 - The institution or association is not a residential facility and the person, subcontractor, intern, or volunteer will have contact with children.
- Requires the institution or association, regarding the background information, to:
 - Obtain a search (instead of *conduct* a search as current law requires) of the U.S. Department of Justice National Sex Offender Public Website; and
 - Obtain a summary report (instead of *request* a summary report as current law requires) of a search of the uniform statewide automated child welfare information system.

- Allows an institution or association to refuse to employ a person or engage a subcontractor, intern, or volunteer based solely on the search and summary report obtained.
- Requires an institution or association to obtain the search and summary report for a person, subcontractor, intern, or volunteer if that information has not been obtained by the effective date of this provision.

Federal foster care assistance for emancipated young adults

- Expands the juvenile courts that may exercise jurisdiction over an emancipated young adult (EYA) receiving federal foster care payments to include the court of the county where the EYA resided when his or her custody, planned permanent living arrangement, or care and placement terminated.
- Revises the timing for JFS or its representative to petition for a judicial determination that the EYA’s best interest is served by continuing care and placement with JFS or its representative after the EYA enters a voluntary participation agreement for placement and care.
- Explicitly associates seeking and obtaining the determination with maintaining the EYA’s eligibility for Title IV-E assistance.
- Eliminates the remedy that an EYA loses eligibility for continued care and placement with the JFS or its representative under a voluntary participation agreement (VPA) if a court, 180 days after the VPA becomes effective, determines the continued care and placement does not serve the EYA’s best interest.
- Requires a court to make a permanency plan determination regarding an EYA:
 - 12 months after the VPA’s effective date (instead of 12 months after the date it is signed, as current law requires);
 - At least once every 12 months after the first determination (instead of simply “annually” as current law requires); and
 - That JFS or its representative made reasonable efforts (instead of just that reasonable efforts were made, as current law requires) to finalize a permanency plan to prepare the EYA for independence.
- Requires federal payments for foster care to be suspended if the best interest and reasonable efforts determinations (described above) are not timely made.

Reimbursement for federal juvenile court programs

- Adds prevention services costs under the federal Family First Prevention Services Act to the list of expenses for which a juvenile court may receive reimbursement upon agreement with JFS on behalf of a child in certain circumstances.
- Adds a child who is at the imminent risk of removal from the home and is a sibling of a child in the temporary or permanent custody of the court to the list of circumstances of a child on whose behalf reimbursement may be sought.

Removes gender for who may adopt

- Changes, regarding who may adopt, to “legally married couple” from “husband and wife.”

Publicly funded child care

- Revises the law governing eligibility for publicly funded child care, including by specifying that the eligibility period is to be at least 12 months.

Type A family day-care homes

- Eliminates the requirement that JFS include in the rules governing Type A family day-care homes standards for preparing and distributing parent rosters.

Individual Development Account reports

- Eliminates a requirement that a county department of job and family services prepare and file a semi-annual report with JFS regarding the Individual Development Account Program it operates.
- Eliminates a requirement that JFS prepare an annual report regarding these programs.

Child care resource and referral services

- Eliminates the requirement that the JFS Director adopt rules for funding child care resource and referral service organizations.

Head Start program definition

- Revises the definition of “head start program” for purposes of the law governing the licensure and regulation of child care providers, including by specifying that it is a school-readiness program.

Fatherhood programs

- Codifies the authorization of the Ohio Commission on Fatherhood to recommend the JFS Director provide funding to fatherhood programs in Ohio that meet at least one of the four purposes of the Temporary Assistance for Needy Families block grant.

Unemployment compensation

- Eliminates from consideration, during the first phase of application for unemployment compensation, whether the claimant is disqualified for nonmonetary reasons, and delays this change until July 1, 2022.
- Makes information maintained by or furnished to the Unemployment Compensation Review Commission confidential and, with one exception, inadmissible in cases unrelated to the Unemployment Compensation Law (similar to current law regarding information maintained by, or furnished to, JFS).
- Prohibits disclosure of information maintained by the Commission unless an exception applies.

- Reduces from 30 days to ten days the time period for the JFS Director to approve or deny a shared work plan and notify the employer of the determination.
- Increases the maximum percentage an individual's workweek can be reduced for purposes of participating in the SharedWork Ohio Program from 50% to 60%.
- Requires, if permitted by federal law, any portion of compensation paid under the SharedWork Ohio Program to be charged to the mutualized account and not to a participating employer's experience during any period the compensation is being reimbursed under federal law.

Case plans and family service plans

(R.C. 2151.412)

Permanency plans

Beginning January 1, 2023, the bill makes it mandatory, instead of discretionary, for a public children services agency (PCSA) or a private child placing agency (PCPA) to include, within its case plan for a child in temporary custody, a permanency plan for the child, unless the permanency plan would not be in the child's best interest. The bill requires that the permanency plan describe the services the PCSA or PCPA must provide to achieve permanency for the child if reasonable efforts to return the child to the child's home, or eliminate the child's continued removal from home, are unsuccessful. The services must be provided concurrently with reasonable efforts to return the child home or eliminate the child's continued removal from home.

Current law requires each PCSA and PCPA to prepare and maintain a case plan for a child to whom the PCSA or PCPA is providing services if (1) it filed a complaint alleging that the child is an abused, neglected, or dependent child, (2) it has temporary or permanent custody of the child, (3) the child is living at home subject to an order for protective supervision by the Department of Job and Family Services (JFS), or (4) the child is in a planned permanent living arrangement. The PCSA or PCPA has discretion to add, as a supplement to the plan, a plan for permanent family placement for the child.

Under the bill, the JFS Director must adopt rules, according to the Administrative Procedure Act (R.C. Chapter 119), necessary to carry out the purposes described above regarding supplement plans and concurrent permanency plans.

Family service plans

The bill changes the requirement that a case plan *or* a family service plan must be maintained for any child for whom the PCSA provides in-home services under an alternative response to a report of child abuse or neglect, by repealing the option that allows a PCSA to maintain a family service plan. In addition, the bill removes the requirement that the Director adopt rules for family service plans.

Under ongoing law, an alternate response is a PCSA's response to a report of child abuse or neglect that engages the family in a comprehensive evaluation of child safety, risk of

subsequent harm, and family strengths and needs that does not include a determination as to whether abuse or neglect occurred.⁴⁰

Kinship caregiver placement efforts

(R.C. 2151.4115, 2151.4116, 3151.4117, 2151.4118, 2151.4119, 2151.4120, 2151.4121, 2151.4122, and 2151.416)

Finding kinship caregivers

Intensive efforts

The bill requires each PCSA and PCPA to make intensive efforts to identify potential kinship caregivers whenever the agency has temporary custody of, or is party to a planned permanent living arrangement (PPLA) regarding, a child (TC/PPLA child).

A “kinship caregiver” is any of the following who is 18 or older and is caring for a child in place of the child’s parents:

- The following individuals related by blood or adoption to the child:
 - Grandparents, including grandparents with the prefix “great,” “great-great,” or “great-great-great”;
 - Siblings;
 - Aunts, uncles, nephews, and nieces, including such relatives with the prefix “great,” “great-great,” “grand,” or “great-grand”;
 - First cousins and first cousins once removed.
- Stepparents and stepsiblings of the child;
- Spouses and former spouses of individuals named in the dot points above;
- A legal guardian of the child;
- A legal custodian of the child;
- Any nonrelative adult who has a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child’s social ties.

Summary of efforts

The bill requires a PCSA or PCPA to include a summary of its intensive effort, to secure an appropriate and willing kinship caregiver for a TC/PPLA child as part of the semiannual administrative review of the child’s case plan (which is required under continuing law), unless a court has deemed such efforts unnecessary. The efforts must include the use of search technology, which the bill defines as any locate-and-research tool, search engine, electronic database, or social media search tool available to the PCSA or PCPA.

⁴⁰ R.C. 2151.011(B)(4).

Exemption

The bill excuses a PCSA or PCPA from considering a TC/PPLA child's relative as a permanent placement option if the relative has failed to show interest within six months of receiving a notice from the PCSA or PCPA that it has temporary custody of the child. Under continuing law, that notice is sent to all grandparents and other adult relatives of a child within 30 days of the child's removal from the custody of the child's parents.⁴¹

The bill provides, however, that nothing in its provisions prevents a PCSA or PCPA from continuing to search or consider kinship caregivers.

Court review

The bill requires that at every court hearing regarding a TC/PPLA child, the court determine whether the PCSA or PCPA has continued intensive efforts to identify and engage appropriate and willing kinship caregivers. This determination requires the court's review of the following:

- Whether the child is receiving care from a kinship caregiver;
- The PCSA or PCPA efforts since the previous hearing to place the child with a kinship caregiver, including efforts to use search technology to find biological family members;
- Whether any previous court order (described under "**Court determination**," below) should continue.

Court determination

The bill allows a court to issue an order that determines (1) the TC/PPLA child's current, non-kinship-caregiver placement is in the child's best interest and (2) that further intensive efforts to identify and engage an appropriate and willing kinship caregiver are unnecessary, if:

- The child has been in a stable home environment with the child's current caregivers for the past 12 months;
- The current caregivers are interested in providing permanency for the child; and
- Removal from the current caregivers would be detrimental to the child's emotional well-being.

The bill provides that the current caregiver of the child will be considered to have a kin relationship with the child and will have equal standing with other kin regarding permanency if a court makes the determination described above.

⁴¹ R.C. 2151.33, not in the bill.

Kinship guardianship assistance (KGA)

(R.C. 3119.10, 5101.141, 5101.1411, 5101.1415, 5101.1416, 5101.1417, 5101.802, 5107.10, and 5153.163)

Federal KGA

The bill seeks to obtain federal kinship guardianship assistance (federal KGA) under Title IV-E of the Social Security Act to assist any relative who meets certain requirements (described below) with regard to the care of a kinship guardianship young adult (KGA young adult) or an eligible child.

The bill defines a “**relative**,” with respect to a child, as any of the following who is age 18 or older:

- The following individuals related by blood or adoption to the child:
 - Grandparents, including grandparents with the prefix “great,” “great-great,” or “great-great-great”;
 - Siblings;
 - Aunts, uncles, nephews, and nieces, including such relatives with the prefix “great,” “great-great,” “grand,” or “great-grand”;
 - First cousins and first cousins once removed;
 - Stepparents and stepsiblings of the child.
- Spouses and former spouses of individuals described above;
- A legal guardian of the child;
- A legal custodian of the child;
- Any nonrelative adult that has a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child’s social ties.

A “**KG young adult**” is an individual who:

- Was in the temporary or permanent custody of a PCSA or a planned permanent living arrangement prior to being committed to the legal custody or legal guardianship of a kinship caregiver at 16 or 17 years old, and attained age 16 before a federal KGA agreement became effective;
- Has attained age 18, but not 21.

A child is an “**eligible child**” for federal KGA if the child meets the following requirements:

- The child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;
- The child has been eligible for foster care maintenance payments under existing law while residing for at least six consecutive months in the home of a relative;

- Returning the child home or adoption of the child are not appropriate permanency options;
- The child demonstrates a strong attachment to the child’s relative who has legal custody or guardianship of the child and the relative has a strong commitment to caring permanently for the child;
- With respect to a child who is 14 years old, the child has been consulted regarding the federal KGA agreement.

On behalf of a KG young adult

State plan amendment requirement

The bill requires the JFS Director, not later than nine months after the bill’s effective date, to submit an amendment to the state plan required by federal law to the U.S. Secretary of Health and Human Services to provide federal KGA to any relative meeting the following criteria:

- A juvenile court issued an order granting legal custody of a KG young adult to the relative, or a probate court issued a nontemporary order granting the relative legal guardianship of a KG young adult;
- The relative entered into a federal KGA agreement while the KG young adult was 16 or 17;
- The relative maintains parental responsibility for the KG young adult;
- The KG young adult meets at least one of the following requirements:
 - Is completing secondary education or a program leading to an equivalent credential;
 - Is enrolled in an institution that provides post-secondary or vocational education;
 - Is participating in a program or activity designed to promote, or remove barriers to, employment;
 - Is employed for at least 80 hours a month;
 - Is incapable of doing the activities described above due to a physical or mental condition.

Implementation and performance

The bill requires implementation of the state plan amendments to begin 15 months after the bill’s effective date if (1) the plan as amended is approved by the Secretary of Health and Human Services, and (2) the General Assembly has appropriated sufficient funds to operate the KGA Program. It further requires JFS to perform all new duties required by the amended plan, but JFS may contract with others to carry out those duties to the extent permitted under Title IV-E.

Extension or refusal of federal KGA

The bill allows relatives meeting the federal KGA criteria (above) to request an extension of federal KGA at any time before the KG young adult reaches 21 years old.

It allows any relative receiving federal KGA for a KG young adult to refuse payments at any time.

Eligibility for foster care-related programs

A KG young adult eligible to receive federal KGA is not considered an emancipated young adult and is not eligible for foster care payments under Title IV-E. Any relative receiving federal KGA and the KG young adult are eligible for the federal “Fostering Connections to Success and Increasing Adoption Act of 2008.”

State hearing

Any JFS decision that terminates federal KGA for a KG young adult is subject to a state hearing under continuing law.

On behalf of an eligible child

State plan amendment requirement

The bill requires JFS, not later than nine months after the bill’s effective date, to submit an amendment to the state plan to the U.S. Secretary of Health and Human Services to provide federal KGA on behalf of a child to a relative meeting the following requirements:

- The relative has cared for the eligible child as a foster caregiver, as defined by Ohio law, for at least six consecutive months;
- The juvenile court issued an order granting the relative legal custody of the child, or a probate court issued a nontemporary court order granting the relative legal guardianship;
- The relative has committed to care for the child on a permanent basis;
- The relative has signed a federal KGA agreement.

Implementation and performance

The bill requires implementation of the amendments to the plan to begin 15 months after the bill’s effective date if the plan, as amended, is approved by the Secretary of Health and Human Services.

County expenditure reports

The bill requires a board of county commissioners, to the extent federal KGA payments for maintenance costs require county funds to be spent, to report the nature and amount of each expenditure to JFS.

Distribution to PCSA

The bill requires JFS to distribute to PCSAs that incur and report expenditures described immediately above federal financial participation (FFP) received for administrative and training costs incurred in the operation of federal KGA. JFS may withhold up to 3% of the FFP for certain administrative and training costs.

Interstate compacts

The bill authorizes JFS to develop or join interstate compacts, on behalf of the state, for providing social services to children regarding whom all of the following apply: (1) they have

special needs, (2) Ohio or another party state is providing KGA on their behalf, and (3) they move into or out of Ohio, coming from or going to another state.

JFS rules for federal KGA

The bill requires JFS, not later than nine months after the bill's effective date, to adopt rules that are necessary to carry out the purposes of the federal KGA for both KG young adults and eligible children. The rules must include the following:

- Allowing a KG young adult, on whose behalf federal KGA is received, to maintain eligibility while transitioning into, or out of, qualified employment or educational activities; and
- Requiring a 30-day notice of termination to be sent by JFS to a person receiving federal KGA for a KG young adult who is determined ineligible for federal KGA.

State KGA

The bill allows a PCSA that had custody of a child immediately prior to a court granting legal custody or legal guardianship to a relative to enter into an agreement with a child's relative under which the PCSA may provide, as needed, and to the extent state funds are available, state kinship guardianship assistance (State KGA), when all of the following apply:

- The relative has cared for the eligible child as a foster caregiver, as defined under Ohio law, for at least six consecutive months;
- A juvenile court issued an order granting the relative legal custody of the child, or a probate court issued a nontemporary court order granting the relative legal guardianship, and the relative has committed to care for the child on a permanent basis;
- The relative signed a State KGA agreement prior to assuming legal custody or guardianship of the child;
- The child had been removed from home pursuant to a voluntary placement agreement, or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of the child;
- Returning the child home or adoption are not appropriate permanency options for the child;
- The child demonstrates a strong attachment to the relative and the relative has a strong commitment to caring permanently for the child;
- With respect to a child who is 14, the child has been consulted regarding the State KGA arrangement;
- The child is not eligible for federal KGA payments.

State KGA provided under a State KGA agreement is subject to an annual need determination.

The State KGA provisions must be implemented not later than 15 months after the bill's effective date, if the state plan is amended as described above to provide federal KGA to eligible children.

Kinship permanency incentive and Ohio Works First

The bill prohibits a kinship caregiver (a relative, as defined in the bill, who is caring for a child in place of the child's parents) from participating in the kinship permanency incentive program under continuing law if the kinship caregiver is a relative receiving federal KGA for a KGA young adult or State KGA. But, if the kinship caregiver is not receiving such assistance or is receiving federal KGA on behalf of an eligible child, the kinship caregiver may participate.

The bill further provides that an assistance group that meets certain requirements, including that the group contain a specified relative residing with and caring for a related minor child and receiving any federal or State KGA, may participate in the Ohio Works First Program.

Gross income and KGA for child support

The bill excludes any federal KGA and State KGA from the definition of gross income for child support calculation purposes. Under current law, federal adoption assistance and foster care maintenance payments are already excluded.

PCSA duties regarding impossibility of adoption

The bill repeals the prohibition against a PCSA placing or maintaining a child with special needs in a setting other than with a person seeking to adopt the child, unless the PCSA has determined, and periodically redetermined, the impossibility of the child's adoption. It also repeals the requirement for a PCSA to report to JFS its reasons for determining the impossibility.

PASSS payments

(R.C. 5101.1418 and 5153.163)

The bill codifies, and then transfers the operation of, the post adoption special services subsidy (PASSS) program to JFS from PCSAs. Under PASSS, a child in need of public care or protective services may be provided assistance through agreement with the adoptive parent, to the extent state funds are available. Such a child is one (1) who has a physical or developmental disability or emotional condition that existed before the adoption, or developed after the adoption because of the child's preadoption condition, and (2) whose adoptive parent does not have the economic resources to pay the costs resulting from the disability or condition. The agreement allows PASSS payments to be made on the child's behalf for medical, surgical, psychiatric, psychological, and counselling services, including residential treatment.

In addition to the transfer of administration of PASSS completely to JFS, the bill makes the following changes:

- Permits JFS to contract with another person to carry out the PASSS duties;
- Uses the terms "disabled" and "disability" instead of "handicapped" or "handicap" for the PASSS program;
- Prohibits PASSS payments from being made on behalf of (1) any person, 18 or older, beyond the end of the school year during which the person turned 18, or (2) a mentally or physically disabled person who is 21 or older;

- Requires the Director to adopt rules by July 1, 2022, under R.C. Chapter 119, to implement the recodified PASSS. The rules must establish:
 - The application process for the PASSS payments;
 - Standards for determining the children who qualify to receive PASSS payments;
 - The method of determining the amount, duration, and scope of services provided to a child;
 - The method of transitioning the PASSS program from PCSAs to JFS;
 - Any other rule, requirement, or procedure JFS considers appropriate for the implementation of this section.

Finally, the bill requires JFS to implement the recodified PASSS program no later than July 1, 2022.

Foster care and adoption home assessors

(R.C. 3107.014)

The bill adds the following individuals to the individuals qualified to perform the duties of an assessor for foster care and adoption purposes: (1) current and former PCSA caseworkers, (2) current PCSA caseworker supervisors, and (3) individuals with a master’s degree in social work or a related field and who are currently employed, and have been employed for at least two years in a human-services-related occupation. Under continuing law, a home study is required before a foster home certification may be issued or a person may adopt a child. Assessors perform a number of functions related to foster care and adoption, one of which is the home study to ascertain suitability of a person to provide foster care or to adopt.⁴²

Bills of Rights for foster youth and resource families

(R.C. 2151.011, 2151.316, 5103.02, and 5103.163)

The bill requires the JFS to adopt rules, in accordance with R.C. Chapter 119, to establish and enforce a Foster Youth Bill of Rights and a Resource Family Bill of Rights.

The Foster Youth Bill of Rights is for individuals who are: (1) in the temporary or permanent custody of a PCSA or planned permanent living arrangement or (2) in the Title IV-E eligible care and placement responsibility of a juvenile court or other governmental agency and who are subject to out-of-home care or placed with a kinship caregiver.

The Resource Family Bill of Rights serves resource families providing care for individuals who are in the custody or care and placement of an agency that provides Title IV-E reimbursable services under existing law.

The bill defines a “resource caregiver” as a foster caregiver or kinship caregiver. A “resource family” is defined as a foster home or the kinship caregiver family. A kinship caregiver

⁴² R.C. 3107.031 and 5103.0324, not in the bill.

is defined as it is in existing law, which is any of the following who is 18 or older and is caring for a child in place of the child's parents:

1. The following individuals related by blood or adoption to the child:
 - a. Grandparents, including grandparents with the prefix "great," "great-great," or "great-great-great";
 - b. Siblings;
 - c. Aunts, uncles, nephews, and nieces, including such relatives with the prefix "great," "great-great," "grand," or "great-grand";
 - d. First cousins and first cousins once removed.
2. Stepparents and stepsiblings of the child;
3. Spouses and former spouses of individuals named in (1) and (2) above;
4. A legal guardian of the child;
5. A legal custodian of the child;

Any nonrelative adult that has a familiar and long-standing relationship or bond with the child or the family, which relationship or bond will ensure the child's social ties.

Preemption

The bill specifies that if the rights of an individual under the Foster Youth Bill of Rights conflict with the rights of a resource family or resource caregiver, the rights of the individual under the Foster Youth Bill of Rights preempt the rights of the resource family or resource caregiver under the Resource Family Bill of Rights.

Immunity

The bill also provides that the rights established in the Foster Youth Bill of Rights and Resource Family Bill of Rights do not create grounds for a civil action against JFS, the recommending agency, or custodial agency.

Notification for sibling of adopted person

(R.C. 3107.11 and 3107.15)

The bill provides that the legal parents of an adopted person may be notified that a sibling of the adopted person has been placed into out-of-home care. This notification is an exception to the requirement that when an adoption is finalized, the biological or other legal parents of the adopted person are relieved of all parental rights and responsibilities and all legal relationships between the adopted person and the adopted person's relatives are terminated so that the adopted person becomes a stranger to the adopted person's former relatives.

The bill defines "sibling" as a former biological sibling, former legal sibling, or any person who would have been considered a sibling if not for a termination or other disruption of parental rights.

Criminal records check for individuals overseeing a child

(R.C. 109.572)

The bill adds several crimes to those for which the Bureau of Criminal Identification and Investigation must check when conducting background checks required for persons responsible for out-of-home child care and members of a household for a family hosting a child under a host family agreement. The Superintendent of the Bureau must conduct a criminal records check to determine whether any information exists that indicates that the person has previously been convicted or pleaded guilty to any of the following additional crimes:

- Reckless homicide;
- Aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
- Aggravated vehicular assault and vehicular assault;
- Extortion;
- Trafficking in persons;
- Commercial sexual exploitation of a minor;
- Unlawful possession of a dangerous ordnance and illegally manufacturing or processing explosives;
- Improperly furnishing firearms to a minor;
- Participating in a criminal gang;
- Illegal assembly or possession of chemicals for the manufacture of drugs;
- Permitting drug abuse;
- Deception to obtain a dangerous drug;
- Illegal processing of drug documents;
- Tampering with drugs;
- Abusing harmful intoxicants;
- Trafficking in harmful intoxicants and improperly dispensing or distributing nitrous oxide;
- Illegal dispensing of drug samples;
- Possession of counterfeit controlled substances, trafficking in counterfeit controlled substances, aggravated trafficking in counterfeit controlled substances, promoting and encouraging drug abuse, and fraudulent drug advertising.

Background checks for institutions and associations

(R.C. 5103.0310)

Requirement to obtain information

The bill requires an institution or association, which is a public or private organization, society, association, or agency that receives or cares for children for two or more consecutive weeks, to comply with the following:

- If it is a residential facility, obtain certain background information before employing a person or engaging a subcontractor, intern, or volunteer.
- If it is *not* a residential facility, obtain the same background information before hiring a person or engaging a subcontractor, intern, or volunteer, but only if the individual will have access to children.

For this purpose, a “residential facility,” is a group home for children, children’s crisis care facility, children’s residential center, residential parenting facility that provides 24-hour child care, county children’s home, or district children’s home. A foster home is not a residential facility.

Background information obtained

The bill requires an institution or association described above, regarding the background information, to (1) *obtain* a search (instead of *conduct* a search as current law requires) of the U.S. Department of Justice’s National Sex Offender Public Website and (2) *obtain* a summary report (instead of *request* a summary report as current law requires) of a search of the uniform statewide automated child welfare information system (SACWIS).

Further action

The bill allows an institution or association described above to refuse to employ (instead of “hire” as current law requires) the person or to engage the subcontractor, intern, or volunteer based solely on the search and summary report or findings of the summary report if it contains an abuse or neglect determination.

The bill also requires an institution or association described above to obtain the search and summary report for a person, subcontractor, intern, or volunteer if that information has not yet been obtained by the effective date of this provision.

Background – current law

Current law requires any institution or association that is a public or private organization, society, association, or agency that receives or cares for children for two or more consecutive weeks to *conduct* a search of the National Sex Offender website and *request* a summary report of a search of SACWIS for a person that an institution or association plans to employ – it does not apply to a subcontractor, intern, or volunteer. The law also does not distinguish between residential facilities and those that are not, and does not limit the requirement to obtain the search and summary report to individuals who will have access to children if the institution or association is not a residential facility.

Federal foster care assistance for emancipated young adults

Under continuing law, an “emancipated young adult” (EYA) is a person:

- Who was in the temporary or permanent custody of a PCSA, a planned permanent living arrangement, or in the Title IV-E eligible care and placement responsibility of a juvenile court or other governmental agency that provides Title IV-E reimbursable placement services;
- Whose custody, arrangement, or care and placement was terminated on or after the person’s 18th birthday; and
- Is not yet 21.⁴³

Jurisdiction

(R.C. 2151.451)

The bill expands the juvenile courts that may exercise jurisdiction over an EYA receiving federal foster care payments pursuant to Ohio’s Title IV-E state plan to include the court of the county where the EYA resided when the EYA’s custody, planned permanent living arrangement, or care and placement terminated. Under current law, only the juvenile court of the county where an EYA currently resides may exercise jurisdiction.

Voluntary participation agreements

(R.C. 5101.1412)

An EYA who receives Title IV-E payments may enter a “voluntary participation agreement” (VPA) with JFS or its representative regarding the EYA’s care and placement. As part of the process, JFS or its representative must seek periodic determinations from the court concerning the young adult’s best interests. The bill revises the statutory terms of the judicial interactions, as follows:

1. The bill rewords the mandate to require JFS or its representative to “petition for and obtain a judicial determination” – rather than merely than “seek approval from the court” as under current law – that the EYA’s best interest is served by continuing his or her care and placement.
2. It makes explicit that the requirement to seek the judicial determination is tied to maintaining the EYA’s Title IV-E eligibility.

Best interest determination

(R.C. 2151.452)

The bill eliminates the remedy that an emancipated young adult (EYA) loses eligibility for continued care and placement with JFS or its representative (JFS/Rep) if a court finds, not later than 180 days after a VPA effective date, it is not in the EYA’s best interest. Under continuing law, the court must still make a best-interest determination not later than those 180 days regarding

⁴³ R.C. 5101.141, not in the bill.

an EYA's continued care and placement with JFS/Rep, but there is no remedy if the court determines it is not in the EYA's best interest.

Reasonable efforts determination

(R.C. 2151.452)

The bill revises the timing of the court's determination whether JFS/Rep has made reasonable efforts to prepare the EYA for independence, as follows:

1. It requires the court to make the determination not later than 12 months after the VPA's effective date, rather than 12 months after the VPA was signed as under current law; and
2. It requires determinations "at least once every 12 months" thereafter, rather than merely "annually" as under current law.

Payment suspension

(R.C. 2151.453)

The bill requires the suspension of federal payments for foster care for the EYA if the best interest and reasonable efforts determinations described above are not timely made. Under current law, only if the reasonable efforts determination regarding preparing the EYA for independence is not timely made, will the federal foster care payments be suspended. Under continuing law, the payments will resume upon a subsequent determination that reasonable efforts have been made to prepare the EYA for independence. Under the bill, a subsequent best interest determination will not result in the resumption of payments.

Reimbursement for federal juvenile court programs

(R.C. 2151.152)

The bill adds prevention services costs under the federal Family First Prevention Services Act to the list of costs for which a juvenile judge may enter into an agreement with JFS to receive reimbursement on behalf of a child in certain circumstances. Under continuing law, JFS may seek federal financial participation for costs incurred by any public entity with authority to implement a program that JFS administers. This includes programs operated under Title IV-E, such as the Family First Prevention Services Act. The funds that JFS collects must be distributed to the entity that incurred the costs.

The bill also adds to the list of approved circumstances of a child on whose behalf the judge seeks reimbursement a child who: (1) is at the imminent risk of removal from the home and (2) is a sibling of a child in the temporary or permanent custody of the court.

Removes gender for who may adopt

(R.C. 3107.03)

The bill changes Ohio's adoption law, regarding who may adopt, from "husband and wife" to "legally married couple."

Publicly funded child care

(R.C. 5104.34)

The bill makes three changes to the law governing eligibility for publicly funded child care.

1. Specifies that the eligibility period is to be at least 12 months. Existing law contains several references to a 12-month period;

2. Provides that the child of a caretaker parent who is no longer eligible for publicly funded child care may continue to receive publicly funded child care for at least three months, rather than for 13 weeks as under current law;

3. Removes an obsolete reference to part-time child care programs participating in the Step Up to Quality Program.

Type A family day-care homes

(R.C. 5104.017)

The bill eliminates the requirement that JFS, when adopting rules governing the operation of type A family day-care homes, include standards for preparing and distributing a roster of parents, guardians, and custodians. It also removes an obsolete reference to school-age child type A family day-care homes. Type A providers can generally care for 7-12 children at one time and must be licensed by JFS.

Individual Development Account (IDA) reports

(R.C. 329.12 and 5101.971)

The bill eliminates a requirement that a county department of job and family services prepare and file with JFS a semi-annual report regarding the IDA Program operated by each county department. The IDA Program allows lower income individuals to deposit funds into an account, which are then matched by the county department. The funds may be used by an individual to purchase a home, start a business, or for post-secondary education expenses.⁴⁴

The bill also eliminates a requirement that JFS publish an annual report regarding the IDA programs established and operated by county departments.

Child care resource and referral services

(R.C. 5104.07)

The bill eliminates the requirement that the JFS Director adopt rules for funding child care resource and referral service organizations. Rather than address the eliminated topics in rule, the bill instead requires them to be made a part of the statewide plan for child care resource and referral services that JFS must develop under current law. The topics currently specified in statute include or address the following:

⁴⁴ O.A.C. 5101:1-3-18(D)(1).

1. A description of the services that a child care resource and referral service organization is required to provide to families who need child care;
2. The qualifications for a child care resource and referral service organization;
3. A description of the procedures for providing federal and state funding for county or multicounty child care resource and referral service organizations;
4. A timetable for providing child care resource and referral services to all communities in the state;
5. Uniform information gathering and reporting procedures that are designed to be used in compatible computer systems;
6. Procedures for establishing statewide nonprofit technical assistance services to coordinate uniform data collection and to publish reports on child care supply, demand, and cost and to provide technical assistance to communities that do not have child care resource and referral service organizations and to existing child care resource and referral service organizations;
7. Requirements governing contracts, which may include limits on the percentage of funds distributed by the department that may be used for the contracts.

Head Start program definitions

(R.C. 5104.01)

The bill revises the “head start program” definition used in the law governing the licensure and regulation of child care providers, including by doing the following:

1. Specifying that Head Start is a school-readiness program serving children from low-income families, rather than a comprehensive child development program as under current law;
2. Updating citations to the federal statutes.

Fatherhood programs

(R.C. 5101.342, 5101.805, and 5015.801, with conforming changes in R.C. 3125.18, 5101.35, and 5153.16)

The bill specifies in the Revised Code that the Ohio Commission on Fatherhood may make recommendations to the JFS Director regarding funding, approval, and implementation of fatherhood programs in Ohio that meet one of the four purposes of the Temporary Assistance for Needy Families (TANF) block grant. It includes such programs as Title IV-A programs that are funded in part by the TANF block grant. The bill permits JFS to (1) enter into an agreement with a private, not-for-profit entity for the entity to receive funds as recommended by the Commission and (2) to adopt rules relating to these provisions.

Application for determination of unemployment benefit rights

(R.C. 4141.01)

The bill revises the first phase of the process for determining whether a claimant is eligible for unemployment benefits. Determining eligibility is a two-phase process. In the first phase, a claimant files an application for determination of benefit rights, which, except as discussed below, generally examines whether the individual worked and earned enough to be eligible for benefits (“monetary eligibility”). This application is used to establish the claimant’s benefit rights and benefit year, which is the 52-week period during which the claimant may file claims for benefits based on satisfying the monetary eligibility requirements. A claimant does not have to satisfy these monetary eligibility requirements again during a benefit year.

Currently, though, to complete phase one and establish a benefit year, JFS also examines the reason why the claimant is unemployed. If that reason disqualifies the claimant from receiving benefits, the claimant’s application is not valid and the claimant does not establish benefit rights or a benefit year until the disqualification is “removed” – that is, the claimant separates from other work for a reason that does not disqualify the claimant for benefits, an exception applies that negates the disqualification, or the disqualification is overturned. Reasons that disqualify a claimant include unemployment due to a labor dispute, quitting work without just cause or being discharged with just cause, or quitting to marry or because of other domestic obligations.⁴⁵

Thus, it appears that currently if a claimant does not establish a valid application because the claimant was disqualified based on the reason for unemployment, if the claimant subsequently applies in the near future, the claimant has to re-establish monetary eligibility as well as not be unemployed for a disqualifying reason.

Under the bill, beginning July 1, 2022, a claimant establishes a benefit year based on the monetary factors alone, and whether the claimant is disqualified from receiving benefits based on the reason for separating from work will not be a factor in completing this first part of the process. This may allow a claimant to start the claimant’s benefit year sooner than under current law.

However, this change does not eliminate the requirement that, to qualify for benefits, a claimant must not have separated from work for a disqualifying reason. After filing a valid initial application and establishing a benefit year, a claimant enters the second phase of the process. In the second phase, the individual must file a claim for benefits each week the individual seeks benefits during the individual’s benefit year. On filing the first claim in the benefit year, JFS examines whether the reason the claimant separated from work qualifies the claimant for benefits. For each claim, JFS examines other factors including whether the claimant is available, able, and searching for work. If a claimant is re-employed but then separates from re-employment and files a claim for benefits before the benefit years ends, JFS again looks at the reason for the separation from employment to determine whether the claimant qualifies.⁴⁶ If the

⁴⁵ R.C. 4141.29 and 4141.291, not in the bill.

⁴⁶ R.C. 4141.28, not in the bill.

claimant is disqualified in this phase, the claimant's benefit year continues and the claimant does not have to re-establish meeting the monetary eligibility requirements when filing a future claim in that year.

Unemployment compensation review commission

(R.C. 4141.21 and 4141.22)

Confidentiality

The Unemployment Compensation Review Commission (UCRC) hears appeals from the JFS Director's determinations involving unemployment benefit claims and other issues under the Unemployment Compensation Law. The bill expands a current confidentiality requirement by making information maintained by, or furnished to, the UCRC by an employer or employee pursuant to the law confidential and, with one exception relating to a nonrefundable tax credit for eligible employee training costs, inadmissible in cases unrelated to the law. Under existing law, information maintained by, or furnished to, the JFS Director is confidential, with the same exception noted above.

Prohibitions

The bill prohibits a person from disclosing, unless permitted under continuing law, any information maintained by, or furnished to, the UCRC by an employer or employee pursuant to the law. Existing law applies this prohibition to information maintained by, or furnished to, the JFS Director. The bill also prohibits a current or former UCRC employee from divulging, except to specific entities during the course of employment, employer business operation information maintained by, or furnished to, the UCRC. Currently, this prohibition applies to employees of the JFS Director, a county family services agency, or a workforce development agency with respect to information maintained by, or furnished to, the JFS Director or those agencies.

A person who violates these disclosure prohibitions is disqualified under continuing law from holding any appointment or employment with the JFS Director, a county family services agency, or a workforce development agency, and from an appointment or employment with the UCRC, as added by the bill.

SharedWork

(R.C. 4141.51, 4141.53, and 4141.55)

"SharedWork Ohio" is a voluntary program in which a participating employer reduces the number of hours worked by the employer's employees in lieu of layoffs. To participate in the program, an employer must submit a shared work plan to the JFS Director. The plan, among other requirements, must identify affected employees and describe the proposed percentage that their hours will be reduced. If the Director approves the plan, an affected employee works the reduced hours, and the Director provides the employee with a shared work benefit. The benefit is equal to the employee's regular weekly benefit amount for a period of total unemployment as described in continuing law multiplied by the reduction percentage specified in the shared work plan.

The bill increases the maximum percentage a participating employer may reduce an affected employee's hours. Currently, the proposed reduction percentage permitted in a shared

work plan must be between 10% and 50%. Under the bill, the reduction must be between 10% and 60%.

The bill also reduces the time period for the JFS Director to approve or deny a shared work plan. Under the bill, the Director must approve or deny the plan and send written notice of the determination to the employer no later than ten days after receiving the plan. Currently, the Director has 30 days.

Under the bill, if Ohio receives reimbursement for shared work benefits from the federal government under any federal law, the portion of benefits being reimbursed is charged to the mutualized account and not to a participating employer's experience during the period of reimbursement. Currently, shared work benefits can be charged to the mutualized account only if they are being reimbursed under the federal "Layoff Prevention Act of 2012." That federal law no longer appears to be reimbursing shared work benefits.⁴⁷

The mutualized account is a separate account within the state Unemployment Compensation Fund. It is primarily used to pay benefits when an employer's account cannot be charged for those benefits for a variety of reasons. Charging benefits that would otherwise be charged to an employer's account to the mutualized account may result in the employer paying lower unemployment contributions.⁴⁸

⁴⁷ Section 2162 of the "Layoff Prevention Act of 2012," Pub. L. No. 112-96.

⁴⁸ See R.C. 4141.25, not in the bill.

DEPARTMENT OF MEDICAID

Medicaid waiver component definition

- Specifies that the definition of a “Medicaid waiver component” does not include services delivered under a prepaid inpatient health plan.

Medicaid rates for community behavioral health services

- Permits the Department of Medicaid to establish Medicaid rates for community behavioral health services provided during FYs 2022 and 2023 that exceed the Medicare rates paid for the services.

Duties of area agencies on aging

- Requires the Department, if it adds to the Medicaid managed care system during FYs 2022 and 2023 more Medicaid recipients who are aged, blind, disabled, or also enrolled in Medicare, to take certain actions regarding the duties of area agencies on aging relative to home and community-based waiver services.

Hospital Care Assurance Program, franchise permit fee

- Continues, for two additional years, the Hospital Care Assurance Program and the franchise permit fee imposed on hospitals under Medicaid.

Voluntary community engagement program

- Requires the Medicaid Director to establish a voluntary community engagement program for medical assistance recipients.
- Requires the program to encourage work among able-bodied medical assistance recipients of working age, including providing information about the benefits of work on physical and mental health.
- Provides that the program is in effect through FY 2022 and FY 2023, or until Ohio is able to implement the waiver component establishing work requirements and community engagement as a condition of enrolling in the Medicaid expansion eligibility group (also known as “Group VIII”).

Nursing facilities

Critical access nursing facilities

- For calculating the occupancy and utilization rates to determine if a nursing facility is a critical access nursing facility, provides that “as of the last day of the calendar year” refers to the rates for the entire cost reporting period for which the nursing facility participated in the Medicaid program during the applicable calendar year.

Medicaid payment rate formula

- Removes provisions that require the Department, when determining a nursing facility’s occupancy rate, to include any beds that the facility removes from its Medicaid certified capacity, unless also removed from its licensed capacity.

Resident assessment data

- Requires rules relating to the resident assessment data that nursing facilities must compile quarterly for each resident to specify any resident assessment data that is excluded from the facility's case mix score calculated quarterly by the Department.

Special Focus Facility Program

- Modifies the nursing facility Special Focus Facility (SFF) Program, which requires the Department to terminate a nursing facility's Medicaid participation if the facility is placed on the SFF list and fails to make improvements or graduate from the program within certain periods of time.
- As part of the modifications, requires nursing facilities to take all necessary steps to improve its quality of care to avoid having its license terminated under the SFF program, and permits appeals relating to the amount of time a facility has been on an SFF list.

Quality incentive and quality improvement payments

- Repeals the quality payments and quality incentive payments that are added to nursing facilities' Medicaid payment rates, and replaces them with similar, temporary payments.
- Establishes a quality incentive payment for FY 2022 that uses a payment calculation methodology substantially similar to the repealed quality incentive payment.
- By January 1, 2022, requires the Department, in consultation with the Departments of Aging and Health, to develop and establish quality improvement criteria that will be used to calculate a quality improvement payment for eligible nursing facilities.
- Provides that the criteria replace the FY 2022 quality incentive payment if implemented in that fiscal year, and, if developed after FY 2022, no quality improvement payments are to be made until the criteria are established.
- Requires nursing facilities to operate a location in this state with key program staff to be eligible for the quality improvement payments.

Lump sum payment for low Medicaid utilization

- Requires the Department to issue a lump sum payment to nursing facilities that have a Medicaid utilization rate for 2022 that is less than 90% of the aggregate Medicaid utilization for calendar year 2019, with certain exceptions.
- Caps the total lump sum payments to the lesser of \$50 million or an amount equal to the aggregate utilization shortfall across all nursing facilities during that time period.

Temporary expansion of rebasing

- Delays the Department's next nursing facility rebasing until July 1, 2023.

Medicaid waiver component definition

(R.C. 5166.01)

The bill specifies that the current law definition of a “Medicaid waiver component” does not include services that are delivered under a prepaid inpatient health plan.⁴⁹ Medicaid waiver component means a component of the Medicaid program authorized by a waiver granted by the U.S. Department of Health and Human Services and does not include the care management system.

Medicaid rates for community behavioral health services

(Section 333.160)

The bill permits the Department of Medicaid to establish Medicaid payment rates for community behavioral health services provided during FY 2022 and FY 2023 that exceed the authorized rates paid for the services under the Medicare Program. This does not apply, however, to services provided by hospitals on an inpatient basis, nursing facilities, or ICF/IIDs.

Duties of area agencies on aging

(Section 333.170)

The bill requires the Department, if it expands the inclusion of the aged, blind, and disabled Medicaid eligibility group or Medicaid recipients who are also eligible for Medicare (dual-eligible individuals) in the Medicaid managed care system during the FY 2022-FY 2023 biennium, to do both of the following for the remainder of the biennium:

1. Require area agencies on aging to be the coordinators of home and community-based waiver services they receive and permit Medicaid MCOs to delegate to the agencies full-care coordination functions for those and other health care services; and

2. In selecting Medicaid MCOs, give preference to organizations that will enter into subcapitation arrangements with area agencies on aging under which the agencies perform, in addition to other functions, network management and payment functions for services that those recipients receive.

Hospital Care Assurance Program, franchise permit fee

(Sections 601.20 and 601.21, amending Sections 125.10 and 125.11 of H.B. 59 of the 130th General Assembly)

The bill continues the Hospital Care Assurance Program (HCAP) for two additional years. The program is scheduled to end October 16, 2021. The bill extends it to October 16, 2023. Under HCAP, hospitals are annually assessed an amount based on their total facility costs, and government hospitals make annual intergovernmental transfers. The Department distributes to hospitals money generated by the assessments and intergovernmental transfers along with

⁴⁹ Federal law defines a “prepaid inpatient health plan” as an entity that provides limited services to Medicaid enrollees through a limited-benefit risk-based plan. (42 Code of Federal Regulations (C.F.R.) 438.2.)

federal matching funds. A hospital compensated under the program must provide (without charge) basic, medically necessary, hospital-level services to Ohio residents who are not recipients of Medicare or Medicaid and whose income does not exceed the federal poverty line.

The bill also continues for two additional years another assessment imposed on hospitals; that assessment is to end on October 1, 2023, rather than October 1, 2021. The assessment is in addition to HCAP, but like that program, it raises money to help pay for the Medicaid program. To distinguish the assessment from HCAP, the assessment is sometimes called a hospital franchise permit fee.

Voluntary community engagement program

(Section 333.210; R.C. 5166.37, not in the bill)

As a result of the COVID-19 public health emergency, the bill requires the Medicaid Director to establish and implement a voluntary community engagement program not later than January 1, 2022. The program must be voluntary and available to all medical assistance recipients (individuals enrolled or enrolling in Medicaid, CHIP, the refugee medical assistance program, or other medical assistance program the Department administers). The program must:

- Encourage medical assistance recipients who are of working age and able-bodied to work;
- Promote the economic stability, financial independence, and improved health incomes from work; and
- Provide information about program services, including an explanation of the importance of work to overall physical and mental health.

As part of the program, the Director must explore partnerships with education and training providers to increase training opportunities for Medicaid recipients. The program is to continue through state fiscal years 2022 and 2023, or until the Department is able to implement the Work Requirement and Community Engagement Section 1115 Demonstration waiver, whichever is sooner.

Continuing law requires the Director to establish a Medicaid waiver component under which an individual eligible for Medicaid on the basis of being included in the expansion eligibility group (also known as “Group VIII”) – adults under age 65 with no dependents and incomes at or below 138% of the federal poverty level – must meet one of a list of enumerated criteria to enroll in Medicaid. The criteria include (1) being at least age 55, (2) being employed, (3) being enrolled in a school or occupational training program, (4) participating in an alcohol and drug addiction treatment program, or (5) having intensive physical health care needs or serious mental illness.⁵⁰ Pursuant to this requirement, the Department submitted a waiver request to the U.S. Centers for Medicare and Medicaid Services (CMS) to implement a Work Requirement and Community Engagement Section 1115 Demonstration waiver program. CMS approved the waiver on March 15, 2019; however, the program was never implemented because the federal Coronavirus Aid,

⁵⁰ R.C. 5166.37, not in the bill.

Relief, and Economic Security (CARES) Act prohibits state Medicaid programs from imposing additional eligibility criteria on Medicaid enrollees during the COVID-19 public health emergency.

Nursing facilities

Critical access nursing facilities

(R.C. 5165.01)

The bill clarifies terminology relating to the critical access incentive payment received by nursing facilities that qualify as critical access nursing facilities. Under current law, to qualify as a critical access nursing facility, the nursing facility must meet certain occupancy and Medicaid utilization rate metrics. For purposes of calculating the occupancy and utilization rates, the bill clarifies that “as of the last day of the calendar year” refers to the rates for the entire cost reporting period for which the nursing facility participated in the Medicaid Program during the calendar year and identified in its annual cost report filed with the Department.

Medicaid payment rate formula

(R.C. 5165.01, 5165.15, and 5165.17)

In definitions, the bill provides that inpatient days include all days during which a resident, regardless of payment source, occupies a licensed bed in a nursing facility, instead of a bed in a nursing facility that is included in the facility’s Medicaid certified capacity. It also provides that a nursing facility’s occupancy rate refers to the percentage of licensed beds that, regardless of the payer source, are either reserved for use or are actually being used.

The bill also removes provisions of law, under the ancillary and support costs and capital cost center components of the nursing facility payment rate, that require the Department, when determining a nursing facility’s occupancy rate, to include any beds that the facility removes from its Medicaid certified capacity, unless the facility also removes them from its licensed capacity.

Resident assessment data

(R.C. 5165.191)

Relating to the resident assessment data nursing facilities must compile quarterly for each resident, the bill requires the associated rules to specify any resident assessment data that is excluded from the facility’s case mix score calculated quarterly by the Department for each nursing facility.

Special Focus Facility Program

(R.C. 5165.771)

The bill modifies the Special Focus Facility (SFF) Program, which requires the Department to terminate a nursing facility’s Medicaid participation if the facility is placed on the federal SFF list and fails to make improvements or graduate from the SFF Program within certain periods of time. The SFF list is part of the SFF Program that federal law requires the U.S. Department of

Health and Human Services to create for nursing facilities identified as having substantially failed to meet federal requirements.⁵¹

SFF tables

The SFF has different tables. Table A identifies nursing facilities that are newly added to the list. Table B identifies nursing facilities that have not improved. Table C identifies nursing facilities that have shown improvement. Table D identifies nursing facilities that have recently graduated from the SFF Program.

The bill makes nonsubstantive changes to current law regarding the SFF tables, which requires the Department to terminate a nursing facility's Medicaid participation if:

1. The nursing facility was listed in Table A or Table B on September 29, 2013, and failed to be placed on Table C by September 29, 2014 (12 months after the provision's effective date);
2. The nursing facility was listed in Table A, Table B, or Table C on September 29, 2013, and failed to be placed on Table D by September 29, 2015 (24 months after the provision's effective date);
3. The nursing facility is placed on Table A after September 29, 2013, and fails to be placed in Table C not later than 12 months after the placement in Table A;
4. The nursing facility is placed in Table A after September 29, 2013, and fails to be placed in Table D not later than 24 months after the placement in Table A.

The bill removes the effective date references. Instead, under the bill, the Department must terminate a nursing facility's Medicaid participation if:

1. The nursing facility is placed in Table A or Table B and fails to be placed in Table C not later than 12 months after being 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 24 months after being 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 12 months after being placed in Table A;
4. The nursing facility is placed in Table A and fails to be placed in Table D not later than 24 months after the nursing facility is placed in Table A.⁵²

The bill requires a nursing facility to take all necessary steps to avoid having its Medicaid participation terminated. As part of that requirement, the bill provides that technical assistance and quality improvement initiatives to help a nursing facility avoid having its Medicaid participation terminated are available through the Nursing Home Quality Initiative (NHQI) and through a quality improvement organization under the NHQI. Current law requires the

⁵¹ 42 U.S.C. 1396r(f)(10).

⁵² Under the bill, numbers (3) and (4) appear to be included in (1) and (2).

Department of Aging to provide assistance through the NHQI at least four months before ODM would be required to terminate the facility's Medicaid participation.

The bill permits nursing facilities to appeal, under the Administrative Procedure Act, the length of time a facility is listed on a SFF table. The Director may adopt rules to provide for an expedited appeal process for those appeals, notwithstanding the Administrative Procedure Act's time limits. Under current law, an order terminating a nursing facility's Medicaid participation is not subject to appeal under the Administrative Procedure Act.

Quality incentive and quality improvement payments

(Section 333.220; R.C. 5165.15 and 5165.151; R.C. 5165.25 and 5165.26, repealed)

The bill repeals the quality payments and quality incentive payments that are added to nursing facilities' Medicaid payment rates, based on the score the facility receives for meeting certain quality metrics regarding its residents who have resided in the nursing facility for at least 100 days (i.e., long-stay residents), and replaces them with similar, temporary payments.

FY 2022 quality incentive payment

Under the bill, for FY 2022, nursing facilities receive a quality incentive payment added to their Medicaid payment rates. The calculation methodology for the payment is substantially similar to the quality incentive payment under current law that is repealed by the bill. The total amount to be spent on the quality incentive payments for FY 2022 is the sum of:

1. The amount that is 5.2% of the nursing facility's base rate for nursing facility services provided on the first day of FY 2022 plus \$1.79;
2. Multiply the amount determined under (1) by the number of the nursing facility's Medicaid days for the calendar year preceding FY 2022;
3. Determine the sum of (2) for all nursing facilities for which the product was determined for FY 2022;
4. To the sum determined under (3), add \$50 million.

If a nursing facility undergoes a change of operator in FY 2022, the quality incentive payment rate to be paid to the entering operator is the same rate that was in effect on the day immediately preceding the effective date of the change of operator and paid to the exiting operator.

Quality improvement payment

By January 1, 2022, the bill requires the Department, in consultation with the Departments of Aging and Health, to develop and establish quality improvement criteria that will be used to calculate a quality improvement payment for eligible nursing facilities. If the criteria are established in FY 2022, they replace the FY 2022 quality incentive payment. The quality incentive payment ends after FY 2022, or after the establishment of the quality improvement payment, whichever is sooner. After the quality incentive payment expires, no quality improvement payments are to be made until the quality improvement payment criteria are implemented.

The quality improvement standards must be used to determine a quality improvement payment to be made to nursing facilities, and the Departments above must include stakeholder input as part of the process of developing the standards.

Key program staff

In addition to the quality improvement standards, to be eligible for the quality improvement payment, a nursing facility must operate a location in Ohio with key program staff who are Ohio residents and who include a different individual for each of the following categories:

- An administrator who works 40 hours a week during regular business hours to oversee the entire operation of the nursing facility. The administrator must devote sufficient time to facility operations to ensure adherence to program requirements and timely responses to the Department.
- A medical director who is a physician holding a current, unencumbered license to practice medicine and surgery or osteopathic medicine and surgery with at least three years of training in a medical specialty. The medical director must devote at least 32 hours a week to the nursing facility's operations to ensure timely medical decisions, including after-hours consultation as needed and must be actively involved in all major clinical and quality management components of the facility.
- A director of nursing who holds a current, unencumbered registered nurse license. The nursing director must serve 40 hours a week during regular business hours to ensure appropriate care to facility residents and be actively involved in all clinical and quality management components of the facility.
- A quality improvement director who has experience in quality management and quality improvement and oversees all quality initiatives in the facility. The quality improvement director must be a physician, registered nurse, or physician assistant, holding a current, unencumbered license.

Currently, the Revised Code does not use or define the term "unencumbered license" for professional regulation. Rather, it describes licenses as "current, valid licenses," while unencumbered is used to reference funds or real estate. It is unclear how "unencumbered" may be interpreted in a licensing context.

Rules

The Director may adopt rules to implement these requirements, including establishing quality improvement standards and minimum responsibilities for the key program staff.

Lump sum payment for low Medicaid utilization

(Section 333.230)

The bill establishes a lump sum payment for nursing facilities that experience low Medicaid utilization during state fiscal year 2022. The Department must determine the aggregate Medicaid utilization for all nursing facilities during state fiscal year 2022. If the Department determines that, for all nursing facilities, the aggregate Medicaid utilization for all of state fiscal

year 2022 is less than 90% of the aggregate Medicaid utilization for all nursing facilities for all of calendar year 2019, the Department can issue a lump sum payment to individual nursing facilities that had Medicaid utilization below 90% of utilization for all of fiscal year 2022. The total expenditures for the lump sum payments must be the lesser of \$50 million, or an amount equal to the aggregate calculated shortfall below 90% across all nursing facilities during that period.

The following nursing facilities are not eligible to receive a lump sum payment:

- Nursing facilities with a Medicaid utilization rate for all of state fiscal year 2022 that exceeds 90% of its Medicaid utilization for all of calendar year 2019;
- Nursing facilities that are new in state fiscal year 2022;
- Nursing facilities that have undergone a change of operator during state fiscal year 2022; and
- Nursing facilities that closed during state fiscal year 2022.

The Department may adopt rules, in accordance with the Administrative Procedure Act, to establish eligibility criteria, the distribution formula, and the procedures by which a nursing facility can request a lump sum payment.

Temporary expansion of rebasing

(Section 333.240)

The bill delays the Department's next nursing facility rebasing until July 1, 2023 (FY 2024), notwithstanding the law that requires the Department to conduct a rebasing at least once every five state fiscal years. The Department conducted its last rebasing in FY 2017. A rebasing is a redetermination of the four cost components used to calculate a nursing facility's per Medicaid day payment rate.⁵³

⁵³ 42 U.S.C. 1396r(f)(10).

DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES

Suspending admissions and taking action against a license

- Authorizes the Ohio Department of Mental Health and Addiction Services (OhioMHAS) Director to suspend admissions at the following facilities without a hearing if the licensee has demonstrated a pattern of serious noncompliance or the violation creates a substantial health and safety risk: residential facilities, certain community addiction services providers, and hospitals for mentally ill persons.
- Specifies a process for appeals when admissions are suspended without a prior hearing.
- Regarding suspending admissions, denying an application, or refusing to renew or revoking a license or certification, (1) authorizes OhioMHAS to take action regardless of whether the deficiencies have been corrected at the time of the hearing and (2) prohibits it from permitting an opportunity for submitting a plan of correction.

Certifiable services and supports

- Specifies reasons the OhioMHAS Director may refuse to certify, renew, or revoke certifiable services and supports provided by a community mental health or addiction services provider.
- Eliminates requirements that the Director (1) identify areas of noncompliance for an applicant who does not satisfy certification standards and (2) provide applicants with reasonable time to demonstrate compliance.

Confidentiality of substance use disorder records

- Modifies existing requirements for maintaining confidentiality of records regarding drug treatment programs and services that are licensed or certified by OhioMHAS.
- Establishes confidentiality requirements based on federal law and applies them to federally assisted programs for substance use disorder treatment.
- Requires that the disclosure of any confidential information comply with the federal requirements.

Stabilization centers

- Continues the requirement that alcohol, drug addiction, and mental health services (ADAMHS) boards to establish and administer, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, six mental health crisis stabilization centers.
- Requires the establishment and administration, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, acute substance use disorder stabilization centers.

Substance use disorder treatment in drug courts

- Continues a medication-assisted drug court program to provide addiction treatment to persons with substance use disorders.
- Requires community addiction services providers to provide specified treatment to the participants in the program based on the individual needs of each participant.

Family and children first council flexible funding pool

- Permits a county family and children first council to create a flexible funding pool to assure access to services by families, children, and seniors in need of protective services.

Suspending admissions and taking action against a license

(R.C. 5119.33, 5119.34, and 5119.36)

Suspending admissions

Current law authorizes the Ohio Department of Mental Health and Addiction Services (OhioMHAS) to suspend admissions at the following: hospitals that receive mentally ill persons, residential facilities, and community addiction services providers that provide overnight accommodations. The bill specifies that proceedings initiated to suspend admissions and appeals are generally governed by the Administrative Procedure Act (R.C. Chapter 119). However, if the OhioMHAS Director determines that the facility has demonstrated a pattern of serious noncompliance or that a violation creates a substantial risk to the health and safety of patients or residents, the Director may suspend admissions without a hearing. The order suspending admissions must be lifted if the Director determines the violation that formed the basis for the order has been corrected.

When admissions are suspended without a hearing, all of the following apply to an appeal of that order:

- The facility may request a hearing not later than ten days after receiving the notice;
- If a timely request for a hearing is made, the hearing must commence within 30 days;
- After commencing, the hearing must continue uninterrupted on business days unless the parties agree otherwise;
- If the hearing is conducted by a hearing examiner, the examiner must file a report and recommendations with OhioMHAS within ten days after the later of the hearing ending, a transcript being received, or briefs being received, as applicable;
- A written copy of the report and recommendations must be sent by certified mail to the facility or the facility's attorney, if applicable, within five days of the report being filed with OhioMHAS;
- The facility may file objections within five days of receiving the report;

- OhioMHAS must issue an order approving, modifying, or disapproving the report and recommendations within 15 days of it being filed by the hearing examiner;
- OhioMHAS must lift the order suspending admissions if it determines that the violation that formed the basis for the order has been corrected.

Procedures

The bill specifies that in proceedings to suspend admissions, or to deny an application, refuse to renew, or revoke a license or certification, OhioMHAS may take those actions regardless of whether some or all of the deficiencies that prompted the proceedings have been corrected at the time of the hearing. When OhioMHAS issues an order related to those proceedings or actions it may not permit an opportunity for submitting a plan of correction.

The bill also makes changes regarding hospitals that receive mentally ill persons, residential facilities, and community mental health and addiction services providers, to specify that proceedings initiated to deny applications for licenses or certification, to refuse to renew, or to revoke those licenses or certifications are governed by the Administrative Procedure Act. If an order suspending admissions has been issued, it remains in effect during the pendency of the proceedings.

Certifiable services and supports

(R.C. 5119.36 and 5119.99)

Under current law, OhioMHAS certifies certifiable services and supports provided by community mental health services providers and community addiction services providers. The bill specifies that the OhioMHAS Director may refuse to certify certifiable services and supports, refuse to renew certification, or revoke certification if any of the following apply to an applicant or the holder of a certification:

- The applicant or holder is not in compliance with OhioMHAS rules;
- The applicant or holder has been cited for a pattern of serious noncompliance or repeated violations of statutes or rules during the current or any previous certification period;
- The applicant or holder submits false or misleading information as part of a certification application, renewal, or investigation.

Also regarding certification, the bill eliminates existing requirements that the Director (1) identify areas of noncompliance for an applicant who does not satisfy certification standards and (2) provide applicants with reasonable time to demonstrate compliance.

Confidentiality of substance use disorder records

(R.C. 5119.27)

The bill modifies requirements for maintaining confidentiality of records or information regarding drug treatment programs and services that are licensed or certified by OhioMHAS. In their place, the bill establishes confidentiality requirements based on federal law and applies those requirements to records or information regarding federally assisted programs for

substance use disorder treatment. The bill requires the disclosure of any confidential information to comply with the federal requirements.

As part of updating the confidentiality requirements, when referring to programs used within the criminal justice system, the bill updates outdated references to “rehabilitation in lieu of conviction” to instead refer to “intervention in lieu of conviction.”

Stabilization centers

(Sections 337.40(C) and 337.130)

Mental health crisis stabilization centers

The bill continues a requirement, first established for the FY 2019-FY 2020 biennium, that OhioMHAS allocate among the alcohol, drug addiction, and mental health services (ADAMHS) boards, in each of FY 2022 and FY 2023, \$1.5 million for six mental health crisis stabilization centers. Each board must use its allocation to establish and administer a stabilization center in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region. At least one center must be located in each of the six state psychiatric hospital regions established by the Department.

ADAMHS boards must ensure that each mental health crisis stabilization center complies with the following:

- It must admit individuals before and after they receive treatment and care at hospital emergency departments or freestanding emergency departments;
- It must admit individuals before and after they are confined in state correctional institutions, local correctional facilities, or privately operated and managed correctional facilities;
- It must have a Medicaid provider agreement;
- It must admit individuals who have been identified as needing the stabilization services provided by the center;
- It must connect individuals when they are discharged from the center with community-based continuum of care services and supports.

Substance use disorder stabilization centers

The bill requires ADAMHS boards to submit to the OhioMHAS Director a plan for the establishment and administration, in collaboration with the other ADAMHS boards that serve the same state psychiatric hospital region, acute substance use disorder stabilization centers. There must be at least one center in each state psychiatric hospital region.

Substance use disorder treatment in drug courts

(Section 337.60)

The bill continues a requirement from previous biennia that OhioMHAS conduct a program to provide substance use disorder treatment, including medication-assisted treatment and recovery supports, to persons who are eligible to participate in a medication-assisted

treatment (MAT) drug court program. OhioMHAS's program is to be conducted in a manner similar to programs that were established and funded by the previous three main appropriations acts.

In conducting the program, OhioMHAS must collaborate with the Ohio Supreme Court, the Department of Rehabilitation and Correction, and any state agency that may be of assistance in accomplishing the objectives of the program. OhioMHAS also may collaborate with the ADAMHS board that serves the county in which a participating court is located and with the local law enforcement agencies serving that county.

OhioMHAS must conduct its program in collaboration with any counties in Ohio that are conducting MAT drug court programs. OhioMHAS also may conduct its program in collaboration with any other court with a MAT drug court program.

Selection of participants

A MAT drug court program must select the participants for OhioMHAS's program. The participants are to be selected because of having a substance use disorder. Those who are selected must be either (1) criminal offenders, including offenders under community control sanctions, or (2) involved in a family drug or dependency court. They must meet the legal and clinical eligibility criteria for the MAT drug court program and be active participants in that program or be under a community control sanction with the program's participating judge. The total number of participants in OhioMHAS's program at any time is limited to 1,500, subject to available funding. OhioMHAS may authorize additional participants in circumstances it considers appropriate. After being enrolled, a participant must comply with all of the MAT drug court program's requirements.

Treatment

Only a community addiction services provider is eligible to provide treatment and recovery supports under OhioMHAS's program. The provider must:

- Provide treatment based on an integrated service delivery model that consists of the coordination of care between a prescriber and the provider;
- Assess potential program participants to determine whether they would benefit from treatment and monitoring;
- Determine, based on the assessment, the treatment needs of the participants;
- Develop individualized goals and objectives for the participants;
- Provide access to long-lasting antagonist therapies, partial agonist therapies, or full agonist therapies, that are included in the program's medication-assisted treatment;
- Provide other types of therapies, including psychosocial therapies, for both substance abuse disorder and any co-occurring disorders;
- Monitor program compliance through the use of regular drug testing, including urinalysis, of the participants; and

- Provide access to time-limited recovery supports that are patient-specific and help eliminate barriers to treatment, such as assistance with housing, transportation, child care, job training, obtaining a driver’s license or state identification card, and any other relevant matter.

In the case of medication-assisted treatment, the following conditions apply:

- A drug may be used only if the drug has been federally approved for use in treating dependence on opioids, alcohol, or both, or for preventing relapse;
- One or more drugs may be used, but each drug that is used must constitute a long-acting antagonist therapy or partial or full agonist therapy;
- If a partial or full agonist therapy is used, the program must provide safeguards, such as routine drug testing of participants, to minimize abuse and diversion.

Planning

To ensure that funds appropriated to support OhioMHAS’s program are used in the most efficient manner, with a goal of enrolling the maximum number of participants, the bill requires the Medicaid Director to develop plans in collaboration with major Ohio health care plans. However, there can be no prior authorizations or step therapy for medication-assisted treatment for program participants. The plans must ensure:

- The development of an efficient and timely process for review of eligibility for health benefits for all program participants;
- A rapid conversion to reimbursement for all health care services by the participant’s health care plan following approval for coverage of health care benefits;
- The development of a consistent benefit package that provides ready access to and reimbursement for essential health care services, including primary health care, alcohol and opioid detoxification services, appropriate psychosocial services, and medication for long-acting injectable antagonist therapies and partial or full agonist therapies; and
- The development of guidelines that require the provision of all treatment services, including medication, with minimal administrative barriers and within time frames that meet the requirements of individual patient care plans.

Family and children first council flexible funding pool

(Section 337.160)

The bill permits a county family and children first council to establish and operate a flexible funding pool to assure access to needed services by families, children, and older adults who need protective services. A county council that desires such a pool must abide by all of the following:

- The pool must be created and operate according to formal guidance issued by the state Family and Children First Cabinet Council.

- The county council must produce an annual report on its use of the pooled funds. The report must conform to guidance issued by the state council.
- Unless otherwise restricted, the pool may receive transfers of state general revenue funds allocated to local entities to support services to families and children.
- The pool may receive only transfers of amounts that can be redirected without hindering the objective for which the initial allocation is designated.
- The director of the local agency that originally received the allocation must approve the transfer to the pool.

DEPARTMENT OF NATURAL RESOURCES

Division of Wildlife

- Eliminates the nonresident Lake Erie Sport Fishing District permit.
- Reduces, from \$11.50 to \$11.00, the fees for a senior deer permit and senior wild turkey permit, available to Ohio residents 66 and older.
- Removes superfluous definitions of “resident” and “nonresident” in the law governing deer and wild turkey permits.
- Removes the \$500,000 cap on annual expenditures from the Wildlife Boater Angler Fund that the Division of Wildlife may make to pay for equipment and personnel costs associated with boating access improvements.
- Alters the requirements for a veteran to receive free fishing and hunting licenses and permits, which administratively benefits the Ohio Department of Veterans Services, but will not affect the number or status of eligible veterans who may receive the benefit.

Division of Mineral Resources Management

Performance security for coal mining operations

- Requires a coal mining and reclamation permittee to submit full performance security instead of using partial security and money from the existing Reclamation Forfeiture Fund for purposes of land reclamation if:
 - Ownership and operational control of the permittee has been transferred, assigned, or sold; and
 - The transferee has not held a mining permit in Ohio for at least five years.
- Specifies that this restriction applies even if the status and name of the permittee otherwise remain the same.

Deputy mine inspectors eligibility requirements

- Allows an applicant for the position of deputy mine inspector of underground coal mines or underground noncoal mines to have experience in any underground mine located anywhere as long as the total experience equals six years.
- Allows an applicant for the position of deputy mine inspector of surface mines to have experience in surface mines located anywhere as long as the total experience equals six years.

Reciprocity for mine personnel

- Authorizes the Chief of the Division of Mineral Resources Management to issue a certificate to work as a mine foreperson, foreperson, or mine electrician to an out-of-state applicant if:

- The applicant holds a valid certification or other authorization from a state with which the Department of Natural Resources has a reciprocal agreement; and
- The applicant passes an examination on Ohio mining law or other topics determined by the Chief.
- Allows an out-of-state mine foreperson, foreperson, or mine electrician (working under a reciprocal agreement) who has been issued a temporary certificate to act as a foreperson or mine electrician in Ohio prior to the provision's effective date to continue to work under that temporary certificate until it expires.

Division of Oil and Gas Resources Management

Oil and gas well plugging

- Authorizes the holder of a valid well drilling permit to obtain approval from the Division of Oil and Gas Resources Management to plug that well without obtaining a permit to plug and abandon it if an oil and gas inspector approves it and either of the following apply:
 - The well was drilled to total depth and the well cannot or will not be completed; or
 - The well is a lost hole or a dry hole.
- Requires the plugging of a well drilled to total depth that cannot or will not be completed to be completed within 30 days of the inspector's approval.
- Requires the plugging of a lost hole or dry hole to be completed immediately after determining that the well is a lost hole or dry hole in accordance with rules.
- Clarifies that the Chief of the Division may plug and abandon wells without a permit to do so.
- Specifies that the \$250 application fee for a permit to plug and abandon it is nonrefundable and applies even if oil or gas has not been produced from the well.
- Requires any person undertaking plugging, other than a well owner already required to maintain an insurance policy under current law, to obtain \$1 million in bodily injury and property damage insurance coverage (or \$3 million if the well is in an urbanized area).
- Requires a person to electronically submit proof of that insurance to the Chief on the Chief's request.

Defective well casing and plugging requirements

- Prohibits any person (rather than only the owner of a well, as in current law) from constructing a well that causes damage to other permeable strata, underground sources of drinking water, or the surface of the land or that threatens the public health and safety or the environment.
- Prohibits any person or an owner of a well from operating a well in a way that causes the damage specified above or threatens the public health and safety or the environment.

- Retains current law prohibiting the owner of a well from allowing defective casing in a well to leak fluid or gases, but eliminates the requirement that the leak must:
 - Cause the damages specified above; or
 - Threaten the public health and safety or the environment.
- Requires either a person who constructed a well or the owner of that well to notify the Chief of well or casing defects within 24 hours of discovering the defect, rather than only requiring the owner of the well to do so, as in current law.
- Requires either the person who constructed that well or the owner of that well to immediately repair any defects or to plug it, rather than only requiring the owner of the well to do so, as in current law.
- Requires the Chief to issue a plugging order to either the person that constructed the well or the owner of the well when the Chief determines the well should be plugged, rather than only requiring the owner of the well to do so, as in current law.

Division of Water Resources

- Revises the amount of the surety bond that an applicant for a dam or levee construction permit must obtain and bases the amount on the estimated costs of construction.
- Authorizes the Chief of the Division of Water Resources to reduce the required surety amount for specified reasons.
- Authorizes the Chief to assess a civil penalty of up to \$5,000 per day for each day of each violation of the laws governing dams and levees and water diversions and withdrawals or any term or condition of a permit issued under them.
- Disburses money derived from costs and civil penalties to either the Dam Safety Fund or the Water Management Fund, depending on whether violations are committed under the law governing dam safety or the law governing water diversions and withdrawals.
- Requires criminal fines collected from violators of laws governing water well constructions logs and water diversions and withdrawals to be credited to the Water Management Fund, rather than the Dam Safety Fund as under current law.

Division of Parks and Watercraft

- Prohibits a person from operating a watercraft in Ohio if it displays an identification number or registration decal that: (1) is fictitious, (2) is counterfeit or an unlawfully made copy, or (3) belongs to another watercraft.
- Increases the damage threshold that triggers a required watercraft accident report from \$500 to \$1,000.

Division of Forestry

Forestry projects on federal land

- Allows the Chief of the Division of Forestry to enter into agreements with the federal government for forest management projects, including timber sales, pursuant to federal law.
- Allows the Chief to sell timber and other forest products from federal lands in accordance with the terms of an agreement with the federal government.
- Requires the Chief to deposit money received from timber sales from federal lands into the existing State Forest Fund.
- Allows the money derived from those timber sales to be used for forest management projects associated with federal lands.

Wildfire reimbursement to firefighting agencies

- Allows the Director of Natural Resources to reimburse firefighting agencies and private fire companies for costs associated with certain fire assistance activities if those costs are eligible in accordance with an agreement between the Division and the federal government.

State employees aid in out-of-state wildfires

- Specifies that all state employees whom the Chief sends to another state to assist with forest fires are eligible for regular employment benefits and are immune from civil liability when performing duties within the scope of employment.

Division of Geological Survey

- Eliminates the Ohio Geology license plate (which is not currently issued by the BMV).
- Correspondingly, eliminates the \$15 contribution for each license plate, which is deposited in the Geological Mapping Fund and must be used to award grants to graduate-level educational institutions for geology-related research activities and providing geology kits to primary and secondary schools.
- Instead, allows the Chief of the Division of Geological Survey to spend any money deposited in the Geological Mapping Fund (not just money from license plate proceeds) for the grants and kits.
- Adds to the purposes for which money in the fund may be used by allowing the Chief to issue grants to collegiate geology departments for undergraduate geological research.

Division of Wildlife

Lake Erie Sport Fishing District permit

(R.C. 1533.38, repealed; conforming changes in R.C. 1531.01, 1533.01, and 1533.101)

The bill eliminates the Lake Erie Sport Fishing District permit that:

1. The Division of Wildlife issues to non-Ohio residents to fish in Lake Erie, its embayments, and other specified areas connected to Lake Erie; and
2. Allows permittees to fish in the District between January and April.

Currently, each applicant must pay a \$10 annual fee for the permit, which is deposited into the Wildlife Fund. A nonresident who wishes to fish in the district must obtain this permit in addition to the nonresident annual fishing license. Thus, under the bill, a nonresident need obtain only a nonresident fishing license to fish in the District.

Senior deer and wild turkey fees

(R.C. 1533.11)

The bill reduces, from \$11.50 to \$11.00, the fees for a senior deer permit and senior wild turkey permit, available to Ohio residents 66 and older.

It also removes superfluous definitions of “resident” and “nonresident” in the law governing deer and wild turkey permits (those definitions already exist in R.C. 1531.01 and 1533.01 and apply to the laws governing hunting and fishing).

Wildlife Boater Angler Fund

(R.C. 1531.35)

The bill removes the \$500,000 cap on annual expenditures from the Wildlife Boater Angler Fund that the Division of Wildlife may make for equipment and personnel costs associated with boating access improvements. Under current law, the fund generally consists of money derived from a portion of the motor fuel excise tax. Money in the fund is used primarily for the acquisition, development, and maintenance of boating access areas.

Veterans fishing and hunting benefits

(R.C. 1533.12)

The bill alters the requirements for a veteran to receive free fishing and hunting licenses and permits. Specifically, it allows an honorably discharged Ohio resident who is entitled to benefits under the Dependent’s Education Assistance Program administered by the U.S. Department of Veterans Affairs to receive free fishing and hunting licenses and permits. Current law, instead, allows an honorably discharged Ohio resident who receives a pension or compensation from the Veterans Administration (VA) and who has a disability that has been determined by the VA to be permanently and totally disabling to receive those benefits.

According to the Department of Natural Resources (ODNR), this change does not affect the number or status of eligible veterans who may receive this benefit, but it will make the process of approving veterans who are eligible for free hunting and fishing licenses and permits

easier. Under the current method, the Ohio Department of Veterans Services reviews eligibility for these benefits every five years to make sure the veteran receives a pension or compensation from the VA. Under the new method, the Department will determine whether the veteran is entitled to benefits under the Education Assistance Program, which is a lifetime membership in the program. A veteran must be totally and permanently disabled to qualify for the program. Therefore, instead of reviewing a veteran's eligibility for free hunting and fishing licenses and permits every five years, the Department only needs to approve the veteran once.

Division of Mineral Resources Management

Performance security for coal mining operations

(R.C. 1513.08)

Current law requires a coal mining and reclamation permit applicant to provide their own performance security in a specified amount or a combination of their own performance security and reliance on the Reclamation Forfeiture Fund. If the applicant relies partly on the fund, it must pay an additional coal severance tax, which is credited to the fund. The performance security options are available to any coal mining and reclamation permittee, no matter how long the permittee has held a permit.

The bill requires a coal mining and reclamation permittee to submit full performance security instead of using partial security and money from the Reclamation Forfeiture Fund for purposes of land reclamation if:

1. Ownership and operational control of the permittee has been transferred, assigned, or sold; and
2. The transferee has not held a mining permit in Ohio for at least five years.

It also specifies that this restriction applies even if the status and name of the permittee otherwise remain the same.

Deputy mine inspector eligibility requirements

(R.C. 1561.12)

Current law requires an applicant for the position of deputy mine inspector of underground mines with the Division of Mineral Resources Management to have six years practical experience, at least two of which must have been in underground mines in Ohio. In the case of an applicant who would inspect coal mines, the two years must be in coal mines in Ohio. The bill does the following:

1. Eliminates the requirement that two of the six years of experience be in Ohio underground coal mines for an underground coal mine inspector;
2. Eliminates the requirement that two of the six years of experience be in Ohio underground noncoal mines for an underground noncoal mine inspector; and
3. Allows the experience for either type of inspector to be in *any* underground mine, rather than in specific mining operations as under current law.

Thus, the applicant can have experience in any underground mine located anywhere as long as the total experience equals six years.

Regarding the six years of work experience required for the position of deputy mine inspector of surface mines, the bill eliminates the requirement that two of the six years be in Ohio surface mines. Thus, the applicant can have experience in surface mines located anywhere as long as the total experience equals six years.

Reciprocity for mine personnel

(R.C. 1561.23)

The bill authorizes the Chief of the Division of Mineral Resources Management to issue a certificate to work as a mine foreperson, foreperson, or mine electrician to an out-of-state applicant if:

1. The applicant holds a valid certification or other authorization from a state with which ODNR has a reciprocal agreement for the certification or authorization; and
2. The applicant passes an examination on Ohio mining law or other topics determined by the Chief.

Under continuing law, a mine foreperson is the person whom the operator or superintendent of a mine places in charge of the mine. A foreperson assists the mine foreperson in the immediate supervision of a mine.

The bill also allows an out-of-state mine foreperson, foreperson, or mine electrician (working under a reciprocal agreement) who has been issued a temporary certificate to act as a mine foreperson, foreperson, or mine electrician in Ohio prior to the bill's effective date to continue to work under that temporary certificate. The person may continue to operate under the temporary certificate until it expires or the Chief suspends or revokes it.

Current law allows an out-of-state mine foreperson, foreperson, and mine electrician who holds a valid certificate or other authorization for the position to work under a temporary certificate in an emergency. To be eligible for a temporary certificate, the foreperson or electrician must give the Chief a copy of the certificate or other authorization from their home state. A temporary certificate is valid for six months.

Division of Oil and Gas Resources Management

Oil and gas well plugging

(R.C. 1509.13)

The bill authorizes the holder of a valid permit to drill a well to obtain approval from the Division of Oil and Gas Resources Management to plug that well without obtaining a permit to plug and abandon it, if an oil and gas inspector approves it and one of the following apply:

1. The well was drilled to total depth and the well cannot or will not be completed; or
2. The well is a lost hole or a dry hole.

The bill requires the permit holder plugging a well that was drilled to a total depth and that cannot or will not be completed to do so within 30 days of the inspector's approval. A permit

holder plugging a lost hole or dry hole must do so immediately after determining that the well is a lost hole or dry hole in accordance with rules. The bill clarifies that the Chief of the Division need not obtain a permit to plug and abandon or follow these procedures in order to plug and abandon a well.

Under current law, a person is generally required to obtain a permit to plug and abandon a well. But a well owner with a valid permit to drill the well may do so without a permit to plug and abandon it if an inspector approves the plugging so that it can be completed without undue delay. Current law does not impose the conditions or the timeframe for plugging specified by the bill. The bill eliminates this process for plugging and abandoning a well without a permit.

The bill specifies that the \$250 application fee for a permit to plug and abandon is nonrefundable and applies even if oil or gas has not been produced from the well. Under current law, an applicant generally must pay this application fee only if the well has produced oil or gas.

Finally, the bill requires any person undertaking plugging a well under a permit to obtain \$1 million in bodily injury and property damage insurance coverage (\$3 million if the well is located in an urbanized area), including for damages caused by the plugging of the well. The person must submit proof of insurance electronically to the Chief on the Chief's request. The bill specifies that a well owner already required to obtain an insurance policy for purposes of a well drilling permit does not need to obtain insurance under this requirement.

Defective well casing and plugging requirements

(R.C. 1509.12)

The bill prohibits any person from constructing a well that causes damage to other permeable strata, underground sources of drinking water, or the surface of the land or that threatens the public health and safety or the environment. It also prohibits any person or an owner of a well from *operating* a well in a way that causes those damages or threatens the public health and safety or the environment. Current law prohibits only the owner of a well from constructing a well in this manner and does not specifically prohibit those damages or threats to the public health and safety or the environment caused by well operation.

The bill retains current law that prohibits the owner of a well from allowing defective casing in a well to leak fluid or gases, but it eliminates the requirement that the leak must:

1. Cause the damages specified above; or
2. Threaten the public health and safety or the environment.

Under the bill, either a person who constructed a well or the owner of that well must notify the Chief of well or casing defects within 24 hours of discovering the defect. Further, either the person who constructed the well or the owner of the well must correct the defects or plug the well. Current law requires the notification and corrective action to be completed solely by the owner of the well.

When the Chief finds that a well should be plugged, the bill requires the Chief to order either the person who constructed the well or its owner to plug it. The bill prohibits any person from failing to comply with that order. Under current law, the Chief can only issue the order to the owner.

Division of Water Resources

Dams and levees enforcement

(R.C. 1521.06, 1521.061, and 1521.40)

The Division of Water Resources regulates dams and levees, water well logs, and water diversions and withdrawals from state waters. The bill alters the law governing these topics by doing both of the following:

1. Revising the application and financial responsibility requirements for dam or levee construction permits; and
2. Revising the Division Chief’s enforcement authority, including authorizing the Chief to assess civil penalties for specified violations.

The table below discusses each of these changes in more detail by comparing the changes made by the bill to current law requirements.

Current law	H.B. 110
Financial responsibility – initial	
<p>Requires an applicant for a dam or levee construction permit to file a surety bond equal to 50% of the estimated construction project costs.</p> <p>No provision.</p>	<p>Instead, generally requires an applicant to submit a surety bond equal to:</p> <ol style="list-style-type: none"> 1. \$50,000 for the first \$500,000 of the estimated cost of the project; plus 2. 25% of the estimated cost for the next \$4.5 million; plus 3. 10% of the estimated cost that exceeds \$5 million. <p>Authorizes the Chief to reduce the above amount to the cost estimate for construction activities that would be necessary to render the dam nonhazardous if the estimate is provided by the applicant and approved by the Chief.</p>
Civil penalties	
<p>No provision.</p>	<p>Authorizes the Chief to assess (and the Attorney General to recover) a civil penalty of up to \$5,000 per day for each day of violation of the laws governing dams and levees and water diversions and withdrawals, any rule adopted or issued under those laws, or any term or condition of a permit issued under those laws.</p>

Current law	H.B. 110
Civil penalties – disbursement	
No provision.	<p>Requires civil penalties recovered by the Attorney General to be disbursed to the following funds:</p> <ol style="list-style-type: none"> 1. For violations of the law governing dams and levees, the Dam Safety Fund. (The Chief uses the fund to administer that Dam Safety Law.) 2. For violations of the law governing water diversions and withdrawals, the Water Management Fund. (The Chief uses the fund to make loans and grants to governmental agencies for water management, water supply improvements, and planning.)
Recovery of costs incurred by the Division – disbursement	
Requires money recovered by the Attorney General, for costs incurred by the Division in investigating, mitigating, or removing a violation of <i>any</i> law enforced by the Division, to be credited to the Water Management Fund.	<p>Instead, requires money recovered by the Attorney General for costs to be disbursed to the following funds:</p> <ol style="list-style-type: none"> 1. For a violation of the law governing dams and levees, the Dam Safety Fund; 2. For a violation of the law governing water diversions and withdrawals, the Water Management Fund.
Criminal fine – disbursement	
Requires all criminal fines collected from violators of the laws governing dams and levees, water well construction logs, and water diversions and withdrawals to be credited to the Dam Safety Fund.	<p>Instead, requires criminal fines collected under those laws to be credited as follows:</p> <ol style="list-style-type: none"> 1. For fines collected for violations of the laws governing water well construction logs and water diversions and withdrawals, the Water Management Fund; 2. For fines collected for violations of the law governing dams and levees, the Dam Safety Fund.

Division of Parks and Watercraft

Fraudulent watercraft identification

(R.C. 1547.533; 1547.99, not in the bill)

The bill prohibits a person from operating a watercraft in Ohio if it displays an identification number or registration decal that:

1. Is fictitious;
2. Is counterfeit or an unlawfully made copy; or
3. Belongs to another watercraft.

A person who violates this prohibition is guilty of a minor misdemeanor.

Boat accident reporting threshold

(R.C. 1547.59)

The bill increases the damage threshold that triggers a required watercraft accident report from \$500 to \$1,000. Under current law, a watercraft operator must submit the report to the Chief of the Division of Parks and Watercraft after an accident, collision, or other casualty involving a vessel that results in one of the following:

1. Loss of life;
2. Personal injury requiring medical treatment beyond first aid;
3. Damage to property (in excess of \$500 currently and in excess of \$1,000 under the bill);

or

4. Total loss of a vessel.

Division of Forestry

Forestry projects on federal land

(R.C. 1503.05 and 1503.271)

The bill allows the Chief of the Division of Forestry to enter into agreements with the federal government for forest management projects, including timber sales, pursuant to specified federal laws. One such federal law authorizes the U.S. Secretary of Agriculture to enter into “good neighbor agreements.” A good neighbor agreement is a cooperative agreement or contract entered into between the Secretary and a state to carry out forest, rangeland, and watershed restoration.

The bill allows the Chief to sell timber and other forest products from federal lands in accordance with the terms of an agreement with the federal government. Currently, the Chief may sell timber and forest products from state forests and state forest nurseries. The Chief must deposit money received from timber sales from federal lands into the existing State Forest Fund.

In addition to fund uses allowed under current law, the bill allows money derived from the timber sales from federal lands to be used for forest management projects associated with those lands.

Wildfire reimbursement to firefighting agencies

(R.C. 1503.141)

The bill allows the ODNR Director to reimburse firefighting agencies and private fire companies for costs associated with wildfire suppression, prescribed fire assistance, or emergency response support to federal agencies. However, the Director may provide the reimbursement only if those costs are eligible in accordance with an agreement between the Division and the federal government.

Under current law, the Director may annually designate up to \$200,000 in the State Forest Fund for wildfire suppression payments and reimbursement to firefighting agencies and private fire companies for their costs incurred in wildfire suppression. The payments must be made in specified amounts from money in the fund derived from the sale of standing timber taken from state forest lands. The bill allows money for the new reimbursement authorization to support federal agencies to be drawn from the \$200,000 allocation.

State employees aid in out-of-state wildfires

(R.C. 1503.33)

The bill specifies that all state employees whom the Chief sends to another state to assist with forest fires are eligible for regular employment benefits (i.e., compensation, pension, indemnity fund rights, and workers' compensation). Additionally, they are immune from civil liability when performing duties within the scope of employment.

Under current law, only Division employees are eligible for those benefits and immunity.

Division of Geological Survey

Elimination of Ohio Geology license plate

(R.C. 4503.515, repealed and 1505.09)

The bill eliminates the Ohio Geology license plate (which is not currently issued by the BMV). Correspondingly, it eliminates the \$15 contribution for each license plate, which is deposited in the Geological Mapping Fund and must be used for the following purposes:

1. Allowing the ODNR Director to award grants at least annually to geology departments at state colleges and universities for graduate level research conducted at locations of geological interest in the state; and
2. Providing materials such as rock and mineral kits to state elementary and secondary schools to assist students in the study of geology.

The bill allows the Chief of the Division of Geological Survey to expend *any* money deposited in the Geological Mapping Fund (not just money from license plate proceeds) for the above two purposes. Additionally, it adds to those purposes by allowing the Chief to use fund money for grants to collegiate geology departments for undergraduate geological research.

Currently, mineral severance tax money and any fees collected by the Division for geological record archives and other geological purposes are also deposited in the fund. In addition to the purposes specified above, the fund may be used to perform certain tasks related to geology, geological hazards, and energy and mineral resources, and for funding the Oil and Gas Commission.

OHIO CONSUMERS' COUNSEL

- Allows members of the governing board of the Ohio Consumers' Counsel to attend meetings virtually.

Compensation of OCC governing board

(R.C. 4911.17)

The bill allows members of the governing board of the Ohio Consumers' Counsel to be compensated for their attendance at meetings regardless of whether they attend in person or virtually. Current law requires members to attend meetings in person to be compensated. Continuing law compensates members of the governing board for up to eight meetings per year.

OPPORTUNITIES FOR OHIOANS WITH DISABILITIES AGENCY

- Requires the Governor to present an award each October, during National Disability Employment Awareness Month, to employers who meet the criteria for having a workplace inclusive of individuals with disabilities.
- Requires the Opportunities for Ohioans with Disabilities Agency to determine the criteria to be used to recommend employers for the award.

Employer inclusive workplace award

(R.C. 3304.24)

The bill requires the Governor to present an award each October, during National Disability Employment Awareness Month, to employers who meet the criteria for having a workplace inclusive of individuals with disabilities. The Opportunities for Ohioans with Disabilities Agency must determine the inclusive workplace criteria to be used to recommend employers for the award.

Congress dedicated October as National Disability Employment Awareness Month to recognize the accomplishments of individuals with disabilities in the workplace and reaffirm support for employment opportunities for individuals with disabilities.⁵⁴

⁵⁴ 36 U.S.C 121 and Library of Congress, *National Disability Employment Awareness Month*, available [here](#).

OHIO OCCUPATIONAL THERAPY, PHYSICAL THERAPY, AND ATHLETIC TRAINERS BOARD

Board vacancies

- Extends to 90 days (from 60) the maximum transition period that may occur between an expired term of office and the Governor’s appointment of a person to fill a vacancy on the Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers Board.

Occupational therapy licensing procedures

- Eliminates limited permits for occupational therapists and occupational therapy assistants.
- Eliminates the option to have an occupational therapist’s or occupational therapy assistant’s license placed in escrow when the person is not in active practice.

Physical therapy licensing procedures

- Eliminates the requirement that a person applying for a physical therapist or physical therapist assistant license submit a physical description and photograph.
- Specifies that a physical therapy license applicant must graduate from a professional physical therapy program and that the program be accredited by an agency acceptable to the Board’s Physical Therapy section.

Orthotists, prosthetists, and pedorthists – enforcement

- Authorizes the Board to discipline orthotists, prosthetists, and pedorthists for denial, revocation, suspension, or restriction of authority to practice any health care occupation in any jurisdiction.
- Allows the Board to impose a fine or a requirement to take corrective action courses.
- Requires a person who is sanctioned to pay the actual cost of the administrative hearing.
- Transfers the duty to investigate violations to the full OTPTAT Board, in place of the Board’s secretary.
- Permits the Board to share confidential investigatory information with any relevant law enforcement, prosecutorial, or regulatory agency.

Discipline based on intervention in lieu of conviction

- Permits the Board to take disciplinary action due to a judicial finding of eligibility for intervention in lieu of conviction for any crime that would otherwise be reason for disciplinary action against the various professionals the Board regulates.

Discipline based on sexual interactions with patients

- Includes sexual conduct with a patient among the other sex-related behaviors for which the Board may take disciplinary action against a physical therapist or physical therapist assistant.

- Allows the Board, in its regulation of all other professionals under its jurisdiction, to take disciplinary action due to sexual conduct, sexual contact, and sexually demeaning verbal behavior with a patient.

Jurisdiction for appeals

- Establishes the Franklin County Court of Common Pleas as the jurisdiction for all appeals from orders issued by the Board.

Board vacancies

(R.C. 4755.01)

The Ohio Occupational Therapy, Physical Therapy, and Athletic Trainers (OTPTAT) Board consists of 16 members appointed by the Governor with the advice and consent of the Senate. Members serve for three-year terms, but a member also must serve until a successor is appointed or a period of 60 days has elapsed, whichever is first. The bill extends this transition period to 90 days.

Occupational therapist licensing procedures

Limited permits

(R.C. 4755.08 (primary) and 121.22, 4755.01, 4755.02, 4755.04, 4755.05, 4755.06, 4755.11, and 4755.12)

The bill eliminates provisions regarding the issuance of limited permits for occupational therapists and occupational therapy assistants. Under current law, if a person has taken the required licensing examination, a limited permit may be issued by the OTPTAT Board's Occupational Therapy Section. The permit authorizes the person to practice under the supervision of a licensed occupational therapist until the results of the examination are public.

Inactive licenses

(R.C. 4755.12 (primary) and 4755.06)

The bill eliminates the option to have an occupational therapist or occupational therapy assistant license placed in escrow. Under current law, this option allows an occupational therapist or occupational therapy assistant who is not in active practice to register as such with the Occupational Therapy Section for a biennial fee.

Physical therapy licensing procedures

Applications with physical identification

(R.C. 4755.42 and 4755.421)

The bill eliminates the requirement that a person seeking a license as a physical therapist or physical therapist assistant submit a physical description and photograph. Currently, this is required with every application.

Acceptable programs

(R.C. 4755.42, 4755.421, and 4755.48)

Current law requires an applicant for licensure as a physical therapist to have completed a master's or doctorate in a program of physical therapy education that is accredited by a national physical therapy accreditation agency recognized by the U.S. Department of Education. The bill, instead, requires graduation from a professional physical therapy program, without specifying the degree that must be obtained. It also establishes the OTPTAT Board's Physical Therapy Section as the entity that must approve of the agency that accredits the professional program.

The bill removes related provisions specifying that any approved physical therapy program include (1) a minimum of 120 academic semester credits and (2) a course with instruction in basic sciences, clinical sciences, and physical therapy theory and procedures.

Orthotists, prosthetists, and pedorthists – enforcement

Authorized Board actions

(R.C. 4779.28)

In regulating orthotists, prosthetists, and pedorthists, the OTPTAT Board's existing disciplinary options include limiting, revoking, or suspending a practitioner's license. The Board also may reprimand a license holder, place a license holder on probation, or refuse to issue a license to an applicant. The bill allows the Board to impose a fine or a requirement that a licensee take corrective action courses.

The bill also allows the Board to take disciplinary action against a licensee or applicant who has experienced denial, revocation, suspension, or restriction of authority to practice any health care profession in Ohio, another state, or any other jurisdiction. This provision does not include people who were sanctioned for failing to renew a license.

Fee for administrative hearing costs

(R.C. 4779.2810)

The bill requires any orthotist, prosthetist, or pedorthist who is sanctioned for any reason to pay the cost of the administrative hearing. This includes the cost of the court reporter, hearing officer, transcripts, and any witness fees for lodging and travel.

Responsibility for investigations

(R.C. 4779.33)

The secretary of the OTPTAT Board is currently responsible for investigating violations by an orthotist, prosthetist, or pedorthist. The bill transfers this duty to the full Board.

Sharing of investigatory information

(R.C. 4779.33)

The bill specifies that any information and records received or generated by the OTPTAT Board during an investigation regarding an orthotist, prosthetist, or pedorthist are not public records. However, the Board may disclose information to local, state, or federal law enforcement,

prosecutorial, or regulatory agencies if an investigation is within their jurisdiction. The agency receiving the information must comply with the same confidentiality requirements as the Board.

Under the bill, information from a Board investigation may be entered as evidence in a criminal trial or administrative hearing. Appropriate measures, such as sealing records or redacting specific information, must be taken to protect the confidentiality of patients, complainants, and others specified by the board.

Discipline based on intervention in lieu of conviction

(R.C. 4755.11, 4755.47, 4755.64, and 4779.28)

When a professional licensed by the OTPTAT Board is convicted of a crime, the Board is authorized to take disciplinary action. The bill permits the Board to take action not only based on conviction, but also if the licensee has been subject to a judicial finding of eligibility for intervention in lieu of conviction.

The specifics of the disciplinable crimes vary by profession. For occupational therapists and occupational therapy assistants, disciplinary action may be taken in response to a felony, a crime of moral turpitude, or a misdemeanor reasonably related to the practice of occupational therapy. The same applies to physical therapists and physical therapist assistants, except the misdemeanor must have occurred during the practice of physical therapy. Athletic trainers may be disciplined only for a felony or a crime of moral turpitude. Orthotists, prosthetists, and pedorthists may be disciplined for felonies or misdemeanors involving moral turpitude.

Discipline based on sexual interactions with patients

(R.C. 4755.11, 4755.47, 4755.64, and 4779.28)

The OTPTAT Board currently has some disciplinary power concerning sexual contact between licensees and patients. The Physical Therapy Section may discipline a licensee for sexual contact with a patient or for verbal behavior that is sexually demeaning. Sexual contact refers to vaginal or anal intercourse and oral sex. Verbal behavior that is sexually demeaning includes any communication that may be reasonably interpreted by the patient as sexually demeaning. The bill adds sexual conduct with a patient as a disciplinable action for physical therapists and physical therapist assistants. Sexual conduct is defined as contact with an erogenous zone of another person with the intent to sexually arouse or gratify either person.

The Board currently does not have the authority to discipline other licensees for sexual interactions with patients, including occupational therapists, occupational therapy assistants, athletic trainers, orthotists, prosthetists, and pedorthists. In the same manner described above for physical therapists, the bill prohibits the other professionals regulated by the Board from engaging in sexual contact, sexual conduct, or verbal behavior that is sexually demeaning with a patient. This applies even if the sexual interaction is consensual. These restrictions do not apply if the patient is the licensee's spouse.

Jurisdiction for appeals

(R.C. 119.12)

An order issued by the OTPTAT Board, such as denying an applicant admission to an exam, denying the issuance or renewal of a license, or revoking or suspending a license, may be appealed by the person affected. The bill establishes the Franklin County Court of Common Pleas as the jurisdiction for all appeals from orders issued by the Board. This change is consistent with the appeal process for orders issued by several other occupational licensing boards, including the State Medical Board and the Board of Nursing. Current appeals of OTPTAT Board orders go to the common pleas court of the licensee's county of residence or the county where the licensee's place of business is located.

DEPARTMENT OF PUBLIC SAFETY

- Reallocates 10¢ of the \$15 motor vehicle certificate of title fee from deposit in the Motor Vehicle Sales Audit Fund to deposit in the Highway Operating Fund.
- Authorizes a Department of Public Safety enforcement agent to investigate and enforce the law related to illegally selling and distributing cigarettes and tobacco without the offense occurring at a liquor permit premises or otherwise being associated with a Liquor Law violation.
- Specifies that a political subdivision employee who renders aid in another state in accordance with the Emergency Management Assistance Compact is considered a state employee for immunity purposes.

Certificate of title fee allocation

(R.C. 4505.09)

The bill reallocates 10¢ of the \$15 motor vehicle certificate of title fee from deposit in the Motor Vehicle Sales Audit Fund to deposit in the Highway Operating Fund. The amount of the certificate of title fee to be deposited in the Motor Vehicle Sales Audit Fund, to assist the Tax Commissioner's investigations of motor vehicle sales and use tax returns to ensure any tax liability has been satisfied, is reduced from 25¢ to 15¢. Additionally, the amount deposited into the Highway Operating Fund, managed by the Department of Transportation for its highway projects, is increased from 21¢ to 31¢. The overall \$15 motor vehicle certificate of title fee is not altered by the bill.

Enforcement of illegal tobacco distribution

(R.C. 5502.14)

The bill authorizes a Department of Public Safety (DPS) enforcement agent to investigate and enforce the law related to illegally selling and distributing cigarettes and tobacco,⁵⁵ without the offense occurring at a liquor permit premises or otherwise being associated with a Liquor Law violation. Under current law, a DPS enforcement agent may investigate and enforce most laws only if the violation occurs while the agent is on, immediately adjacent to, or across from a retail liquor permit premises while the agent is investigating that premises or while investigating another Liquor Law violation.⁵⁶

⁵⁵ R.C. 2927.02, not in the bill.

⁵⁶ R.C. 5502.13, not in the bill.

Emergency Management Assistance Compact immunity

(R.C. 5502.30)

The bill specifies that a political subdivision employee who renders aid in another state in accordance with the Emergency Management Assistance Compact (EMAC) is considered a state employee for immunity purposes under Article VI of the Compact. Therefore the employee is:

1. Considered an agent of the requesting state for tort liability and immunity purposes;
and

2. Not liable for any act or omission done in good faith while engaged or on account of the maintenance or use of any equipment or supplies in connection with the engagement.

It also specifies that this provision does not entitle a political subdivision employee to any other right or benefit of a state employee.

The EMAC is law in all 50 states. Through it, states may provide mutual assistance in managing any emergency or disaster.⁵⁷

⁵⁷ See <https://www.emacweb.org/>.

PUBLIC UTILITIES COMMISSION

- Removes the requirement that the Public Utilities Commission office be open during specific business hours.
- Allows the Power Siting Board (PSB) to obtain the services of outside experts and fund the expense through certificate or amendment application fees imposed under existing law.

Hours of operation

(R.C. 4901.10)

The bill removes the requirement that the office of the Public Utilities Commission be open from 8:30 a.m. to 5:30 p.m., Monday through Friday, with the result that the office must be open simply “throughout the year, Saturdays, Sundays, and legal holidays excepted.”

PSB contract for expert or analyst

(R.C. 4906.02)

The bill allows the Power Siting Board (PSB) to contract with experts or analysts (other than employees of the Environmental Protection Agency or Departments of Natural Resources, Agriculture, Health, or Development already called temporarily to provide assistance to Chairperson of the Public Utilities Commission) for the purposes of carrying out PSB’s powers and duties under current law. Any such expert or analyst must be compensated from the PSB certificate application fee, or if necessary, supplemental application fees, assessed under existing law.⁵⁸

⁵⁸ R.C. 4906.06, not in the bill.

DEPARTMENT OF REHABILITATION AND CORRECTION

Post-release control sanctions

- Modifies current law regarding post-release control (PRC) by:
 - Changing the duration of mandatory PRC to “up to five years, but not less than two years” for a first degree felony that is not a felony sex offense; “up to three years, but not less than 18 months” for a second degree felony that is not a felony sex offense; and “up to three years, but not less than one year” for a third degree felony that is an offense of violence and is not a felony sex offense;
 - Changing the duration of discretionary PRC to “up to two years” for a third, fourth, or fifth degree felony that is not subject to mandatory PRC;
 - Removing juvenile court delinquent child adjudications as items that must be considered by the Parole Board or court in determining PRC sanctions;
 - Changing from mandatory to discretionary the use of active GPS monitoring for the first 14 days of a prisoner on PRC who is released before the expiration of the prisoner’s term and who earned over 60 days of earned credit;
 - Modifying the mechanism for shortening or terminating PRC of an offender who is complying with the PRC sanctions;
 - Specifying that if, during the period of PRC, the offender serves as a sanction for violating PRC conditions and the maximum prison sanction time available as a PRC sanction, the PRC terminates;
 - Providing rules for determining the manner in which PRC operates when an offender is simultaneously subject to a period of parole and a period of PRC or is subject to two simultaneous periods of PRC; and
 - Specifying that a period of PRC must not be imposed consecutively to any other period of PRC.

Community control sanctions

- Changes the authorized duration of community control sanctions imposed for a felony to a maximum of five years for first, second, and third degree felonies and felony sex offenses, three years for fourth degree felonies that are not sex offenses, and two years for fifth degree felonies that are not sex offenses.
- Changes the authorized duration of community control sanctions imposed for a misdemeanor to a maximum of two years.

Judicial release and 80% release mechanism

- Changes the authorized duration of community control sanctions for prisoners released on judicial release or the 80% release mechanism to a maximum of five years for first, second, or third degree felonies or felony sex offenses, three years for fourth degree

felonies that are not sex offenses, and two years for fifth degree felonies that are not sex offenses.

NCIC Protection Order Database and LEADS

- With respect to five existing types of protection orders:
 - Requires the clerk of the court that issues the order to transmit it to the appropriate law enforcement agency for entry into the National Crime Information Center (NCIC) Protection Order Database maintained by the FBI and into the Law Enforcement Automated Data System, known as LEADS;
 - Requires law enforcement agencies to enter records of the orders received into LEADS by the close of the next business day after the day on which the order is issued;
 - Requires the clerk of the court that issues the order, if the order is terminated or canceled, to notify law enforcement agencies and other specified persons of the termination or cancellation; and
 - Specifies that, upon the termination or cancellation of an order, the court must order the appropriate law enforcement agency to remove the order from LEADS by the close of the next business day and ensure that the order is terminated, cleared, or canceled in the NCIC Protection Order Database.

Inclusion in LEADS of findings of IST or NGRI

- Enacts a mechanism for a court’s submission to the Attorney General, for entry into LEADS, of the court’s finding that a person charged with a criminal offense is incompetent to stand trial or not guilty by reason of insanity.

Entry of arrest warrants into LEADS as extradition warrants

- Requires that any warrant issued for a “Tier One Offense” (31 serious offenses specified in the bill) must be:
 - Entered into LEADS and the appropriate NCIC database by the law enforcement agency requesting the warrant within 48 hours of receipt of the warrant; and
 - Entered into LEADS by the law enforcement agency that receives the warrant with a full extradition radius as set by Ohio’s LEADS administrator.

Offense of having firearms while under disability

- Increases the penalty for the offense of “having weapons while under disability” (currently, always is a third degree felony) so that:
 - If the firearms disability is that the person is under indictment for or has been convicted of a felony offense of violence, the offense generally is a second degree felony, but is a first degree felony if the offender previously has been convicted of any of the five specified firearms disabilities; and

- If the firearms disability is any of the other four specified disabilities, the offense generally is a third degree felony, but is a second degree felony if the offender previously has been convicted of any of the five specified firearms disabilities.

Offense of unlawful transactions in weapons

- Increases the penalty for the offense of “unlawful transactions in weapons” to a third degree felony (currently a fourth degree felony) if the offender, in committing the offense:
 - Recklessly sold, loaned, gave, or furnished a firearm to a person prohibited from acquiring or using a firearm or dangerous ordnance to a person prohibited from acquiring or using any dangerous ordnance; or
 - Possessed a firearm or dangerous ordnance with purpose to dispose of it in violation of the prohibition described in the preceding dot point.
- Increases the penalty for the offense of “unlawful transactions in weapons” to a second degree felony (currently a third degree felony) if the offender, in committing the offense, knowingly:
 - Solicited, persuaded, encouraged, or enticed a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to a person in a manner prohibited by state or federal law;
 - With an intent to deceive, provided materially false information to a federally licensed firearms dealer or private seller; or
 - Procured, solicited, persuaded, encouraged, or enticed a person to act in violation of the prohibition described in either of the two preceding dot points.

Offense of improperly furnishing firearms to a minor

- Increases the penalty for the offense of “improperly furnishing firearms to a minor” to a third degree felony (currently a fifth degree felony).

Firearms specification penalty

- Increases the penalty for a specification that a felony offender had a firearm on or about the offender’s person or under the offender’s control while committing the felony and displayed, brandished, indicated possession of, or used the firearm, to:
 - A prison term of three, four, or five years (currently, three years); or
 - If the offender previously was convicted of a specification of that type or any other firearms specification, a prison term of 54, 66, or 78 months (currently, 54 months).

Notification of possible prison term for community control violation

- Specifies that the notice a court must give to an offender it sentences to a community control sanction for a felony regarding a possible prison term as a violation sanction must indicate “the range from which the term may be imposed.”

Community-based substance use disorder treatment

- Extends eligibility for the community-based substance use disorder treatment program.
- Removes a restriction that prevents those with certain prior offense of violence convictions from participating in the program.

Subsidies for community-based corrections programs

- Modifies the requirements for the program of subsidies for community-based corrections programs.

Administrative releases

- Expands the Adult Parole Authority's ability to grant an administrative release to include: (1) a "releasee" who is serving another felony sentence in a prison within or outside Ohio for the purpose of consolidating the records or if justice would best be served, or (2) a "releasee" who has been deported from the U.S.

Sealing of records related to an unconditional pardon

- Allows the Governor to include as a condition of an unconditional pardon that the records related to conviction be sealed, and generally provides that the records are not subject to public inspection unless directed by the Governor.

Internet access for prisoners

- Provides greater flexibility for prisons to provide internet access to prisoners.

Post-release control sanctions

(R.C. 2967.28)

Background

The bill modifies some of the provisions regarding post-release control (PRC). PRC is a period of supervision by the Adult Parole Authority (APA) after a prisoner's release from imprisonment, other than under a term of life imprisonment, that includes one or more post-release control sanctions. "Post-release control sanction" means a residential sanction, nonresidential sanction, or financial sanction authorized for a felony under R.C. 2929.16 to 2929.18 and that is imposed on a prisoner upon the prisoner's release from a prison term other than a term of life imprisonment.⁵⁹

Under current law, when an offender convicted of a felony is released from prison, in some circumstances the offender must be placed under a period of PRC, and in other circumstances, the PRC is discretionary. When an offender is placed under a PRC period, specified procedures apply regarding the offender, the PRC period, and supervision of the offender. The

⁵⁹ R.C. 2967.01, not in the bill.

Parole Board (or court in certain circumstances) imposes PRC sanctions and conditions on the offender that apply during the PRC period.

Mandatory PRC

If an offender is sentenced to prison for a first or second degree felony, for a felony sex offense, or for a third degree felony that is an offense of violence and is not a felony sex offense, the Parole Board is required to impose a period of PRC of a specified duration on the offender after the offender's release from imprisonment. The bill changes the duration of mandatory PRC:

1. From five years to "up to five years, but not less than two years" for a first degree felony that is not a felony sex offense;
2. From three years to "up to three years, but not less than 18 months" for a second degree felony that is not a felony sex offense; and
3. From three years to "up to three years, but not less than one year" for a third degree felony that is an offense of violence and is not a felony sex offense.

The period for a felony sex offense remains five years.

Discretionary PRC

If an offender is sentenced to a prison term for a third, fourth, or fifth degree felony that is not subject to the mandatory PRC provisions described above, the Parole Board, in accordance with specified procedures, is authorized to impose a PRC period on the offender if it determines that PRC is necessary for the offender. The bill changes the duration of discretionary PRC from up to three years to "up to two years" for a third, fourth, or fifth degree felony that is not subject to mandatory PRC.

Consideration of delinquent child adjudications

Prior to the release of an offender for whom it will impose PRC sanctions, the Parole Board (or court) must review certain information in determining which PRC sanctions are reasonable under the circumstances. The bill removes juvenile court delinquent child adjudications as items that the Board (or court) must consider in determining PRC sanctions. The bill does not change the other information that must be considered, including the offender's criminal history, results from the single validated risk assessment tool, and the record of the offender's conduct while imprisoned.

Use of active GPS monitoring

Currently, if an offender who is placed on PRC is released from prison before the expiration of the offender's prison term and the offender earned 60 or more days of credit, the APA must supervise the offender with an active GPS device for the first 14 days after the offender's release from imprisonment. The bill changes from mandatory to discretionary the use of active GPS monitoring for supervising the offender in the specified circumstances.

Shortening or terminating PRC

At any time after a prisoner is released from imprisonment and during the PRC period, the APA (or court) may review the releasee's behavior under the PRC sanctions. The APA (or court) may take specified actions after its review. The bill modifies the actions that the APA (or

court) may take. Under the bill, if the APA (or court), based on the review and in accordance with specified standards, determines that the releasee has satisfactorily complied with the sanctions imposed, it may recommend a less restrictive sanction, reduce the PRC period, or, no sooner than a minimum period of time, recommend that the Parole Board (or court) terminate the PRC period. In no case may the Board (or court) reduce the PRC duration imposed for a felony sex offense, described above with regard to mandatory PRC.

Related to the bill's changes, the bill expands a provision that currently requires the DRC to adopt rules that establish standards for certain PRC-related purposes to also require that the rules establish standards to be used by the Parole Board in terminating (or reducing, as currently authorized) the PRC duration when authorized as described in the preceding paragraph or in imposing a less restrictive sanction on a releasee based on results from the single validated risk assessment tool (and, as currently specified, on the releasee's activities, including remaining free from criminal activity and from the abuse of alcohol or other drugs, successfully participating in approved rehabilitation programs, maintaining employment, and paying restitution or meeting the terms of other financial sanctions).

The current provisions regarding the actions the APA (or court) currently may take, repealed by the bill, specify that: (1) if it determines that a more restrictive or a less restrictive sanction is appropriate it may impose a different sanction, (2) the APA may recommend that the Parole Board (or court) increase or reduce the PRC duration, (3) if the APA recommends that the PRC duration be increased, the Board (or court) must review the releasee's behavior and may increase the PRC duration up to eight years, (4) if the APA recommends that the PRC duration be reduced, the Board (or court) must review the releasee's behavior and generally may reduce the PRC duration or, in certain cases, reduce the PRC duration or terminate the PRC, and (5) in no case may the Board (or court) reduce the PRC duration for a felony sex offense to a period less than the length of the prison term included in the prison term originally imposed on the offender, consider any reduction or termination of the PRC duration imposed on a releasee prior to the expiration of one year after the commencement of the PRC period for certain types of indefinite sentences, or permit the releasee to leave Ohio without permission of the court or the releasee's supervising officer.

Termination of PRC, if maximum prison time available expires

If the Parole Board (or court) at a hearing finds that a releasee under a PRC sanction violated the sanction or condition, it may increase the PRC duration up to the maximum authorized duration or impose a more restrictive PRC sanction. When appropriate, the Board (or court) may impose as a PRC sanction a residential sanction that includes a prison term. Subject to one limited exception, a prison term imposed as a PRC sanction under this provision may not exceed nine months, and the maximum cumulative prison term for all violations under this provision may not exceed one-half of the prison term that was originally imposed on the offender. The period of a prison term imposed as a PRC sanction under this provision does not count as, or may not be credited toward, the remaining PRC period. The bill adds a provision specifying that if, during the releasee's PRC period, the releasee serves as a PRC sanction the maximum prison time available as a sanction, the PRC terminates.

Simultaneous parole and PRC; ban on consecutive PRC periods

The bill replaces several provisions that pertain to calculating service of a PRC period. Under the bill:

1. If an offender is simultaneously subject to a period of parole and a PRC period, or is simultaneously subject to two PRC periods, the period of supervision that expires last determines the length and form of supervision for all the periods and related sentences.

2. An offender is to receive credit for PRC supervision during the period of parole, and is not eligible for final release under a separate provision of law⁶⁰ until the PRC period otherwise would have ended.

3. If the period of parole ends prior to the end of the PRC period, the requirements of parole supervision are to be satisfied during the PRC period.

The bill retains a provision specifying that a PRC period may not be imposed consecutively to any other PRC period (although the bill does not include the express statement under existing law that PRC periods are to be served concurrently).

The replaced provisions specify that: (1) a PRC period commences upon an offender's actual release from prison, (2) if a PRC period is imposed and the offender also is subject to a period of parole, and if the PRC period ends prior to the period of parole, the offender is to be supervised on parole and receives credit for PRC supervision during the period of parole and is not eligible for final release until the PRC period otherwise would have ended, (3) if an offender is under a PRC period and also is subject to a period of parole, and if the period of parole ends prior to the PRC period, the offender is to be supervised on PRC and the requirements of parole supervision are to be satisfied during the PRC period, and (4) if an offender is subject to more than one PRC period, the PRC period for all of the sentences is the PRC period that expires last, as determined by the Parole Board (or court).

Community control sanctions

Felony community control sanctions

(R.C. 2929.15)

The bill changes the authorized duration of all community control sanctions that may be imposed on an offender convicted of a felony, from a maximum of five years for all felonies (under current law) to:

1. A maximum of five years for first, second, and third degree felonies and felony sex offenses;

2. A maximum of three years for fourth degree felonies that are not felony sex offenses; and

3. A maximum of two years for fifth degree felonies that are not felony sex offenses.

⁶⁰ R.C. 2967.16, not in the bill.

A “felony sex offense” is a violation of a section contained in R.C. Chapter 2907 that is a felony.

Related to this change, the bill also changes the authorized duration of one type of penalty that may be imposed on an offender who was sentenced to a community control sanction for a felony and who violated the conditions of the sanction or left Ohio without permission of the court or the offender’s probation officer. The type of penalty affected is the imposition of a longer time under the same community control sanction. Under the bill, the court may impose as a penalty a longer time under the same sanction if the total time under the sanctions does not exceed the limit for the felony for which the community control sanction was imposed, as described above. The other types of penalties that may be imposed, unchanged by the bill, are a more restrictive community control sanction or, subject to specified limitations, a prison term from the range of terms that would be applicable to the offense.

As used in these provisions, a “community control sanction” is a sanction imposed for a felony that is not a prison term and that is a residential sanction described in R.C. 2929.16, a nonresidential sanction described in R.C. 2929.17, or a financial sanction described in R.C. 2929.18.⁶¹

Misdemeanor community control sanctions

(R.C. 2929.25)

The bill changes the authorized duration of all community control sanctions that may be imposed on an offender convicted of a misdemeanor from a maximum of five years (under current law) to a maximum of two years.

Related to this change, the bill also changes the authorized duration of one of the types of penalties that may be imposed as a penalty on an offender who was sentenced to a community control sanction for a misdemeanor and who violated the conditions of the sanction. The type of penalty affected is the imposition of a longer time under the same community control sanction – under the bill, the court may impose as a penalty a longer time under the same sanction if the total time under all of the sanctions does not exceed the two-year limit described in the preceding paragraph (currently, the total time under the sanctions may not exceed five years). The other types of specified penalties that may be imposed, unchanged by the bill, are a more restrictive community control sanction or a combination of community control sanctions, including a jail term.

A “community control sanction” is a sanction that is not a jail term and that is a residential sanction described in R.C. 2929.26, a nonresidential sanction described in R.C. 2929.17, or a financial sanction described in R.C. 2929.18.⁶²

⁶¹ R.C. 2929.01, not in the bill.

⁶² R.C. 2929.01, not in the bill.

Judicial release and 80% release mechanism

(R.C. 2929.20 and 2967.19)

The bill changes the authorized duration of community control sanctions imposed on an offender released from prison on judicial release or under the 80% release mechanism, from a maximum of five years for all offenders (under current law) to a maximum of:

1. Five years if the most serious offense from which the release is granted is a first, second, or third degree felony or a felony sex offense;

2. Three years if the most serious offense from which the release is granted is a fourth degree felony that is not a felony sex offense; and

3. Two years if the most serious offense from which release is granted is a fifth degree felony that is not a felony sex offense.

A “felony sex offense” is a violation of a section contained in R.C. Chapter 2907 that is a felony.

Related to this change, in an existing provision addressing a special type of judicial release that may be granted for a prisoner who is in imminent danger of death, is medically incapacitated, or is suffering from a terminal illness, the bill specifies that the limits on duration enacted in the change does not apply to the period of community control under which the offender is released (currently, the provision specifies that the current five-year limit does not apply to that period of community control).

Judicial release is a mechanism under which the court that sentenced an offender convicted of a felony to prison may, if the offender meets certain qualifications and has served a specified portion of the offender’s sentence, reduce the prison term through a judicial release. The court may do this on its own or on motion of the offender. If the court grants a judicial release, it places the offender on supervised release under an appropriate community control sanction and appropriate conditions, and reserves the right to reimpose the sentence that it reduced if the offender violates the sanction.

The 80% release mechanism is a mechanism under which the court that sentenced an offender convicted of a felony to a prison term may, if the offender is eligible and has served 80% of the prison term that remains after serving all restricting prison terms, and if the DRC Director recommends that the court consider releasing the offender, grant early release from prison. Only an offender recommended by the Director may be considered for early release under this mechanism. If the court grants the early release, it places the offender on supervised release under appropriate community control sanctions and conditions, and reserves the right to reimpose the sentence that it reduced and from which the offender was released if the offender violates the sanction.

NCIC Protection Order Database and LEADS

Court's filing of protection order with the clerk of court

(R.C. 2151.34, 2903.213, 2903.214, 2919.26, and 3113.31)

Under the bill, if a court issues any of five existing types of protection orders, the court must file the order with the clerk of the court, so that the clerk can transmit the order to the appropriate law enforcement agency for the purposes described below. More specifically, the requirement applies to the following types of protection orders:

1. A juvenile court protection order against a person under age 18 if the order will be valid after the respondent's 18th birthday.

2. A civil protection order against a person: (a) age 18 or older who allegedly committed menacing by stalking or a sexually oriented offense against the person to be protected by the order, or (b) who allegedly has engaged in domestic violence (including any sexually oriented offense) against a specified family or household member, or has engaged in dating violence against a person with whom the respondent was in a dating relationship, who is to be protected under the order.

3. A criminal protection order against a person: (a) charged with a specified assault or menacing offense or aggravated trespass, a substantially equivalent municipal ordinance violation, or a sexually oriented offense against a victim who is not a family or household member of the offender, or (b) charged with criminal damaging or endangering, criminal mischief, burglary, or aggravated trespass, a municipal ordinance violation that is substantially similar to any of those offenses, an offense of violence (including domestic violence), or a sexually oriented offense against an alleged victim who was a family or household member.

Transmission of order and entry in NCIC and LEADS

(R.C. 2151.34, 2903.213, 2903.214, 2919.26, and 3113.31)

The bill specifies that the clerk of the court that issues the order must transmit it to the appropriate law enforcement agency for entry into the Protection Order Database of the National Crime Information Center (NCIC), which is maintained by the FBI, and entry into the Law Enforcement Automated Data System (LEADS). The entry into LEADS must be by the close of the next business day after the day on which the order is issued.

Duties upon termination or cancellation of order

If the court that issues any of the protection orders described above (or the court of common pleas with respect to a criminal protection order when the respondent is bound over to that court) terminates or cancels the order, the clerk of the court must cause delivery of notice of the termination or cancellation to the same persons and entities that were delivered a copy of the order (the petitioner, the respondent, and all law enforcement agencies with jurisdiction to enforce the order), and the court must issue a removal order. Upon the order's termination or cancellation, the court must order the appropriate law enforcement agency to remove the order from LEADS by the close of the business day after the day the termination or cancellation occurred and must ensure that the order is terminated, cleared, or canceled in the NCIC Protection Order Database.

Inclusion in LEADS of findings of IST or NGRI

(R.C. 2945.403)

The bill enacts a mechanism for the entry into LEADS of court findings that a person charged with a criminal offense is incompetent to stand trial (IST) or not guilty by reason of insanity (NGRI). Under the bill, notwithstanding any Revised Code provision to the contrary, if, on or after the bill's effective date, an individual is found by a court to be IST or NGRI, the judge who made the determination must notify the office of the Attorney General (AG) of the individual's identity. The notification must be on the form made available by the AG, as described below, and must be transmitted by the judge not later than seven days after the adjudication or commitment. Upon receipt of the notice, the AG must enter the information into LEADS by the close of the business day after the day the notice is received.

If a judge provides the notice to the AG and the individual subsequently is found to be competent, is discharged, or has a final termination of commitment, the judge must notify the AG's office of the individual's identity and of the finding, discharge, or final termination. The notification must be on the form made available by the AG and must be transmitted by the judge not later than seven days after the finding, discharge, or final termination. Upon receipt of the notice, the AG must take all steps necessary to ensure that the information in the notice previously received is removed from LEADS by the close of the business day after the notice is received, and that it is terminated, cleared, or canceled in the FBI-maintained NCIC database in which the notice is maintained.

The bill requires the AG, by rule, to prescribe and make available to all judges forms to be used by them for making the notifications required by the provisions described in the preceding two paragraphs.

Entry of arrest warrants into LEADS as extradition warrants

(R.C. 2935.10 and 2935.01)

The bill requires that any warrant issued for a "Tier One Offense" must be entered into LEADS, and the appropriate database of the NCIC maintained by the FBI, by the law enforcement agency requesting the warrant within 48 hours of receipt of the warrant. It also requires that all warrants issued for "Tier One Offenses" must be entered into LEADS by the law enforcement agency that receives the warrant with a full extradition radius as defined by the Ohio LEADS administrator.

A "tier one offense" is any of the following:

aggravated murder	illegal use of a minor in a nudity-oriented material or performance
murder	
voluntary manslaughter	
involuntary manslaughter	aggravated arson
aggravated vehicular homicide	arson
vehicular homicide	terrorism
vehicular manslaughter	aggravated robbery
felonious assault	robbery
aggravated assault	aggravated burglary
aggravated menacing	domestic violence
menacing by stalking	escape
kidnapping	
abduction	improperly discharging a firearm at or into a habitation, in a school safety zone, or with the intent to cause harm or panic to persons in a school, in a school building, or at a school function or the evacuation of a school function
trafficking in persons	
rape	
sexual battery	
unlawful sexual conduct with a minor	
gross sexual imposition	
pandering obscenity involving a minor	any offense involving a failure to perform a duty imposed under the Sex Offender Registration and Notification Law
pandering sexually oriented matter involving a minor	

Penalty increases for certain firearms-related offenses

Having weapons while under disability

(R.C. 2923.13)

The bill increases the penalty for the offense of “having weapons while under disability.” Currently, the offense always is a third degree felony. The prohibition under the offense prohibits a person, unless relieved from disability under operation of law or legal process, from knowingly acquiring, having, carrying, or using any firearm or dangerous ordnance if any of five specified firearms disabilities apply.

Under the bill, if the firearms disability that is the basis of the conviction is that the person is under indictment for or has been convicted of or adjudicated a delinquent child for committing a felony offense of violence, the offense generally is a second degree felony, but it is a first degree felony if the offender previously has been convicted of or pleaded guilty to any of the five specified firearms disabilities.

And under the bill, if the firearms disability that is the basis of the conviction is any of the other four specified disabilities, the offense generally is a third degree felony, but it is a second degree felony if the offender previously has been convicted of or pleaded guilty to any of the five specified firearms disabilities. The four firearms disabilities with respect to which this penalty provision applies are: (1) being a fugitive from justice, (2) being under indictment for or having

been convicted of or adjudicated a delinquent child for committing any felony drug abuse offense involving the illegal possession, use, sale, administration, distribution, or trafficking in a drug of abuse, (3) being drug dependent, in danger of drug dependence, or a chronic alcoholic, or (4) being under adjudication of mental incompetence, having been adjudicated as a mental defective, having been committed to a mental institution, having been found by a court to be a mentally ill person subject to court order, or being an involuntary patient other than for purposes of observation.

Unlawful transactions in weapons

(R.C. 2923.20)

Modified penalties

The bill increases the penalty to a third degree felony, from a fourth degree felony under current law, if a person is convicted of the prohibition against: (1) recklessly selling, lending, giving, or furnishing any firearm to any person prohibited under the offense of “having weapons while under disability” or “using weapons while intoxicated” from acquiring or using any firearm, or recklessly selling, lending, giving, or furnishing any dangerous ordnance to any person prohibited by either of those two offenses, the offense of “unlawful possession of dangerous ordnance,” or the offense of “illegally manufacturing or processing explosives” from acquiring or using any dangerous ordnance, or (2) possessing any firearm or dangerous ordnance with purpose to dispose of it in violation of the prohibition described in clause (1) of this paragraph.

The bill increases the penalty to a second degree felony, from a third degree felony under current law, if (subject to the exception described below) a person is convicted of the prohibition against: (1) knowingly soliciting, persuading, encouraging, or enticing a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law, (2) with an intent to deceive, knowingly providing materially false information to a federally licensed firearms dealer or private seller, or (3) knowingly procuring, soliciting, persuading, encouraging, or enticing a person to act in violation of the prohibition described in clause (1) or (2) of this paragraph. These prohibitions do not apply to a law enforcement officer acting within the scope of the officer’s duties or to a person acting in accordance with directions given by a law enforcement officer acting within the scope of the officer’s duties.

Improperly furnishing firearms to a minor

(R.C. 2923.21)

The bill increases the penalty for the offense of “improperly furnishing firearms to a minor” to a third degree felony from a fifth degree felony. The prohibitions under the offense prohibit a person from:

1. Subject to a law enforcement officer exemption, selling any firearm to a person who is under age 18;
2. Subject to a law enforcement officer exemption, selling any handgun to a person who is under age 21;

3. Furnishing any firearm to a person who is under 18 or, possibly subject to a law enforcement officer exemption, furnishing any handgun to a person who is under 21, except for lawful hunting, sporting, or educational purposes, including specified supervised safety, care, etc., purposes;

4. Selling or furnishing a firearm to a person who is 18 or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the firearm for the purpose of selling the firearm in violation of paragraph (1) to a person who is under 18 or for the purpose of furnishing the firearm in violation of paragraph (3) to a person who is under 18;

5. Selling or furnishing a handgun to a person who is 21 or older if the seller or furnisher knows, or has reason to know, that the person is purchasing or receiving the handgun for the purpose of selling the handgun in violation of paragraph (2) to a person who is under 21 or for the purpose of furnishing the handgun in violation of paragraph (3) to a person who is under 21;

6. Purchasing or attempting to purchase any firearm with the intent to sell the firearm in violation of paragraph (1) to a person who is under 18 or with the intent to furnish the firearm in violation of paragraph (3) to a person who is under 18; or

7. Purchasing or attempting to purchase any handgun with the intent to sell the handgun in violation of paragraph (2) to a person who is under 21 or with the intent to furnish the handgun in violation of paragraph (3) to a person who is under 21.

Firearm specification penalties

(R.C. 2929.14, 2941.141, 2941.144, and 2941.145)

The bill increases the penalty imposed on an offender for one type of firearm specification, when the offender is convicted of a felony, the specification pertains to the commission of the felony, and the offender also is convicted of the specification. The bill does not change the penalties required for conviction of the other two types of firearm specifications. The specification penalties do not apply to a person convicted of “carrying a concealed weapon,” “illegal conveyance of a deadly weapon or dangerous ordnance into a courthouse,” “illegal possession of a deadly weapon or dangerous ordnance in a courthouse,” “illegal conveyance or possession of a deadly weapon or dangerous ordnance in a school safety zone” in certain cases, “illegal possession of an object indistinguishable from a firearm in a school safety zone” in certain cases, “improperly handling firearms in a motor vehicle,” “illegal possession of a firearm in liquor permit premises,” or “having weapons while under disability” in certain cases.

Specification – offender had firearm while committing offense

Under the bill, the court must impose a prison term of three, four, or five years (changed from three years under current law), if an offender who is convicted of a felony also is convicted of a specification charging that the offender had a firearm on or about the offender’s person or under the offender’s control while committing the felony and displayed, brandished, or indicated possession of the firearm, or used the firearm to facilitate the felony offense, subject to the provision described in the next paragraph. However, the court must impose a prison term of three years (and does not have the option of four or five years) if the offender also is sentenced to a consecutive prison term under the existing provisions that require a consecutive prison term after being convicted of a specification that the offender is a repeat violent offender or a

specification that the offender is a violent career criminal and a firearm was present or involved in the offender's felony in a specified manner.

Under the bill, if an offender who is convicted of a felony also is convicted of a firearm specification of the type described in the preceding paragraph and the offender previously has been convicted of a specification of that type or any other type of firearms specification, the court must impose on the offender a prison term of 54, 66, or 78 months (changed from 54 months under current law). However, the court must impose a prison term of 54 months (and does not have the option of 66 or 78 months) if the offender also is sentenced to a consecutive prison term under the existing provisions that require a consecutive prison term after being convicted of a specification that the offender is a repeat violent offender or a specification that the offender is a violent career criminal and a firearm was present or involved in the offender's felony in a specified manner.

Service of prison term imposed for firearm specification

If a court imposes a prison term on an offender for the firearm specification described above (or for any of the other existing firearms specifications), the prison term may not be reduced by earned credit, by judicial release, or under the 80% release mechanism under existing law, or under any other provision of R.C. Chapter 2967 or 5120. A mandatory prison term imposed for any of the firearm specifications must be served consecutively to any other mandatory prison term imposed for a specification, consecutively to and prior to any prison term imposed for the underlying felony, and consecutively to any other prison term or mandatory prison term previously or subsequently.

Notification of possible prison term for community control violation

(R.C. 2929.19 and 2929.15)

Currently, a court that sentences an offender to a community control sanction for a felony must notify the offender that, if the offender violates the sanction conditions, commits a violation of any law, or leaves Ohio without permission of the court or the offender's probation officer, the court may impose any of several types of sanctions. The notice must identify the specified types of sanctions.

The bill changes the reference to one of the types of sanctions, which is a possible prison term. Under the bill, instead of indicating "the specific prison term" that may be imposed for the violation out of the range of terms available for the offense under the Felony Sentencing Law, as required under current law, the notice must indicate the "range from which" the prison term may be imposed for the violation, which must be the range of terms available for the offense under that Law. The bill does not change the references that must be included in the notice to the other types of sanctions that may be imposed, which are a longer time under the same community control sanction or a more restrictive community control sanction. The bill also conforms a cross-reference to that notification in the existing provision governing the imposition of a prison term for such a violation or leaving of the state.

Community-based substance use disorder treatment

(R.C. 5120.035)

The bill extends eligibility for the community-based substance use disorder treatment program to nonviolent third degree felony offenders, and removes a restriction that prevents those with any prior conviction of a felony offense of violence or a prior conviction of a misdemeanor offense of violence within the preceding five years from participating in the program.

Continuing law requires DRC to operate a program for community-based substance use disorder treatment of qualified nonviolent fourth and fifth degree felony offenders who are in their final year of imprisonment.

Subsidies for community-based corrections programs

(R.C. 5149.31)

The bill modifies the requirements for the program of subsidies for community-based corrections programs by also making the subsidies contingent upon the outcomes of any performance-based standards established by DRC. It requires DRC's standards for community-based corrections programs to be designed to support evidence-based policies and practices, as defined by DRC.

Administrative releases

(R.C. 2967.17)

The bill expands an existing provision that allows the Adult Parole Authority (APA) to grant an administrative release to certain categories of convicted offenders under specified conditions to also allow the APA, in its discretion, to grant an administrative release to a "releasee" who is: (1) serving another felony sentence in a prison within or outside Ohio for the purpose of consolidation of the records or if justice would best be served, or (2) taken into custody by the U.S. Immigration and Naturalization Service and deported from the U.S. An "administrative release" is a termination of jurisdiction over a particular sentence or prison term by the APA for administrative convenience. A "releasee" is an inmate who has been released from confinement at the expiration of a prison term under a period of post-release control that includes one or more post-release control sanctions.⁶³

The existing conditions regarding an administrative release, unchanged by the bill, specify that: (1) the APA may not grant an administrative release except upon concurrence of a majority of the Parole Board and approval of the APA's Chief, (2) an administrative release does not restore for the recipient rights and privileges forfeited by conviction, and (3) a recipient may subsequently apply for a commutation of sentence to regain the rights and privileges forfeited by conviction, except that specified election-related privileges may not be restored and the privilege of holding a position of honor, trust, or profit may not be restored under this provision to a recipient convicted of specified offenses in certain circumstances.

⁶³ R.C. 2967.01, not in the bill.

The categories of offenders for whom the APA currently may grant an administrative release are: (1) parole violators or release violators serving another felony sentence in a prison within or outside Ohio for the purpose of consolidation of the records or if justice would best be served, (2) parole violators at large or release violators at large whose case has been inactive for at least ten years following the declaration of the violation, and (3) parolees taken into custody by the U.S. Immigration and Naturalization Service and deported from the U.S.

Sealing of records related to unconditional pardon

(R.C. 2967.04)

The bill allows the Governor to include as a condition of an unconditional pardon that the records related to conviction be sealed, and generally provides that the records are not subject to public inspection unless directed by the Governor. Inspection of the records or disclosure of information contained in them may be made pursuant to the Sealing Law regarding the inspection of sealed records or as the Governor may direct. A disclosure of records sealed under a writ issued by the Governor is not a criminal offense.

Internet access for prisoners

(R.C. 5120.62 and 5145.31)

The bill provides greater flexibility for prisons to provide internet access to prisoners by replacing existing law that allows prisoner internet access while “participating in an approved educational program with direct supervision that requires the use of the internet for training or research purposes,” with a provision that allows prisoner access to the internet for uses or purposes approved by the prison’s managing officer or the managing officer’s designee.

SECRETARY OF STATE

- Removes from the statement that a foreign nonprofit corporation must submit to the Secretary of State in order to obtain a certificate of authority the statutory requirement that the statement set forth the location of the corporation's principal office in Ohio.
- Specifies that the \$5 fee the Secretary of State may charge for service of process is per address served.
- Requires grants the Secretary of State receives from the U.S. Election Assistance Commission, other than through the Help America Vote Act, to be deposited in the Miscellaneous Federal Grants Fund and spent in accordance with the grant agreement.

Foreign nonprofit corporation certificate of authority

(R.C. 1703.27)

Under current law, a foreign nonprofit corporation is prohibited from exercising its corporate privileges in Ohio until it receives a certificate authorizing it to do so from the Secretary of State. In applying for the certificate, the foreign nonprofit corporation must provide a statement setting forth specified information, including the location of its principal office in Ohio and the appointment of a designated agent. The bill removes the requirement to list an Ohio office and clarifies that the appointment of the agent must comply with the designated agent provisions that apply to foreign nonprofit corporations.

Service of process fees

(R.C. 111.16)

The bill specifies that the \$5 fee the Secretary of State may charge for service of process is charged per address served. All Ohio businesses are required to have an agent for receiving official and legal documents, and that agent's contact information is required to be registered with the Secretary of State. If a person sues a business, notice of that fact is served to the agent at the registered address. If the agent cannot be reached, the person seeking to sue can deliver the notice to the Secretary of State, who will serve the notice to various last-known addresses of the business (such as the address in the business's most recent tax filings). The bill clarifies that the charge for this service is \$5 for each of these addresses.

Federal grants

(R.C. 111.28)

The bill requires any federal grants the Secretary of State receives from the U.S. Election Assistance Commission (EAC), other than for purposes established under the federal Help America Vote Act (HAVA), to be deposited in the Miscellaneous Federal Grants Fund instead of the HAVA Fund.

Currently, any federal grants from the EAC are placed in the HAVA Fund, even if they are not related to HAVA. The HAVA Fund is used for activities conducted pursuant to HAVA, while the Miscellaneous Federal Grants Fund is used according to the applicable federal grant agreements under other federal programs.

DEPARTMENT OF TAXATION

Income tax

- Explicitly authorizes an income tax deduction for all railroad retirement benefits that are exempt from state taxation under federal law.
- Clarifies that nonresident income not subject to personal income tax based on a reciprocity agreement between Ohio and another state may be deducted on a taxpayer's Ohio return.
- Clarifies that a taxpayer may claim a credit for any income tax withheld on behalf of the taxpayer, including from a taxpayer's wages, retirement income, or lottery and casino winnings.
- Eliminates the requirement that, if claiming the business income deduction, each business or professional activity generating income for a taxpayer be reported on their annual income tax return.
- Extends the amount of time within which a taxpayer must report to the Tax Commissioner a change in the amount of the taxpayer's resident credit for income that is taxed in another state or the District of Columbia.
- Declares that the state does not intend to impose income tax on unemployment compensation reported to a person whose identity was fraudulently used by a third party to collect unemployment compensation.

Use tax

- Repeals several inoperable provisions of use tax law that would have applied only in the event that an act of Congress authorized states to compel sellers that do not have a physical presence in the state ("remote sellers") to collect and remit use tax.

Commercial activity tax

- Requires that a taxpayer's preceding year's taxable gross receipts be used to calculate the commercial activity tax owed on its first \$1 million in gross receipts, instead of its current year's receipts.
- Codifies an administrative rule that elaborates on which business entities are considered to be part of a consolidated elected or combined taxpayer group.

Estate tax

- Makes several administrative changes to the state's repealed estate tax.

Property tax

- Authorizes combined health districts to levy property tax, with voter approval, for operating expenses.

- Authorizes a property tax exemption for certain housing used by individuals diagnosed with mental illness or substance use disorder.
- Requires an application for a property and sales and use tax exemption for certain facilities used to abate pollution, noise, or energy waste to separately identify property exclusively and necessarily used for the operation of the facility.

Tax cross-references

- Updates and corrects several cross-references in state tax law.

Tax administration

- Extends the time allowed for the Tax Commissioner to approve or deny a political subdivision's request to transfer money between certain funds of the subdivision.
- Allows the Department of Taxation to disclose to the State Racing Commission confidential taxpayer information to assist the Commission with administering horse racing permits and taxes on horse racing.
- Explicitly authorizes the Tax Commissioner to review additional information provided by an applicant for a state tax refund and to adjust the amount of the refund multiple times before issuing a final refund determination.
- Adds resort area and tourism development gross receipts taxes to the list of tax obligations respecting which the Tax Commissioner must periodically verify the compliance of liquor permit holders.
- Requires the monthly disbursements made by the Tax Commissioner from the Wireless 9-1-1 Government Assistance Fund to county treasurers to be made in the same proportion distributed to that county in the corresponding calendar month of the previous year, instead of basing them on 2013 distributions made by the Public Utilities Commission (PUCO).
- Requires any shortfall in distributions resulting from the timing of funds received in a previous month to be distributed in the following month, instead of calculating the county's share of the fund by proportionally reducing the distributions to be equivalent to the amount available in the fund.

Income tax

Taxation of railroad retirement benefits

(R.C. 5747.01(A)(5))

The bill explicitly authorizes an income tax deduction for all railroad retirement benefits that are exempt from state taxation under federal law. Current Ohio law allows a deduction for Tier I railroad retirement benefits, but does not specifically allow a deduction for other types of

railroad retirement benefits that are exempted from state taxation under federal law, i.e., any railroad retirement annuities and supplemental annuities.⁶⁴

Deduction for certain nonresident income

(R.C. 5747.01(A)(33) and 5747.10; Section 803.60)

Continuing law authorizes the Tax Commissioner to enter into an agreement with the Commissioner's counterparts in another state or the District of Columbia pursuant to which residents of that state are exempted from Ohio's income tax on income earned or received in Ohio, as long as the other state provides the same tax treatment for Ohio residents. In the absence of such a reciprocity agreement, Ohio's income tax generally applies to the income of nonresidents earned in Ohio. Currently, Ohio has entered into such agreements with its bordering states – Indiana, Kentucky, West Virginia, Michigan, and Pennsylvania.⁶⁵

The bill clarifies that income not subject to state income tax because of one of these reciprocity agreements may be deducted on the nonresident taxpayer's annual Ohio income tax return.

Income tax credit for tax withholdings

(R.C. 5747.08(H); Section 803.70)

The bill clarifies that any income tax withheld, including from a taxpayer's wages, retirement income, or lottery and casino winnings, entitles the taxpayer who is required to report the income on the taxpayer's annual return to claim a credit for those withheld amounts. Under continuing law, employers, public retirement systems, the state lottery commission, casino operators, and video lottery sales agents are required to withhold state income tax and school district income tax on a taxpayer's wages, retirement income, or lottery and casino winnings, as applicable.

The bill states that the provision is intended to clarify existing law and applies to taxable years beginning on and after January 1, 2016.

Business reporting requirement

(R.C. 5747.08(L); Section 803.80)

The bill removes a requirement that a taxpayer claiming the business income deduction indicate on their annual income tax return each business or professional activity from which that income is derived. Under current law, these indications must be reported according to each activity's corresponding North American Industry Classification System (NAICS) code. This reporting requirement is no longer required for taxable years beginning on or after January 1, 2021.

⁶⁴ 45 U.S.C. 231m.

⁶⁵ See Ohio Department of Taxation, Employer Withholding – Reciprocity FAQs, <https://tax.ohio.gov/wps/portal/gov/tax/help-center/faqs/employer-withholding-reciprocity/employer-withholding-reciprocity>.

Continuing law authorizes an income tax deduction for up to \$250,000 of the taxpayer's business income (or \$125,000 for a spouse filing a separate return).

Resident credit amended return period

(R.C. 5747.05(B))

The bill extends, from 60 days to 90 days, the time within which a resident taxpayer must report to the Tax Commissioner a change in the amount of the taxpayer's credit for income that is taxed in another state or the District of Columbia. Likewise, the bill extends, from 60 days to 90 days, the time for a resident taxpayer to request a refund due to a change in that credit.

Continuing law allows an income tax credit for a resident Ohio taxpayer for any income that is subject to both Ohio income tax and income tax in another state or the District of Columbia. The credit equals the lesser of the income tax liability owed on that income in the other jurisdiction or the Ohio income tax liability that would otherwise be owed on that income if not for the credit. In essence, the resident credit prevents the double taxation of the same income by Ohio and another jurisdiction. If there is a change in the taxpayer's taxable income or tax liability that impacts the amount of the taxpayer's resident credit, then the taxpayer is required to report the change by filing an amended return.

Tax on fraudulent unemployment compensation

(Sections 757.10 and 812.23)

The bill declares that the state does not intend to collect tax on unemployment compensation benefits reported to a person whose identity was fraudulently used by a third party to collect those benefits. Under continuing law, unemployment benefits are subject to federal, state, and school district income tax.

The Internal Revenue Service (IRS) requires the Department of Job and Family Services (JFS) to issue IRS Form 1099-G to every person who was issued unemployment benefits. The bill encourages any taxpayer who receives a Form 1099-G that includes fraudulent unemployment benefits to report the fraud to JFS for the purpose of receiving a corrected Form 1099-G. Although the IRS, in Information Release 2021-24, instructs taxpayers who are victims of identity theft to only report actual unemployment benefits received, the IRS warns that a corrected Form 1099-G is required to avoid receiving an unexpected federal tax bill for unreported income.⁶⁶

⁶⁶ See Internal Revenue Service, "IRS Offers Guidance to Taxpayers on Identity Theft Involving Unemployment Benefits," January 28, 2021, available at <https://www.irs.gov/newsroom/irs-offers-guidance-to-taxpayers-on-identity-theft-involving-unemployment-benefits>.

Use tax

Remote sellers

(R.C. 5741.01 and 5741.03; R.C. 5741.032, repealed; Section 757.50 of H.B. 59 of the 130th General Assembly, repealed)

The bill repeals several inoperable provisions of use tax law that would have applied only in the event that an act of Congress authorized states to compel sellers that do not have a physical presence in the state (“remote sellers”) to collect and remit use tax on internet and catalog transactions. The repealed provisions expressed the General Assembly’s intent, upon the enactment of such a federal act, to enact conforming legislation, earmarked a small portion of new collections for administrative costs and the remainder for the Income Tax Reduction Fund, and exempted remote sellers with annual sales of \$1 million or less.

In 2018, the U.S. Supreme Court struck down a long-standing interpretation of the Commerce Clause (Article 1, Section 8 of the U.S. Constitution) that prevented states from compelling remote sellers to collect and remit state sales or use taxes.⁶⁷ Following that decision, many states (including Ohio) began requiring remote sellers with sufficient local “contacts” to collect and remit the taxes. (Continuing Ohio law requires the consumer to pay use tax directly to the state in instances where it is not remitted by the seller.) Since this extension of state tax collection authority was sanctioned by a holding of the U.S. Supreme Court rather than an act of Congress, the provisions repealed by the bill remain inoperable.

Commercial activity tax

Minimum commercial activity tax computation

(R.C. 5751.03; Section 812.20)

The bill requires the minimum commercial activity tax (CAT) to be computed based on the taxpayer’s taxable gross receipts reported in the preceding year, rather than the current year. Otherwise, the minimum tax tiers remain the same.

The CAT is levied on the basis of a business’s gross receipts from Ohio sales. A business with \$150,000 or less in annual taxable gross receipts pays no CAT. Otherwise, the CAT rate equals 0.26% of a business’s taxable gross receipts in excess of \$1 million annually. A differently calculated “minimum tax” applies to the taxpayer’s first \$1 million of taxable gross receipts. The amount of minimum tax owed varies according to the business’s total taxable gross receipts received, under current law, in the year for which the tax is being calculated, as follows:

⁶⁷ See, *South Dakota v. Wayfair, Inc.*, 585 U.S. ___, 138 S. Ct. 2080 (2018).

CAT minimum tax	
If taxpayer's total taxable gross receipts are . . .	The CAT minimum tax is . . .
Greater than \$150,000, but not over \$1 million	\$150
Greater than \$1 million, but not over \$2 million	\$800
Greater than \$2 million, but not over \$4 million	\$2,100
Greater than \$4 million	\$2,600

Common ownership test for taxpayer groups

(R.C. 5751.051)

The bill codifies an administrative rule that elaborates on which business entities are considered to be part of a CAT consolidated elected or combined taxpayer group.⁶⁸

Under the CAT, each entity in a consolidated elected taxpayer group may elect, and each entity in a combined taxpayer group is required, to aggregate their taxable gross receipts and file as a single taxpayer. A taxpayer group consists of one or more common owners and all the entities in which that the common owner holds a certain level of ownership interest (either 50% or 80%, depending on the situation).

The bill codifies rules for determining the value of an ownership interest and who is considered a common owner, as follows:

Type of entity	Ownership rules
Corporation	Ownership interest is based on the value of stock with voting rights.
Limited partnership	Ownership interest is based on the general partnership interests in the entity.
Pass-through entity other than limited partnerships	Ownership interest is based on fair market value of the voting interests in the entity.

⁶⁸ O.A.C. 5703-29-02.

Type of entity	Ownership rules
Unincorporated business without a formal partnership agreement (“implied partnership”)	<p>If the business files an Internal Revenue Service Form 1065 partnership return, ownership interest is based on a person’s capital account contributions.</p> <p>If the business does not file Form 1065 but owns rental property, the common owner is the person or persons who hold the deed to the property.</p> <p>If neither of the above apply, the common owner is based on the number of persons in the group.</p>
Trust	The common owner depends on the type of trust, and may be the grantor, a beneficiary, or no one.

Estate tax

(R.C. 319.54, 321.27, 5731.21, 5731.24, 5731.28, and 5731.41)

The bill makes several administrative changes to the state’s repealed estate tax. The estate tax was repealed on January 1, 2013, but currently continues to apply to newly discovered property of individuals who died before that date.

Newly discovered property and refunds

First, the bill provides that no estate tax will be due for property that is first discovered after December 31, 2021, or property discovered before that date, but not yet disclosed or reported by that date. Similarly, an executor or similar official may no longer file an application for an estate tax refund after that date.

Administrative fees

The bill modifies fees paid to county auditors and treasurers for the administration of the estate tax. Under current law, such fees are tiered based on countywide collections. The bill instead provides for a flat fee equal to 2% of the net tax collected.

The bill also fixes additional compensation paid to county auditors to enforce real property, manufactured home, and estate tax law.⁶⁹ Under current law, auditors are compensated based on a sliding per capita scale that varies according to the county’s population based on the most recent census, up to \$3,000 annually. The bill prohibits the fee from varying

⁶⁹ This compensation appears to apply to any agent of the Tax Commissioner appointed in that enforcement capacity, but county auditors do fulfill that role and appear to be the actual recipients of the compensation. See, e.g., David Yost, “Compensation Increase Legislation pertaining to Nonjudicial County Elected Officials, Judges and Boards of Elections Members (House Bill Number 64),” Auditor of State Bulletin 2016-001 (April 20, 2016), available [here](#).

with future censuses by fixing the compensation according to the county's 2010 census population.

Property tax

Combined health district property tax

(R.C. 3709.291)

The bill authorizes combined health districts to levy property tax, with voter approval, for operating expenses. Combined health districts include the union of two or more city health districts, two or more county health districts, or at least one city health district and at least one county health district.

The tax may be levied for any rate and for a term of up to ten years. Before it is levied, it must be approved by the voters in the combined health district's territory, in the same manner as most other voter-approved property taxes. Once a combined district levies a property tax, it must comply with the subdivision budgeting and accounting and tax administration provisions to which other taxing authorities are subject. Similar to other taxing authorities, a district that levies such a tax may issue debt secured by anticipated tax collections.

Under current law, health districts are not authorized to directly levy a property tax. A county, however, may levy property tax for the benefit of a county health district.⁷⁰ But a county may not levy such a tax for a combined health district, at least, any combined district whose territory extends to other counties or does not include a county health district.

Property tax exemption for supportive housing

(R.C. 5709.121; Section 803.30)

The bill authorizes a property tax exemption for housing used by individuals diagnosed with mental illness or substance use disorder and their families. To qualify:

1. The owner of the property must be a tax-exempt 501(c)(3) organization, or a pass-through entity whose controlling member either is a 501(c)(3) organization or is owned by one or more 501(c)(3) organizations, for which providing such housing is a primary purpose.

2. At least one of those 501(c)(3) organizations must receive some of its funding from the Department of Mental Health and Addiction Services; a county board of alcohol, drug addiction, and mental health services; or a local continuum of care – a regional or local planning body that coordinates housing and services funding for homeless families and qualifies for federal funding from the U.S. Department of Housing and Urban Development.

In addition, the property owner must either (a) use the property to provide such housing, (b) lease the property to individuals with mental illness or substance use disorder and make supportive service available to such individuals, or (c) lease the property to a charitable institution that uses the property for charitable purposes.

⁷⁰ R.C. 3709.29, not in the bill.

Under continuing law, property owned by a charitable organization and used exclusively for charitable purposes is exempt from taxation. Courts have generally not favored extending the charitable use exemption to residential properties. In fact, in May 2020, the Board of Tax Appeals (BTA) reversed an exemption for a property that would meet the bill’s requirements. The BTA found that, based on Supreme Court precedent, the use of the property primarily for private residential purposes could not be considered a charitable use.⁷¹

The new exemption applies to tax year 2021 and thereafter, as well as to exemption applications or appeals pending on the provision’s effective date.

Pollution control, energy facility tax exemption

(R.C. 5709.21; Section 803.40)

Under continuing law, a pollution control facility or a facility that converts natural gas, oil, solid waste, or waste heat to other forms of energy in industrial or commercial settings may apply to the Department of Taxation to exempt property used for such purposes from property tax and purchases of such property from sales and use tax. Before approving a facility for such exemptions and issuing an “exempt facility certificate,” the Department must obtain certification that a facility qualifies for those exemptions from the Environmental Protection Agency in the case of a pollution control facility or the Department of Development in the case of an energy conversion facility.

The bill requires applications for an exempt facility certificate to identify property exclusively and necessarily used for the operation of the facility (“exclusive property”), as distinct from auxiliary property that may also be used for other purposes. For already-filed applications in which exclusive property and auxiliary property are not separately distinguished, the bill requires the applicant to prove which property is exclusive property. Under continuing law, exclusive property qualifies for a full property tax exemption and auxiliary property is partially exempted, based on the extent to which it is used for an exempt purpose.

Cross-reference corrections

(R.C. 5726.20, 5747.01(A)(6), (S)(5), and (GG), 5747.10, and 5751.40; Sections 803.50 and 803.60)

The bill makes several updates and corrections to cross-references in state tax law, as follows:

- Corrects an erroneous cross-reference in the financial institutions tax law;
- Corrects an erroneous cross-reference in the definition of taxable business income under the business income deduction law;
- Corrects an erroneous cross-reference in the law governing the qualified distribution center exclusion used in computing taxable gross receipts for the commercial activity tax;
- Updates references to the federal “targeted jobs” tax credit in the state’s income tax law to reflect the federal credit’s new name, the “work opportunity” tax credit.

⁷¹ *Columbus City Schools Dis. Bd. of Edn. v. McClain, et al.* (May 28, 2020), BTA No. 2018-649.

Tax Administration

Local funds transfer approval period

(R.C. 5705.16)

The bill extends from ten days to 30 days the Tax Commissioner’s deadline to either approve or deny the request of a political subdivision authorized to levy property tax (a “taxing authority”) to transfer money between certain of its funds, starting from the time that the request was first received.

Continuing law regulates the ability of a taxing authority to transfer revenue between its funds. Some funds may be transferred unilaterally, without obtaining approval from any official, e.g., transfers from the taxing authority’s general fund to another fund. On the other hand, some transfers are outright prohibited, such as the transfer of funds derived from a tax or license fee imposed for a specific purpose.⁷² Any other transfer that is neither unilaterally permitted nor prohibited must first be approved by the Tax Commissioner, pursuant to an application of the taxing authority. The Commissioner may authorize the transfer of funds if the Commissioner finds that the transfer is justified or necessary and that no injury would result from the transfer.

Disclosing taxpayer information to State Racing Commission

(R.C. 5703.21(C)(20))

The bill authorizes the Department of Taxation to disclose to the State Racing Commission otherwise confidential taxpayer information for the purpose of assisting the Commission with administering taxes on horse racing and its responsibilities for issuing, denying, suspending, or revoking horse racing permits. The Commission, in turn, must keep the information confidential, unless its disclosure is authorized by law.

Continuing law permits disclosure of certain taxpayer information in the Department of Taxation’s possession to other state agencies and offices under specified circumstances to aid in the implementation of Ohio law. Otherwise, the Department may not disclose such information, and any Department agent or employee that does so is subject to employment termination and a fine.

State tax refund review process

(R.C. 5703.70)

Under continuing law, a taxpayer may apply to the Tax Commissioner for a refund of overpaid state taxes. If the Commissioner determines that the taxpayer is not entitled to the amount requested, the Commissioner must provide the taxpayer with a written notice of that preliminary determination. The taxpayer then has 60 days to provide the Commissioner with additional documentation supporting the taxpayer’s request for the refund, request a hearing on the matter, or both. Then, the Commissioner may issue a final refund determination, which the taxpayer may appeal to the Board of Tax Appeals.

⁷² R.C. 5705.14 and 5705.15, not in the bill.

If the taxpayer provides additional information in response to the Commissioner's preliminary refund determination, the bill explicitly authorizes the Commissioner to review and make adjustments to the taxpayer's refund as many times as necessary before the Commissioner issues a final determination.

Tax obligations of liquor permit holders

(R.C. 4303.26 and 4303.271; Section 803.20)

Continuing law requires the Division of Liquor Control, before approving the transfer or renewal of a liquor permit, to confirm with the Tax Commissioner that the applicant is not delinquent in paying, filing returns for, or providing information regarding sales taxes, withheld income taxes, horse-racing taxes, alcoholic beverage taxes, motor fuel taxes, petroleum activity taxes, cigarette and other tobacco product taxes, or casino gross receipts taxes. The Division is generally prohibited from renewing or transferring the liquor permit until the delinquency is addressed. Beginning February 1, 2022, the bill additionally requires the Division to confirm that the applicant is current on payments of resort area and tourism development district gross receipts taxes levied by certain townships and municipalities.

The Commissioner is required, under continuing law, to annually review the Department's tax records and notify the Division if any liquor permit holder is delinquent in paying, filing returns for, or providing information regarding any of the aforementioned taxes. Beginning February 1, 2022, the bill adds resort area and tourism development district gross receipts taxes to the list of taxes that are subject to this annual review.

Under continuing law, a municipality or township meeting the requirements of a "resort area" may levy a gross receipts tax on businesses for sales made in its territory to raise operating revenue. Municipalities and townships that are in a tourism development district may levy a similar gross receipts tax to foster or develop tourism. Though levied by local subdivisions, these taxes are collected and administered by the Tax Commissioner.

Wireless 9-1-1 Government Assistance Fund

(R.C. 128.55)

Ongoing law requires the Tax Commissioner to make monthly disbursements, plus accrued interest, from the Wireless 9-1-1 Government Assistance Fund to county treasurers. Under the bill, the disbursements are to be made in the same proportion that the Tax Commissioner distributed to that county in the corresponding calendar month of the previous year. If a shortfall in distributions results because of the timing of funds received in a previous month, the bill requires that the shortfall amount be distributed in the following month.

Currently, counties receive monthly disbursements from the fund based on how much the Public Utilities Commission distributed to each county in 2013. But, if the amount available in the Wireless 9-1-1 Government Assistance Fund is insufficient to make the required monthly disbursements, each county's share is proportionately reduced for the month. Shortfalls in monthly county disbursements due to insufficient funds from the previous month are remedied in the following month.

Under continuing law, Ohio wireless subscribers and purchasers of prepaid wireless service pay a charge that provides funds to support 9-1-1 systems. Wireless subscribers pay a 25¢ monthly charge, and purchasers of prepaid wireless service pay 0.5% of the sale price for the wireless service. The charges are deposited in the Wireless 9-1-1 Government Assistance Fund, the Wireless 9-1-1 Administrative Fund, the Wireless 9-1-1 Program Fund, and the Next Generation 9-1-1 Fund. The Wireless 9-1-1 Government Assistance Fund receives 97% of the charges collected, plus interest.⁷³

⁷³ R.C. 128.021, 128.03, 128.42, and 128.54, not in the bill.

NOTES

Effective dates

(Sections 812.10 to 812.23)

Article II, Section 1d of the Ohio Constitution states that “appropriations for the current expenses of state government and state institutions” and “[l]aws providing for tax levies” go into immediate effect and are not subject to the referendum. The bill includes a default provision stating that, except as otherwise specifically provided, the amendment, enactment, or repeal of a section is subject to the referendum and takes effect on the 91st day after the act is filed with the Secretary of State (barring the filing of a referendum petition). The bill also includes exceptions to the default provision, some of which provide that specified provisions are not subject to the referendum and go into immediate effect.

Expiration

(Section 809.10)

The bill includes an expiration clause stating that an item that composes the whole or part of an uncodified section contained in the bill (other than an amending, enacting, or repealing clause) has no effect after June 30, 2023, unless its context clearly indicates otherwise.

HISTORY

Action	Date
Introduced	02-16-21